

MINUTES

ORDINARY MEETING OF COUNCIL

Held on
Tuesday, 15th December 2009
7.00pm
City of Albany Council Chambers

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** REFER DISCLAIMER **

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1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Deputy Mayor declared the meeting open at 7.00.06 PM

2.0 OPENING PRAYER

Deputy Mayor read the opening prayer.

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

3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

7:00:15 PM Councillor R Hammond

Cr Hammond stated that last Tuesdays agenda briefing had provided a wonderful opportunity to raise questions regarding the City’s finances. Cr Hammond thanked the CEO for his articulate and candid response to intense questioning regarding the City’s finances. Cr Hammond said that with the benefit of hindsight there were of course things that could have been done differently, but Council now needed to move forward. There were now checks and balances in place and a level of consciousness among the Executive and within the Chamber that amounted to a new culture.

Cr Hammond praised the implementation of new practices and business processes. Cr Hammond also voiced concern over the, in his view, unhealthy dependency on grants and the need to challenge the unofficial capping system that appeared to have been imposed on the City of Albany which had reduced the level of funding that should have been otherwise received, particularly from the Great Southern Regional Roads Group. Cr Hammond also voiced concern that the Royalties for Regions funding had disadvantaged Albany with an average \$50 per head funding, compared to some regional local governments receiving up to \$1000 per head pro rata.

7:03:04 PM Councillor D Price

Cr Price wished to acknowledge the professionalism clearly evident to Councillors working closely with the City of Albany staff. Cr Price thanked staff and her colleagues for their work ethic, transparency, attention to detail, willingness to listen and positive safeguarding of the future of the City of Albany. Cr Price wished everyone an enjoyable Christmas break.

7:04:45 PM Councillor M Leavesley

Cr Leavesley acknowledged that the month had again been a very busy one, with numerous meetings and civic functions.

Cr Leavesley felt that the committees that he served on were interesting, informative and very worthwhile.

Cr Leavesley also spoke about the motion brought by the Deputy Mayor with regard to the behaviour of Councillors in relation to dealings with staff. Cr Leavesley felt that this behaviour was mirrored by a very small minority in our community, and that those people seek to use the local media and public meetings to discredit the actions of staff and in general undermine the operations of the City of Albany. If those concerned have evidence of malpractice, Cr Leavesley suggested that they bring the information to the attention of the CEO. If they have no confidence in this course of action, they have the alternative option of approaching the CCC, rather than tarnishing the reputation of Albany.

7:06:23 PM Councillor D Dufty

Cr Dufty firstly apologised for missing last weeks briefing due to a family commitment. Cr Dufty is the Chairman of the Seniors Committee, and recently officiated at a morning tea to celebrate 10 years of the Seniors Committee. Cr Dufty reported that the committee farewelled John Beamon and Ray Cocker, who had served on the committee for 10 years and given great service to the City. Two original committee members remaining are Kim Butfield and Middy Dumper. Cr Dufty felt that it was an important committee as Seniors are probably the biggest group of people in the city.

7:08:04 PM Councillor J Matla

Cr Matla hoped that all Councillors and Staff returned in 2010 with a positive attitude, and wished all ratepayers, residents, Councillors and staff a Merry Christmas and Happy New Year.

7:08:27 PM Councillor R Sutton

Cr Sutton urged the Council to let bygones be bygones, and look at all upcoming projects in a new and positive light. Cr Sutton emphasised the need for flexibility in decision making.

Item 3.0 continued.

7:09:13 Deputy Mayor D Wellington

The Deputy Mayor thanked all Councillors for the work that they had done since the new Council was formed. He praised the positive attitude and rapport that the Councillors were establishing with City of Albany Staff. The Deputy Mayor also echoed the sentiments of carrying forward a positive idea and making it work for Albany. He wished all staff and Councillors are Merry Christmas, and hoped that 2010 was going to be a fantastic year for Albany.

ITEM: 3.0 MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR SUTTON

THAT Council Suspend Standing Order 3.1 – Recording of Proceedings.

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

4.0 RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME

Nil

5.0 PUBLIC QUESTION AND STATEMENT TIME

Council's Standing Orders Local Laws provide that each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of Council, for residents in attendance in the public gallery to address clear and concise questions to His Worship the Mayor on matters relating to the operation and concerns of the municipality.

Such questions should be submitted to the Chief Executive Officer, **in writing, no later than 10.00am** on the last working day preceding the meeting (the Chief Executive Officer shall make copies of such questions available to Members) but questions may be submitted without notice.

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.

7:10:41 Tony Harrison, Little Grove

Mr Harrison addressed Council with regard to his submission to the City of Albany of 05/11/2009 regarding a proposal for disposing of seaweed and dredging a beach on the foreshore near the AEC and Peace Park.

Mr Harrison proposed that as the dredge was already in the Marina, and it would be a simple act to pump back a beach creating a high tide line higher than where the weed is currently situated.

Mr Harrison stated that he felt that if this issue was not addressed prior to development being completed, that the City of Albany may bear the expense in the future.

Ruth Watson, 29 Grey St East, Albany 7:13:56 PM

Ms Watson addressed the Council with regard to the proposed development on Earl Street.

Ms Watson felt that the proposed development would be a positive move, enabling people to live and work closer to the CBD, reducing car transport. Ms Watson raised concerns regarding the height of the buildings in the development, as it was her understanding that the amended proposal was two stories, not three stories.

Ms Watson believed that this is not in accord with planning which has happened more recently, and that we should be very careful in the way in which allow building in the CBD to keep it compatible and pleasant.

Item 5.0 continued.

Neil Smithson, Smithson Planning, 364 Middleton Loop, Albany 7:16:23 PM

Mr Smithson addressed the Council RE: 14.12.2 the Anzac Centenary Strategy Committee.

Mr Smithson thanked the Mayor for his letter dated 2nd December 2009 addressed to Smithson Planning covering the Executive function of the Anzac Centenary Strategy Committee. Mr Smithson noted Councillor David Bostocks observation that these actions would not actually be endorsed until considered at this evenings meeting.

Mr Smithson stated that Smithson Planning has been involved with the 2014-18 National Celebrations Strategy with both State and Commonwealth governments for many years now. In this regard both the Commonwealth Government and opposition have been fully apprised of these activities in respect to the Rainbow 2000 Project, and the Albany Anzac Project for the last 12 years. Mr Smithson advised Council that the Mayor's letter had now been sent to the Deputy Prime Minister and Federal Government Ministers.

In accordance with Councils wishes and as copied to Council on 10th December 2009 the Mayors letter has also been sent to the Premier, the Minister for Arts, Culture and Planning and the Minister for Heritage and Local Government in Western Australia and the Leader of the State Opposition.

Mr Smithson stated that the City of Albany and the RSL were now playing catch up for 12 years of inaction, but given an opportunity and adequate promotion of the cause he was confident of a very successful International participation in Albany in both 2010 and 2014.

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Ms Katie Wignall 7:20:47 PM

Ms Wignall addressed Council in regard to Item 13.1.6, Retrospective Planning Approval

Ms Wignall referred to a letter sent to all Councillors earlier in the week referring to Policy framework within which the Council could approve the application for conversion of part of a class 10 Building to a class 1 Building.

As stated in the letter sent to all Councillors earlier in the week by Mr Caddy of TPG, such a conversion is contemplated by the relevant building information sheet which is published on Councils website, a copy of which has also been sent to the Councillors.

Item 5.0 continued.

The Information Sheet states in its preamble that for occupation of a shed to occur it must be upgraded to meet the Class 1 building requirements for a dwelling, and this is proposed in the application.

The Information Sheet also states that while Council does not encourage this practice, it is prepared to permit such a conversion where it can be demonstrated that the building in question can be improved and meet the necessary requirements.

Ms Wignall believed that she could demonstrate that the requirements can be met in this case, and that an application for a building licence for a separate house had been lodged with Council, and that this application was currently pending. Ms Wignall proposed that she would live in the converted class 1 portion of the current outbuilding until such time as the house was issued with a Certificate of Classification, and that the current oversize outbuilding would then be made compliant with Councils Outbuilding Policy.

Chris Plowman, Marconi Road, Albany 7:23:16 PM

Mr Plowman addressed Council in regards to his proposed development on Earl Street. Mr Plowman stressed that the development would not exceed the height restrictions allowed for the site, and that the proposed buildings would be aesthetically pleasing.

Mr Plowman also supported the positive approach being taken by the Council with regard to new projects such as the foreshore development. Mr Plowman wished the staff and Councillors a Merry Christmas.

7:24:44 PM Public Forum Closed.

6.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillors:

Breaksea Ward	R Hammond
Frederickstown Ward	D Wellington
Frederickstown Ward	D Price
Kalgan Ward	M Leavesley
West Ward	D Dufty
West Ward	D Wolfe
Yakamia Ward	R Sutton
Yakamia Ward	J Matla

Staff:

Chief Executive Officer	P Richards
Executive Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Manager Planning Services	G Bride
Executive Manager Business Governance	S Jamieson
Executive Manager Corporate Services	D Schober
Minutes Secretary	S Jamieson,
Assistant Business Governance Officer	J Williamson

Public Gallery and Media:

2 members of the media were present.
Approximately 45 members of public gallery were present.

Apologies/Leave of Absence:

Mayor	MJ Evans JP (Apology)
Breaksea Ward	J Bostock (Leave of Absence)
Vancouver Ward	D Bostock (Leave of Absence)
Vancouver Ward	R Paver (Apology)
Executive Director Development Services	Robert Fenn (Apology)

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

ITEM: 7.0 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR DUFTY

THAT Council GRANT a leave of absence to Councillor Paver from the January 2010 Ordinary Council meeting.

MOTION CARRIED 8-0

8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Ordinary & Special Council Meeting Minutes (as previously distributed).

ITEM: 8.1 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR WOLFE

THAT the following minutes:

- i) Ordinary Council Meeting held on the 17 Nov 09, pending the following corrections:**
 - That the record of vote for items 18.4 and 18.5 are amended to read:
For the Motion: Councillors D Bostock, J Bostock and Paver.
Against the Motion: Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla.**
- ii) Special Council Meeting held on the 10 Nov 09.**

as previously distributed be confirmed as a true and accurate record of proceedings.

MOTION CARRIED 8-0

9.0 DECLARATIONS OF INTEREST

[Members of Council are asked to use the forms prepared for the purpose, aiding the proceedings of the meeting by notifying the disclosure by 3.00pm on that day.]

Name	Item Number	Nature of Interest
Councillor Hammond	13.1.1	Proximity. The nature of the interest being that Cr Hammond's business is located in the Visitors Centre within the immediate area of Proudlove Parade. Cr Hammond remained in the Chamber.
Councillor Hammond	13.1.1	Proximity. Cr Hammond's business operates at the Visitors Centre located in Proudlove Parade. Cr Hammond remained in the Chamber.
Councillor Price	13.1.5	Financial. Cr Price owns property which will be affected by this development if approved, loss of views. Cr Price was linked to a previous SAT hearing opposing a former development application on the same site and therefore also an Impartiality Interest. Cr Price left the Chamber and did not participate in the debate or vote.
Councillor Leavesley	13.1.5	Impartiality. Past and future customers of Cr Leavesley's business are owners of the subject proposal. Cr Leavesley remained in the Chamber.
Councillor Leavesley	14.11.3	Financial. Applicant is a customer of Cr Leavesley's private business. Cr Leavesley left the Chamber and did not participate in the debate or vote.
All Staff	18.2	Impartiality. All staff present have an interest as they are employees and the Notice of Motion affects them. Staff remained in the Chamber.

**10.0 IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND
CLOSED DOORS**

Nil

11.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

12.0 ADOPTION OF RECOMMENDATIONS EN BLOC

Nil

**DEVELOPMENT
SERVICES
Reports**

DEVELOPMENT SERVICES REPORTS

13.0 REPORTS – DEVELOPMENT SERVICES

13.1 DEVELOPMENT

Councillor Hammond declared a Proximity Interest in Item 13.1.1.

ITEM NUMBER: 13.1.1

ITEM TITLE: PARTIAL ROAD CLOSURE – TO ALLOW CREATION OF PEDESTRIAN FOOTBRIDGE RESERVE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

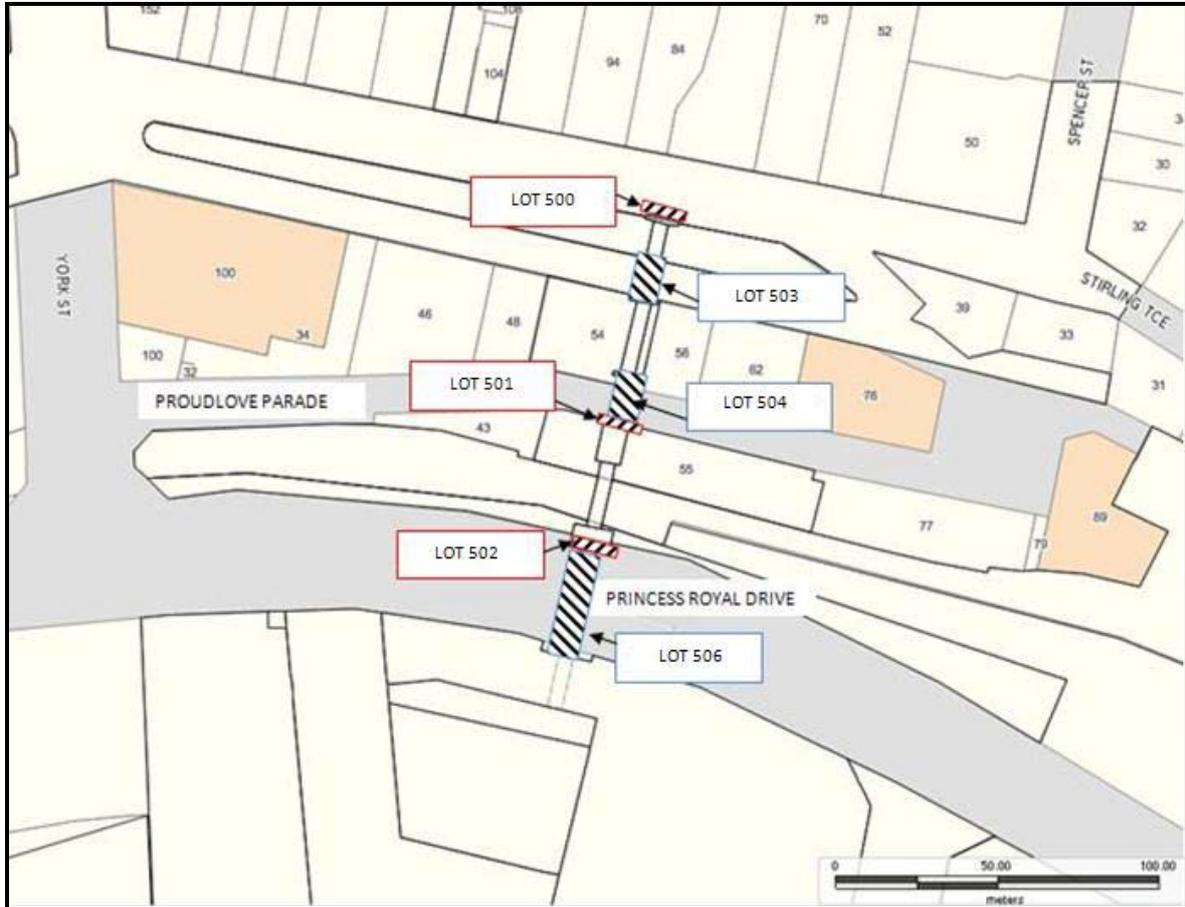
Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

- | | |
|------------------------------------|--|
| File Number or Name of Ward | : MAN192 / SER088 (Frederickstown Ward) |
| Summary of Key Points | : Close those portions of Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports of the pedestrian footbridge along with the air space occupied by the footbridge over those roads and incorporate into pedestrian footbridge reserve. |
| Land Description | : Lot 500 Stirling Terrace, Lot 501 Proudlove Parade, Lot 502 Princess Royal Drive and airspace over Proudlove Parade (Lots 503 and 504) and Princess Royal Drive (Lot 506) |
| Proponent | : City of Albany |
| Owner | : Crown |
| Reporting Officer(s) | : Planning Assistant (D Delury) |
| Disclosure of Interest | : Nil |
| Previous Reference | : N/A |
| Bulletin Attachment(s) | : 1. Deposited Plan 58074
2. Responses from Various Service Agencies
3. Copy of Section 58 <i>Land Administration Act 1997</i> |

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued.

Maps and Diagrams :



These lots as illustrated are indicative only – see Diagram 58074 for detail

BACKGROUND

1. State Land Services, whilst undertaking actions for the approval of a Deposited Plan to create a reserve for the purpose of “Pedestrian Footbridge”, advised that road closures needed to be processed by the City of Albany before the new reserve could be created.
2. Council’s resolution is required to request the Minister for Lands to close the portions of road reserve necessary in order to create the new pedestrian footbridge reserve.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued.

DISCUSSION

3. In May 2009, correspondence was received from State Land Services (SLS) advising that road closures would need to be processed by the City under the requirements of the *Land Administration Act 1997 (Section 58)* road closure process. This action will allow SLS to create a separate pedestrian footbridge reserve for the sections of Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports of the footbridge and the airspace occupied by the footbridge over those roads.

PUBLIC CONSULTATION / ENGAGEMENT

4. In accordance with the requirements of the *Land Administration Act 1997, Section 58*, the proposal was advertised in a local newspaper, the landowners in the near vicinity were advised and their comment was sought. No responses were received.

GOVERNMENT CONSULTATION

5. Comment was also sought from public utility service providers and other service agencies. All agencies approached had no objection to the closure of the portions of the road to create the new reserve. State Land Services had already sought comment from Main Roads, who have the responsibility of management of Princess Royal Drive, and they have no objection to the proposal.

STATUTORY IMPLICATIONS

6. Section 58 of the Land Administration Act 1997 states that a Local Government may, subject to advertising and consideration of any objections received to a proposal, request the Minister for Lands to close a road (the relevant section of the Land Administration Act 1997 is included in the Bulletin Attachment).

FINANCIAL IMPLICATIONS

7. Apart from ongoing maintenance of the footbridge and the cost to Council of advertising the closure, no other costs will be incurred by the city in the creation of the new reserve.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

10. The reserve must be created in order to enable the City of Albany to be granted the Management Order for the care, control and management of the pedestrian footbridge.

11. If Council decides not to recommend the closures, the management of the footbridge would not be capable of being transferred to the City, although some portions would remain on City managed roads. It would still be expected that those portions would have to be maintained by the City.

SUMMARY CONCLUSION

12. The portions of road reserves within Stirling Terrace, Proudlove Parade and Princess Royal Drive occupied by the supports and footings of the pedestrian footbridge, plus the airspace above these roads occupied by the footbridge, must be closed in order to create the appropriate pedestrian footbridge reserve.

13. The proposal has been advertised and no public or agency objections have been received.

14. A resolution is required by Council to request the Minister to proceed with the proposal to close the specified portions of the road reserves, including the airspace above the roads, occupied by the footbridge.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued.

**ITEM: 13.1.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR SUTTON**

THAT Council REQUESTS the Minister for Lands close those portions of road reserve shown on Diagram 58074 as indicated below:

- Land ex Stirling Terrace (Lot 500);
- Land ex Proudlove Parade (Lot 501);
- Land ex Princess Royal Drive (Lot 502);
- Airspace over Proudlove Parade (Lots 503 and 504); and
- Airspace over Princess Royal Drive (Lot 506);

to allow the creation of a pedestrian footbridge reserve.

MOTION CARRIED 8-0

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.2
**ITEM TITLE: DEVELOPMENT APPLICATION – SINGLE HOUSE – 39 LA
PEROUSE COURT, GOODE BEACH**

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

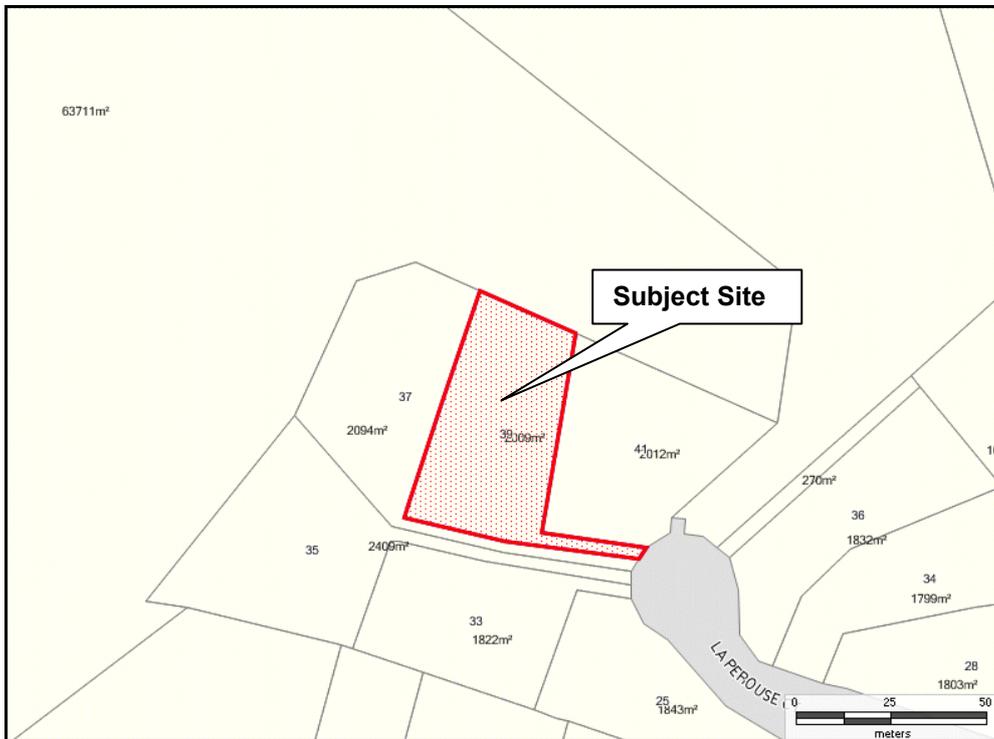
Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	:	A185755 (Vancouver Ward)
Summary of Key Issues	:	Revised plans – increased height.
Land Description	:	Lot 654 (39) La Perouse Court, Goode Beach
Proponent	:	Concept Building Design
Owner	:	SJ & S Jarvis
Reporting Officer(s)	:	Planning Officer (T Wenbourne)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 15/04/03 Item 11.3.3 OCM 15/07/03 Item 11.3.2 OCM 21/04/09 Item 11.6.2 OCM 18/08/09 Item 13.1.1
Bulletin Attachment Reference	:	1. Revised plans including street view elevations
Consulted References	:	1. Town Planning Scheme 3 2. Albany Insight ~ Beyond 2020

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued.

Maps and Diagrams:



BACKGROUND

1. The application for a single dwelling was discussed at the Council meeting in August 2009 with a resolution to grant planning scheme consent. The consent was subsequently issued, but the proponent has now requested that some changes be considered.
2. The original proposal was referred to Council and with changes now proposed to the height and size of that approved development, affecting the bulk and to a lesser extent the design, the revised proposal is likewise referred to Council for consideration.

DISCUSSION

3. The revised design is essentially for the same development previously approved, with one minor and one more significant alteration.
4. The minor change relates to storage space associated with the double garage. This is repositioned with the storage space now to be placed to the rear of the garage. The setback distance from the boundary is increased from 3.22m to 4.05m and will result in a reduction in excavation to the dune to the west. Also the incursion outside of the building envelope on this western side is reduced to nil. The balcony above the garage and the master bedroom en-suite will no longer encroach beyond the building envelope.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued.

5. As this results in reduced ground works and excavation of the dune, it is staff's opinion that this represents an improved situation. It also brings the walls of the development on this side of the site within the defined building envelope and only a small overhang of the roof projecting beyond the building envelope.
6. The more significant alteration sought is with regard to the height of the proposed dwelling. The proponent has advised they wish to increase the ground level finished floor level by 1.0m, effectively raising the entire house by 1.0m.
7. Raising the height was recommended by the contracted Civil and Structural Engineers for the project. Raising the level will increase the efficiency of sub soil drainage, as well as lessening the impact on the onsite vegetation and reducing earthworks on the site. With less retaining and re-contouring, the cost of the groundwork will also be less.
8. Staff reported on the original application that the Special Provisions for Special Rural No.8 includes a measurement of building heights figure. On sloping ground, this establishes a method for setting a site datum height from which to measure the building height. The maximum permissible wall height is set 5.6m above the datum with an overall building height permitted at 9.1m.
9. Given the undulating site, it is very difficult to set a realistic datum using the method in the special provisions. However, when assessing the previous approved development a rough datum was calculated for this site and set at 7.065m AHD. Accordingly, it was accepted that a maximum wall height for the site would be 12.66m AHD and a maximum building height would be 16.16m AHD.
10. The proposed revised dwelling maintains the same vertical proportions with the additional 1.0m in height added below the ground floor level. Previously, the dwelling was proposed with the highest part of the wall at 10.25m AHD and the highest part of the roof at 11.00m AHD. The revised proposal changes the wall height to 11.25m AHD with the roof to 12.00m AHD. Both of these revised heights are below the maximum heights established in Paragraph 9. Staff are satisfied that the design satisfies the scheme provisions and will not be significantly intrusive in the surrounding landscape by reason of its bulk, scale and massing. Nor will it be detriment to surrounding landowners.
11. The Local Planning Policy 'Building Envelopes within Special Residential Area No.8' requires a front elevation drawing showing the proposed development in relation to the landscape, as well as a drainage strategy to be provided with all development application on the lots within its area. The elevation is intended to show the impact on the surrounding area (in terms of visibility beyond the dunes) and the drainage strategy to control run-off from the dune ridges to maintain the structural integrity of any buildings.
12. The drainage strategy was required by condition on the previous approved plans.

DEVELOPMENT SERVICES REPORTS

13. Although a landscape elevation was not provided with the previous submission, due to the lower built form of the development, its position between the dunes and the relationship to the dune ridge to the south of the lot, the lack of a plan was considered acceptable. With the revision increasing the overall height of the building by 1.0m, a streetscape elevation was considered necessary by staff to fully consider the implications of the requested change.
14. The proponent has provided a streetscape elevation as well as average eye level perspective views at three points on La Perouse Court. The elevation shows the dune height at 11.26m AHD with the building beyond at 12.0m AHD. This two-dimensional drawing does not really give an accurate representation of what you could see from the road as the dune being closer to the lot boundary with the road would obscure a taller object beyond it. Staff feel that the camera point perspective renderings give a more realistic representation of the proposed building from La Perouse Court. Camera Point 3 indicates that only the very tips of a couple of roof pitches would be glimpsed from the road bounding the site, but it is possible even this will be screened by the dune vegetation. However, the building will be visible from higher ground away from the site and any visual impact arising is diminished with increased distance and in its setting as part of the Goode Beach residential area.

PUBLIC CONSULTATION / ENGAGEMENT

15. The previous proposal was referred to the adjoining landowners due to the boundary setback relaxations requested. Neither of the neighbouring landowners consulted raised an objection. Copies of the revised proposal were sent by the proponent to the adjoining landowners by registered post on 18 November 2009. Any responses received will be reported at the Agenda Briefing on 8 December.

GOVERNMENT CONSULTATION

16. Not applicable.

STATUTORY IMPLICATIONS

17. 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
18. Scheme require compliance with a range of provisions including building setbacks/envelopes, height, materials, colour, fire control and the provision of services.

FINANCIAL IMPLICATIONS

19. Should the proponent lodge an appeal with SAT over a decision by Council to refuse the amended plans some legal costs would be applicable.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

20. This item directly relates to the following elements of Albany Insight ~ Beyond 2020:

1. Lifestyle & Environment,

Albany will be a City where...

1.5 Development...

- *Responds to our unique historical and environmental values;*
- *Embraces environmentally responsible approaches to energy and water consumption; and*
- *Incorporates healthy lifestyle activities and access to green space. services are significantly improved in order to accommodate the real needs of the region.*

POLICY IMPLICATIONS

21. At its July 2003 meeting, 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.

22. 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.

23. Minor encroachment into the building envelope can be determined on the individual planning merits of the proposal. The area of encroachment can be adequately compensated for elsewhere by relinquishing an equivalent area of the building envelope. The design and scale of the proposed development together with the specific topography of the site offers unique circumstances that would not set a precedent for future proposals elsewhere. It must be noted that this revision reduces the encroachment outside of the building envelope on the west side compared to the previous approval.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

24. Council has the option to refuse the amended plans, however this may prompt the proponent to lodge an Application for Review with the State Administrative Tribunal. This would have associated cost implications for the Council.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued.

SUMMARY CONCLUSION

25. The submission is a revision to a previously approved single residential house of two-storey scale.
26. There is a reduction in the extent of encroachment outside the building envelope on the west side and the finished floor levels of both ground and first floors are proposed to be raised by 1.0m compared to the previous approved development.

**ITEM: 13.1.2 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR DUFTY**

THAT Council, pursuant to Section 5.3.6 of the City of Albany Town Planning Scheme 3 resolves to accept and approve the amended plans for a 'Single House' at Lot 654 (39) La Perouse Court, Goode Beach. The amended plans supersede the plans dated 23/04/2009 and the acceptance of the amended plans is subject to the same conditions as the original approval.

MOTION CARRIED 8-0

DEVELOPMENT SERVICES REPORTS

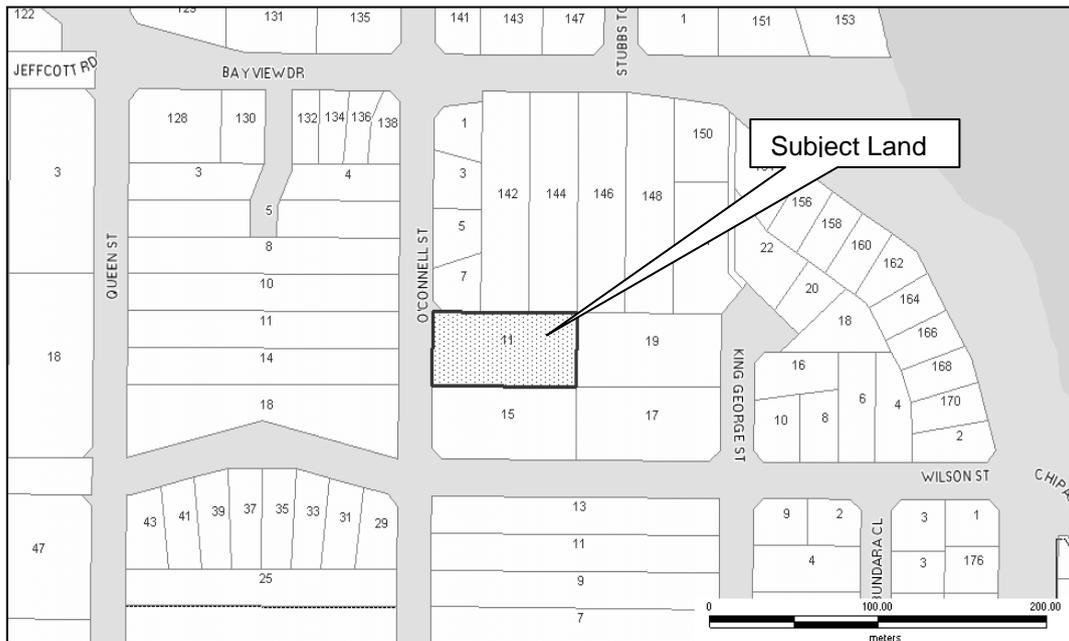
ITEM NUMBER: 13.1.3
ITEM TITLE: DEVELOPMENT APPLICATION – OVER HEIGHT OUTBUILDING - 11 O’CONNELL STREET, LITTLE GROVE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand. These decisions are reviewable by the State Administrative Tribunal.

- File Number or Name of Ward** : A34801 (Vancouver Ward)
- Summary of Key Issues** : Consider a variation of the Council’s adopted Outbuildings Policy
- Land Description** : 11 O’Connell Street, Little Grove
- Proponent** : Kusters Steel Construction
- Owner** : D & A Holland
- Reporting Officer(s)** : Assistant Planning Officer (T Gunn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : 1. Application for Planning Scheme Consent
- Consulted References** : 1. Outbuildings Policy
2. Town Planning Scheme No.3

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued.

BACKGROUND

1. This application is for a carport which is to be attached to the front of an existing domestic outbuilding at 11 O’Connell Street, Little Grove.
2. The site is 3448m² in area and is zoned “Residential Development” in Town Planning Scheme No. 3.
3. Council’s Outbuildings Policy was adopted by Council at its meeting held on 16 October 2007.
4. The Outbuildings Policy sets the ‘permitted development’ criteria for outbuildings according to the zone and site area. For the subject land, the following provisions apply:

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined all outbuildings)	Special Requirements
Residential / Future Urban / Residential Development Zone (Lots 1000m ² - 4000m ²)	3.0 metres	4.2 metres	120m ²	If floor area exceeds 60m ² the use of non-reflective materials is required

5. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy requires the proponent to demonstrate “exceptional circumstances” as to why the policy should be relaxed, with the proposal being presented to an ordinary meeting of Council. Council can use its discretion to permit exceptions to the policy where “exceptional circumstances” apply.

DISCUSSION

6. The applicant seeks Planning Scheme Consent for a variation of the Outbuildings Policy in respect of the maximum wall height. A domestic outbuilding on this lot has a 3.0m limit for the maximum permitted wall height. The variation requested is an increase of 0.2m, to allow the wall height to be 3.2m.
7. The proponents wish to park their boat and trailer under cover at the rear of their property. The boat is 2.43m wide and 3.0m in height and, according to the proponent, in order to successfully keep the boat under cover a 3.2m wall height is required.
8. The proponent has stated that cutting the floor of the carport below ground level is not an option as there is an existing concrete slab in the location where the carport is proposed. Removing this slab would create a significant drop from the existing outbuilding to ground level. This would be impractical and would restrict access to the outbuilding.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued.

9. The access to the structure is via an existing drive way which runs along the side of the dwelling. The carport will be attached to the front of the existing outbuilding as seen from O’Connell Street. The existing outbuilding has a wall height of 2.4m and a ridge height of 3.2m. Although an increased wall height is requested, the ridge height of the roof will be 4.045m and will not exceed the 4.2m (the maximum permitted under policy). It is considered the scale and built mass of the carport in front of the existing outbuilding will be no more visually prominent in the streetscape as a result of the requested relaxation.
10. In all other respects, the proposed carport complies with the Outbuildings Policy and the Residential Design Codes.

PUBLIC CONSULTATION / ENGAGEMENT

11. The neighbour most likely to be affected by this application is the northern neighbour. That neighbour has sighted the plans and has no objections to the application; it should be noted that the neighbour’s comments weren’t required as the setback from all boundaries has been met.

GOVERNMENT CONSULTATION

12. No government consultation was required.

STATUTORY IMPLICATIONS

13. The land is zoned “Residential Development” under Town Planning Scheme 3 (TPS 3). The proposed carport is permissible under the Scheme.
14. The Outbuildings Policy is a town planning scheme policy adopted under the Scheme. Clause 6.9.4 of TPS 3 states;
 - a) *A Town Planning Scheme Policy shall not bind the council in respect of an application for Planning Consent, however, it may require the council to advertise its intention to relax the provisions of the policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
 - b) *Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve and any submissions lodged, before making its decision.*

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

16. There are no strategic implications relating to this item.

POLICY IMPLICATIONS

The City of Albany Outbuildings Policy details the permitted/acceptable development criteria for buildings within the City’s municipal boundary. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy require the proponent to demonstrate “exceptional circumstances” as to why the policy should be relaxed, with the proposal then being presented to an ordinary meeting of Council.

17. The aim of the Outbuildings Policy is to achieve a balance between providing for the various legitimate needs of residents for outbuildings, and minimising any adverse impacts outbuildings may have on neighbours, a street, a neighbourhood or a locality.
18. Staff are not convinced that the storage of a boat can be classified as “exceptional circumstances”. The minor relaxation of a the wall height restriction within the policy, as requested, does not set a general precedent, and any future applications will still be required to be assessed on their individual merits against the aims of the policy. In this instance, the proposed building will not compromise the overall height and the cumulative floor area of all outbuildings onsite allowed under the policy. The above circumstances are unique to this proposal.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Council could refuse the application and the applicant would then be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.

SUMMARY CONCLUSION

20. The application proposes to construct a carport attached to an existing outbuilding located in the rear (north-eastern) corner of the site.
21. A 0.2m relaxation is sought for the maximum wall height from 3.0m to 3.2m. Due to the design, the maximum ridge height would not be exceeded. The proposal will not be highly visible from public vantage points or neighbouring properties and the overall bulk and scale is not uncommon within the Residential Development zone. The neighbour most affected has also been advised and does do not object to the proposed relaxation.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued.

22. The proposal outbuilding is considered acceptable by staff and is recommended for approval subject to the development complying with a number of conditions.

**ITEM: 13.1.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR MATLA**

THAT Council resolves to relax the provisions of the City of Albany Outbuilding Policy and ISSUE a Notice of Planning Scheme Consent for an Outbuilding at 11 O'Connell Street, Little Grove with a wall height of 3.2m subject to the following conditions:

- a) The outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation;**
- b) The proposed outbuilding shall be clad in Colorbond© or other non-reflective materials; and**
- c) Stormwater disposal is to be as per Council's requirements.**

MOTION CARRIED 8-0

DEVELOPMENT SERVICES REPORTS

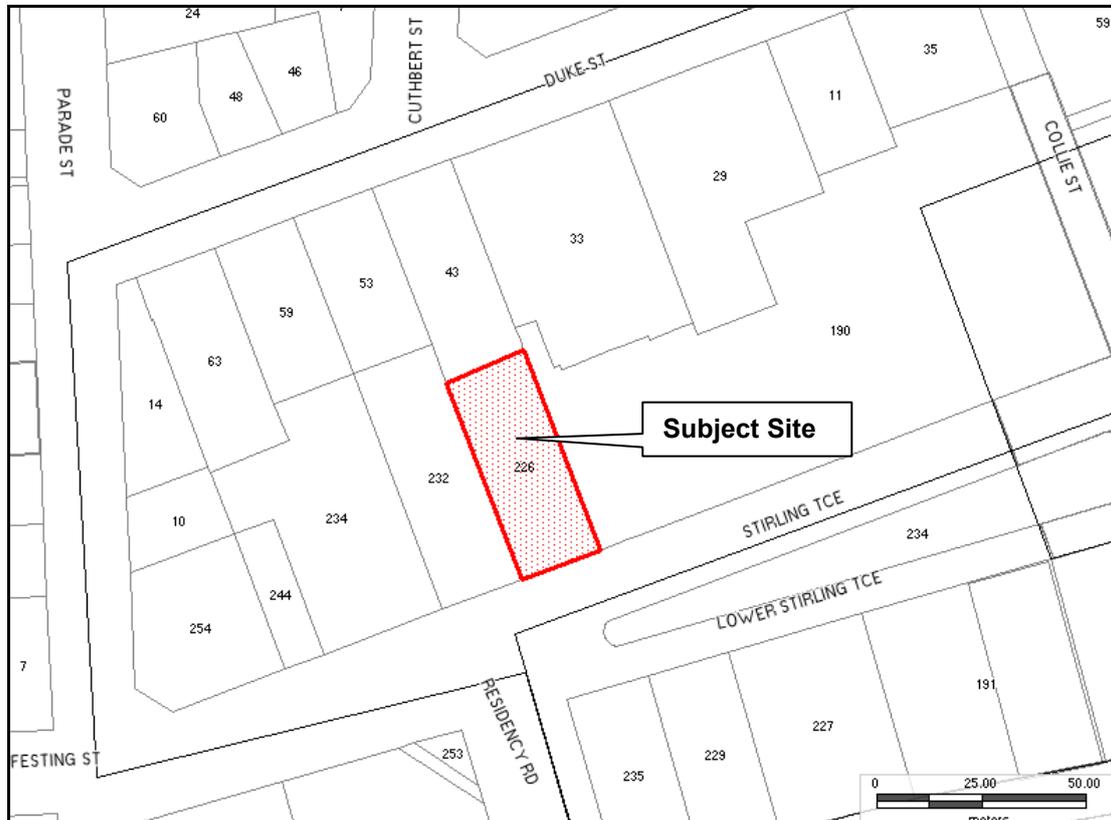
ITEM NUMBER: 13.1.4
ITEM TITLE: DEVELOPMENT APPLICATION – CHANGE OF USE TO RESTAURANT - 222 – 226 STIRLING TERRACE, ALBANY

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	: A97061 (Frederickstown Ward)
Summary of Key Issues	: On/Offsite Parking Provision
Land Description	: Lot 25 (222-226) Stirling Terrace, Albany
Proponent	: Tony Docking
Owner	: D & T Oorschot
Reporting Officer(s)	: Planning Officer (T Wenbourne)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment Reference	: 1. Written request for review of condition from operators
Consulted References	: 1. Town Planning Scheme 1A 2. Council Policy – Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals 3. Central Albany Urban Design Policy

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

BACKGROUND

1. The application for a change of use of the former “Green Door” private recreation business to become a restaurant (Rustlers) was approved on 21 October 2009 under officer delegated powers.
2. Part of the parking requirement generated by the change to restaurant was to be provided on a nearby site. In accordance with the Council policy titled “*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Carparking Proposals*”, a condition was imposed requiring the proposed off-site parking to be secured through a caveat on the title of the neighbouring site.
3. The operators have written to request Council reconsider the formal caveat requirement of this condition as they consider it overly onerous on the neighbouring landowner that has consented to his car park being used “after hours” for this business. They have also requested Council consider not requiring them to provide the additional off-site bays through provision of land or cash in lieu.
4. The application is presented to Council as the proponent has made a written request for reconsideration of the condition, suggesting the alternatives would make the proposal economically unviable. Anything else is contrary to Council Policy.

DISCUSSION

5. The application was considered by officers and determined in accordance with Town Planning Scheme 1A and the relevant Council policies.
6. The “Use Development Table” in Town Planning Scheme 1A requires a car parking provision of 1 bay per 4 seats for a “Restaurant” use. The proponent did not provide details of the numbers of tables or seats because this had not been fully worked out.
7. The plans show the building as having a ground floor footprint of 650m² with the first floor adding a further 85m², giving the entire building an overall floor space of 735m². The “Development Guidelines for Town Planning Scheme 1A” offers a car parking ratio based on the gross floor area of a development. Those guidelines state that, within the Central Area zone, a restaurant is required to provide one car parking space for every 35m² of gross floor area. Therefore, the 735m² floor space gives rise to a parking requirement of 21 car parking bays. Had the “Use Development Table” provisions and the floor space requirements of the Building Code of Australia (1 person per square metre) been utilised, the car parking requirement would be in the order of 180 bays.
8. The development application sought to utilise the existing floor space within the building that stretches across the site from the west side boundary to within 1m of the east boundary. The building is positioned 1.5m from the rear boundary. Therefore, the only useable space outside of the building is the front of the building (facing Stirling Terrace) where an existing car park is laid out.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

9. The front setback provides 10 of the required 21 car parking bays. With no realistic capacity to increase the number of on-site car parking bays, a suitable off-site option is required. The
10. operators stated their intended operating hours in the documentation accompanying the application and they stated that they were willing to accept a condition restricting their operating hours to minimise any car parking impacts on the locality.
11. The proponent had approached surrounding businesses to see if it was possible to use their parking facilities in the evenings (outside of office hours) as this is the time the proposed restaurant intends to operate.
12. Smith Thornton Accountants, located 2 lots to the southwest, agreed that the restaurant patrons could use their car parking area, provided there was no conflict with the opening hours of their office. This agreement was provided in an e-mail from the management of Smith Thornton Accountants.
13. This property is only 20m to the southwest of the subject land and it meets the criteria contained in Section 2 of Council's policy, which requires the parking provided on an adjoining or nearby site to be within 50m of the development site. Paragraph 2.9 of the policy states:

'Any arrangement to allow a carparking shortfall to be met through providing carparking on an adjoining or nearby site is to be supported by a legal agreement drafted at the applicant's expense. Council and all affected landowners are to be parties to the agreement. Where carparking is provided on an adjoining lot then the arrangement is to be reflected through an easement registered on the title of the affected lot as well as the legal agreement.'
14. With the proposal being compliant with Council policy, the Application for Planning Scheme Consent was approved with a condition imposed on the approval requiring the 11 additional car parking bays that were to be provided on the nearby site to be secured for the exclusive use of the restaurant by way of a caveat registered on the title of 234 Stirling Terrace. This condition has previously been used by Council, when a similar situation for off-site parking was presented, and those parking arrangements are still in place and protected by the agreement.
15. It is this condition (Condition A1) that the proponents are now requesting be reconsidered. The proponents have submitted a covering statement as to why they feel the policy requirement and condition is onerous and this is included in the Bulletin attachment.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

16. There are a number of ways in which Council can consider this request. Those options include:
 - a. Clause 4.10 of TPS1A permits Council to approve a development (not subject to the Residential Design Codes) that does not comply with a standard or requirement prescribed under the Scheme, despite the non-compliance, either unconditionally or subject to such conditions it sees fit. This clause requires such variation to be advertised;
 - b) Clause 7.21.4 of TPS1A states that a policy shall not bind the Council, but Council shall have regard to a policy before making a decision; or
 - c) Clause 7.9(e) of TPS1A allows Council, on the request of an applicant, to amend the planning consent or any conditions attached to the consent prior to the commencement of the use on the site.
17. Whilst clause 7.9(e) allows the wording within the condition to be amended, the impact of that change could have far reaching consequences and clause 4.10 needs to be considered. Notwithstanding that the surrounding land uses are primarily daytime uses, those uses could change over time and the car parking on 234 Stirling Terrace could be required for night time uses in the future. The legal status of the outstanding 11 bays is therefore tenuous.
18. Currently, Rustlers is located in Frederick Street. It is a 100 seat restaurant, which under the “Use Development Table” in the Scheme would require a provision of 25 car parking bays or 3 bays under the policy. At their current location no onsite car parking is provided and no traffic impacts have resulted from the land use. The proponents have suggested that through their re-location, a net gain of the 10 car parking spaces they can provide onsite.

PUBLIC CONSULTATION / ENGAGEMENT

19. The proponents have requested that this item come before Council at the earliest opportunity for consideration. Advertisements have been placed in local newspapers advising of the request to reduce the number of car parking bays that this site needs to provide and the period available to lodge submissions will extend beyond the Council meeting. Any submission received will be reported to Council at the meeting.

GOVERNMENT CONSULTATION

20. Not applicable.

STATUTORY IMPLICATIONS

21. Clause 7.9 (e) of TPS1A allows Council to revoke or amend the planning consent or any of the attached conditions on written request from the owner prior to the commencement of the use or the development subject of the consent.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

FINANCIAL IMPLICATIONS

22. At an estimated cost of \$40,000 per car parking bay, the shortfall of 11 car parking bays represents a potential cash-in-lieu contribution of \$440,000 that could otherwise be payable to the Council for car parking improvements/provision in the CBD. The applicants are requesting that they be not required to pay this contribution.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

23. Not applicable.

POLICY IMPLICATIONS

24. The Council policy "*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Carparking Proposals*" provides direction to staff, developers and the public on how any shortfall of onsite car parking generated by a proposed use will be addressed.
25. Council has the discretion (under clause 4.10) to reduce development standards and to determine whether it wishes to apply this policy rigorously. When dealing with proponents and giving advice, staff are guided by their delegations and the requirements of policy.
26. Council's "Central Albany Urban Design" policy also gives some direction on parking. Clause 7.6.1 of the Policy states that Council may consider relaxing parking requirements in the following circumstances:
- *Where visitor parking can be partially met by existing street parking in the immediate vicinity.*
 - *Where satisfactory provision can be made other than on site.*
 - *Where the provision required would preclude the adaptive reuse of an existing building which contributes to the urban character.*

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

27. Council can choose to relax the Scheme provisions and its policy requirements as outlined above. Council can opt to remove Condition A1 and accept an agreement that is legally non-binding for the additional parking bays to be provided on 234 Stirling Terrace. It can equally decide that there will be sufficient parking available in the street when the restaurant is operating (ie. after normal office business hours) and waive the requirement for the additional 11 bays, after it has considered any submissions received during the mandatory advertising period.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

SUMMARY CONCLUSION

28. The operator has provided a statement outlining why they believe the policy requirements are overly burdensome given the particulars of transferring their business to this site.
29. Staff have applied the Council Policy “*Guidelines for the Assessment of off-site, Verge and Cash-In-Lieu Carparking Proposals*” in determining the proposed change of use and drafting the conditions applicable to the operation of the restaurant. This policy provides specific guidance to resolve any car parking shortages.
30. There is an argument that the change of use will generate a parking demand outside of “normal office hours” when parking areas are not in use and the “*Central Albany Urban Design Policy*” provides broad direction in this regard.
31. Council can use its discretion to vary the requirements of the policy, given the particular circumstances applicable to this proposal, but staff are suggesting that a change in the development approval condition not be supported. If Councillors wish to pursue an alternate position, the process should be handled administratively on the basis that it involves a variation to a development standard and the proposed variation to development standard should be advertised.

ITEM: 13.1.4 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council REFUSES the request to remove condition A1 of Planning Scheme Consent P295280 for a ‘Restaurant (Change Of Use & Internal Fit Out)’ at Lot 25 (222-226) Stirling Terrace, Albany and advises that the off-site parking provisions need to be addressed in accordance with Council Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

ALTERNATE MOTION BY COUNCILLOR WELLINGTON

ITEM NUMBER: 13.1.4
ITEM TITLE: DEVELOPMENT APPLICATION – CHANGE OF USE TO RESTAURANT – 222-226 STIRLING TERRACE, ALBANY

DATE & TIME RECEIVED: Tuesday, 8/12/09 at 6.30pm

ITEM: 13.1.4 ALTERNATE MOTION BY COUNCILLOR WELLINGTON MOTION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR WOLFE

THAT Council, pursuant to clause 4.10 of the City of Albany Town Planning Scheme 1A ADVERTISE its intention to consider an application to REDUCE the car parking requirements for the proposed development of a Restaurant at 222-226 Stirling Terrace, Albany by:

- a) Reducing the number of car parking spaces required on-site by 11 bays; and**
- b) By accepting an undertaking (not secured by caveat) provided by a landowner in close proximity to the subject land that the car parking bays provided on his lot can be utilised by the restaurant after business hours.**

MOTION CARRIED 8-0

ITEM: 13.1.4 ALTERNATE MOTION BY COUNCILLOR WELLINGTON MOTION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR DUFTY

THAT Council, following the advertising period required by clause 4.10 of the City of Albany Town Planning Scheme 1A;

- a) and where no submissions have been received during the advertising period, DELEGATE AUTHORITY to the Executive Director Development Services, pursuant to clause 7.22 of the Scheme, to issue a conditional Planning Scheme Consent to the development application with conditions considered appropriate to that officer and without a requirement for the 11 car parking bays to be provided on-site; or**
- b) where submissions have been received during the advertising period, the application and the submissions BE REFERRED to the next available Council meeting for consideration.**

MOTION CARRIED 8-0
ABSOLUTE MAJORITY

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

Councillors Reason:

Clauses 27 and 31 of the officer's report highlight that Council cannot waive the car parking requirements without first undertaking the administrative requirements of the Scheme and those requirements are detailed in Motion 1. Clause 4.10 requires Council to determine the likely affect of the variation upon owners and occupiers of properties in the vicinity of the subject land and those impacts are negligible, given the restaurant will be operating at different hours to the other businesses in the street. An adjoining landowner has also given written consent for the clients of the restaurant to utilise his car park and restaurant patrons are not totally reliant on on-street parking. Motion 2 provides that an approval can be issued without the matter coming back to Council if no submissions are received during the public consultation process.

OFFICERS REPORT: Author: Executive Director Development Services (R Fenn)

STATUTORY IMPLICATIONS

Clause 4.10 of the Scheme states:

- 4.10.1 *In considering an application for planning consent under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council is to:*
- (a) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 7.5; and*
 - (b) *have regard to any expressed views prior to making its determination to grant the variation.*
- 4.10.2 *The power conferred by this clause may only be exercised if the Council is satisfied that:*
- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in clause 7.8; and*
 - (b) *the non-compliance will not have an adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

POLICY IMPLICATIONS: No Change.

FINANCIAL IMPLICATIONS: No Change.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN: No Change.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS: No change.

OFFICER'S COMMENT:

This motion is at variance with Council policy and scheme provisions, but it is consistent with a number of earlier Council decisions. Finding a more equitable way to provide for and fund car parking within the CBD was the primary motivation behind the establishment of the Albany Central Area Master Plan Committee. That committee will be submitting its draft report to Council shortly.

DEVELOPMENT SERVICES REPORTS

7:34:40 PM

Councillor Price declared a Financial Interest in item 13.1.5 and left the Chamber.

Councillor Leavesley declared an Impartiality Interest in item 13.1.5.

ITEM NUMBER: 13.1.5
ITEM TITLE: DEVELOPMENT APPLICATION – MULTIPLE DWELLINGS – 79 EARL STREET, ALBANY

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	: A205084 (Frederickstown Ward)
Summary of Key Points	: Application for Planning Scheme Consent for 40 multiple dwellings
Land Description	: 79 Earl Street (two previous lots have since been amalgamated)
Proponent	: Lou Marchesani
Owner	: Ridgcity Holdings P/L
Reporting Officer(s)	: Senior Planning Officer (I Humphrey)
Disclosure of Interest	: Nil
Previous Reference	: OCM 20/09/06 Item 11.1.1 OCM 17/01/06 Item 11.1.1 SCM 31/01/06 Item 6 OCM 19/12/06 Item 11.1.5
Bulletin Attachment(s)	: 1. Letters of comment, 2. Report by proponent as to compliance with Council Policy.

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Maps and Diagrams:



BACKGROUND

1. An application has been lodged for the construction of 40 multiple dwelling units at 79 Earl Street, Albany. The development incorporates 14 three bedroom apartments and 26 two bedroom apartments. Plans and elevations of the proposed development are included in the Elected Members Report / Information Bulletin.
2. An application for 40 multiple dwellings, with a maximum built form of three (3) stories, has previously been considered on this property and the application was approved at the December 2006 meeting; that approval has now expired. A previous application to extend/renew the 2006 approval was previously withdrawn by the proponent, as he believed he could achieve substantial commencement of the development prior to the expiry of that approval, however this was not achieved. This application is identical to the development approved in 2006.
3. The proposal has been subjected to an advertising period and a total of eight (8) submissions were received. Copies of the submissions are included in the Elected Members Report / Information Bulletin. The adjoining landowners to the east and west have both been consulted, and have no objections to this proposal.

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4. Within the documentation submitted, the proponent has provided a comprehensive report of the building's compliance with the planning scheme and policies. That report is incorrect as it assumes that the site is located within the Central Business Precinct of the Central Albany Urban Design Policy, whereas it is located within the Residential Areas Precinct. The mapping attached to that policy is difficult to interpret and an amended consultant's report is attached, recognising the correct designation.

DISCUSSION

5. Due to the complexity and scale of the proposed development, officer comments are grouped under the various policy and legislative mechanisms.

Town Planning Scheme No.1A

6. The zoning and the density coding applied to the land, and its immediate environment, allows for a higher density of residential development than currently exists in the locality. The subject lot and land to the west (existing cottage) and south (Frederick House) is included in the Central Area zone where the R160 Coding applies, whilst the land to the east (cottage) and north (Albany City Holden) is in the Residential zone with an R30 coding in place. Whilst the subject land is zoned "Central Area", it is included in the "Residential Area Precinct" of the Central Area Urban Design Policy as the street within which is located reflects primarily a residential character. The Scheme also requires that any residential development undertaken within the Scheme area (irrespective of the base zoning) be assessed against the Residential Design Codes.
7. In regards to other Scheme matters, the project generally complies with the Scheme, other than for those matters that are discussed later in the report.
8. The development:
 - is located within 300m of the harbour and does not exceed 12.0m in height;
 - does not impact upon any places identified in the City's Municipal Inventory or the Register of Places of State Heritage Importance;
 - is unlikely to generate any social issues that may affect the amenity of the locality;
 - is at a height and scale that will not adversely affect the amenity of adjoining properties or the locality;
 - provides for the safe movement of vehicles on and off the site;
 - is accessible by disabled persons; and
 - does not involve a loss of community benefit.

Residential Design Codes of Western Australia

9. The following headings are the ten design elements of the Codes, under which the relevant provisions will be discussed. The clauses that are not applicable have not been included.
10. **Element 1 - Housing Density**

A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m² of land area. As the land area is 2928m², the maximum theoretical yield from the site is 46 units. The proposed 40 units meet the acceptable requirement of the Codes.

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11. Councillors are advised that Amendment 161 to Town Planning Scheme No. 1A proposes to down code this property to the 'R-IC' code (Residential Inner City) which would reduce the overall density to approximately R100. This amendment has not been gazetted, and therefore the current R160 coding continues to apply and is factored into this report.
12. **Element 2 – Streetscape**
Setbacks of Buildings Generally:- the "Acceptable Standard" under the Codes is for a setback of 4.0m from the front, which can be reduced down by 50% as of right. This development is however assessed against the 'Performance Criteria' in that:
 - The setback (minimal to balconies, though varying between 2.6m and 5.2m to the building façade) contributes to the desired streetscape.
 - Adequate privacy and open space for dwellings is provided through the provision of significant balconies and courtyards, well connected to dwellings from principle living areas. In the front setback at ground floor, these areas are screened to provide an element of privacy, and are supplemented by the provision of secondary outdoor living areas on the ground floor at the rear of dwelling units. The nature of this type of higher density dwelling demands lesser areas than expected and provided for traditional 'suburban' single houses with an emphasis on 'useability', which the development meets.
 - Although services criss-cross the site, no easements or service corridors are impacted upon by the front setback proposal.
13. Staff support the justification provided by the applicant for compliance with the "Performance Criteria" of the codes. The previous "Retravisation" building on Lot 12 had a zero setback with verandahs protruding over the footpath.
14. Setback of Garages and Carports / Surveillance of the Street:- the development meets the 'Acceptable Development' criteria.
15. Street Walls and Fences:- generally complies with acceptable development criteria, besides a small section of wall, which has been justified to meet the 'Performance Criteria' in that:
 - The additional height above 1.2m is only required in a small location, to provide 1.0m fencing (on top of retaining) to the outdoor living spaces of several dwelling units;
 - The 1.0m fencing is required to provide adequate screening to living spaces;
 - All affected living spaces are north-facing;
 - The slight height variation (limited only to a small portion of the fence) does not affect surveillance of the street, or the streetscape, given existing development, and the interaction between this building and the street, given its scale.
16. Staff agree with the justification provided by the applicant for compliance with the 'Performance Criteria' of the codes.
17. Sightlines at Vehicle Access Points and Street Corners: the development meets the 'Acceptable Development' criteria.

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18. Element 3 - Boundary Setbacks

Buildings Set Back from the Boundary:- the development does not comply with the 'Acceptable Development' provisions of the Codes. Staff support the justification provided by the applicant for compliance with the 'Performance Criteria' of the Codes, in that:

- Adequate sunlight and ventilation is provided to all dwellings within the building, which provides for acceptable solar access, and maximised north-south orientation;
- Adequate sunlight and ventilation to adjoining dwellings is achieved through the built form being articulated along the side boundaries to avoid excessive impact, provide large areas of solar access and opportunities for cross breezes and air movement. Overshadowing to the rear (southern boundary) where impact is greatest and it predominantly affects a 14.0m deep parking area (refer Element 9: Design for Climate below for more information);
- Building bulk is addressed through the breaking up of building facades and varying setbacks;
- Privacy to adjoining buildings is assisted through the nil setbacks proposed in some locations, as no windows, openings or other opportunities for overlooking are provided in these locations;
- Given the commercial nature of adjoining properties to the west and south, impact on amenity is not as great as if it were used for residential properties (which the Codes assume);
- The impact of building setback to the east is reduced by the "cutting in of the building on that side of the site and by facing windows to the north and south. Where direct overlooking from three (3) units is minimised by an increased setback to those units.

19. The adjoining landowners to the east (residential) and west (commercial) of the site have advised in writing that they have no objections to the reduced boundary setbacks of "nil" to sections of the project.

20. The provisions within the scheme allow a "nil" side or rear boundary setbacks for the Central Area zone and it would be acceptable for a commercial development on this lot (if developed for that purpose) to be built up to the boundary. The Scheme requires a residential development ~~is required~~ to comply with the Residential Design Codes and the adjoining landowners are required to be consulted where residential developments are built up to the boundary. Where a nil setback is proposed to be used in the development, it is for small lengths of wall and these are broken by the forecourts of units which will be landscaped as part of the development.

21. By reducing the required boundary setbacks, the footprint for the development is dispersed over the site, as opposed to pushing the building upwards, thereby reducing the capacity for overlooking of adjoining properties and removing views of significance from surrounding properties.

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22. Buildings on the Boundary: Behind the front setback line, walls on the boundary are proposed for less than the two thirds of the lengths of these boundaries and this is consistent with the requirements of the Codes. However, heights do exceed the 3.5m prescribed and require assessment under the 'Performance Criteria'. Compliance is achieved in that:
- The proposal uses nil setbacks in certain locations to make effective use of space: provision of setbacks in these locations would achieve little benefit, particularly given the non-residential nature of the adjoining property to the west and the elevated ground levels of the residential property to the east reduces the impact of the wall height ;
 - Privacy is enhanced through the location of walls on boundaries in that the opportunity for overlooking is limited to only three units (facing east) in these locations and those units are set back from the side boundary;
 - The amenity of adjoining properties is not adversely affected by the walls, given the non-residential nature of the lot to the west. Indeed the walls on the western boundary provides additional design flexibility in the event that the property is redeveloped for commercial purposes (a reasonable expectation, given its zoning);
 - The property to the east is zoned Residential and could be developed in a similar manner to the subject land, if Amendment 161 is gazetted. In the interim, section of the common boundary will have parapet walls up to a maximum of 9.4m in height, which exceeds the Codes limit by 2.4m, not an insignificant variation. The wall is not continuous, which is a situation that could arise if the land was to be used for a commercial purpose in accordance with the Central Area zoning.
 - The walls on the boundaries are located on the east and west elevations, and do not affect access to desirable northern light and southern views. Impact is further mitigated through the breaks in building form provided along both elevations, ensuring that continuous expanses of wall (and overshadowing) is minimised.
23. It should also be noted that the local planning policy for the Central Business Precinct encourages developments with “nil” side setbacks to encourage a continuous 'edge' to the street. In the Residential Areas Precinct, side setbacks “shall encourage consistent setbacks on both ground and first floors to achieve clear breaks between adjoining residences.”
24. **Element 4 - Open Space**
Open Space Provision:- the development does not comply with the 'Acceptable Development' provisions. With the residential density allowable on the site, and the requirement to regulate building height, it would be impossible for a development to comply with the 'Acceptable Development' criteria. The applicant has adequately addressed the relevant 'Performance Criteria' in that;
- The proposed POS areas complement the building, providing a landscaped setting in which the development will be set;
 - Allows an attractive streetscape, with open space areas provided along the length of the front elevation;
 - Meets the future recreational needs of residents, by providing significant areas of both private and public open space. Additionally, the density of the proposed development and its location (in the heart of Albany with excellent access to a range of parks, bush land, recreational, social, cultural and commercial pursuits) ensures that the needs of residents are likely to be met and alternate housing choice is provided.

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25. Balconies for Multiple Dwellings:- the development generally complies with the 'Acceptable Development' criteria and the proponent has provided adequate justification where balconies do not comply.
26. Communal Open Space:- the development meets the 'Acceptable Development' criteria.
27. Landscaping Requirement:- the development generally complies with the 'Acceptable Development' criteria. The developer will be required to submit a detailed landscape plan prior to the issue of a building licence for this proposal.
28. **Element 5 - Access and Car Parking**
On Site Parking Provision:- the proposal complies with the minimum number of car parking bays required by the Codes. The 74 bays are to be provided in the secure undercover parking areas. Eight (8) of the bays are to be set aside for the exclusive use of visitors, who will need to use an intercom device to communicate with the appropriate apartment before being able to access the designated visitor car parking bays. There is a high probability that visitors would simply park on the street, to avoid the necessity of waiting to be allowed in; if that was to happen, it may place pressure on available on-street parking in Earl Street.
29. Design of Parking Spaces / Vehicle Access:- the development generally complies with the 'Acceptable Development' criteria and the proponent has provided justification, to show that the application meets the relevant 'Performance Criteria'. The proponent will be required to submit a detailed plan for the approval of car parking and access ways prior to construction.
30. Pedestrian Access:- Staff accept the rationale supplied by the proponent in the report for compliance with the 'Performance Criteria'.
31. **Element 6 - Site Works**
Excavation or Fill:- The applicant's justification for meeting the 'Performance Criteria' is that the development presents the appearance of being 'at grade' with the street, by cutting into the ground level behind the front setback line, to provide access to undercroft parking. The development generally follows the line of natural ground level, minimising height and bulk through excavation which is screened from view from all public places and adjoining properties.
32. The proponent will be required to provide more detailed drawings of the site, prior to the issue of a building licence, showing existing natural ground levels and proposed finished levels. A geotechnical report will be required to show existing ground conditions and the building licence will not be issued until the applicant can supply appropriate structural engineering details.
33. Setback of Retaining Walls:- Staff accept the rationale supplied by the proponent in that all retaining is provided within the building envelope and is predominately provided to the under-croft parking areas, presenting no or very minimal impact on adjoining properties and the street.

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34. Element 7 - Building Heights

Building Height:- the development does not comply with the 'Acceptable Development' criteria of the Codes. The proponent, in the original report, has stated that the height of the building complies with the codes as it "*is in accordance with an adopted policy*".

35. To determine the development's compliance with the 'Performance Criteria', the findings of the SAT (in its determination of the previous appeal) needs to be considered as part of the decision-making process. In tendering evidence to the SAT, the professional witnesses had difficulty justifying that a multiple dwelling could be built in Albany's CBD under the 'Acceptable Development' provisions of the Codes. SAT ultimately described the desired height for buildings in the locality as follows:

"... the desired height of buildings in the locality is up to three stories, or about 11 metres in the area to the south and west of the site, and up to two (2) storeys in the area to the north and east of the site..."

36. Reference is made to the interpretation of the "*Central Albany Urban Design*" policy later in this report. The development proposal is for three (3) storeys of development above the natural ground level (NGL) over the site. However, the average height of the building on the eastern boundary is less than 9.0m above NGL, (with a maximum height of 9.4m). On the western boundary, the building extends up to a 10.0m high parapet.

37. If a house (or a group or multiple dwelling development) was to be constructed on the property to the east of the subject land, it would be allowed to be constructed, "as of right" with a wall height of 6.0m (7.0m parapet wall) and a maximum roof ridge height up to 9.0m. The proposed building height will help to create a sympathetic transition between the "Central Area" zone and the "Residential Zone". If Council gives consideration to the observation made by the SAT members, in their findings, it is staff's contention that the development would reasonably comply with the "Performance Criteria" of the Codes.

38. Element 8 - Privacy

Visual Privacy:- reference is made to the report prepared by the proponent for compliance with the 'Performance Criteria' which states that the positioning of balconies minimises overlooking of adjoining properties through their placement addressing the street (at the front) and overlooking a right of way and the 14.0m deep parking area to the south. Screening is provided to the limited number of balconies on the eastern and western boundaries, excepting those in the centre of the development, which orient east and west. These are setback 5.5m from boundaries and minimise overlooking issues on adjoining properties through the setback.

39. Element 9 - Design for Climate

Solar Access for Adjoining Sites:- the development complies with the 'Acceptable Development' criteria.

40. Stormwater Disposal:- a detailed stormwater plan will need to be submitted to Council for approval, prior to the issue of a building licence for this development. There is potential for all roof water to be directed to Earl Street, however surface run-off will flow to the southern boundary of the land, where the new basement car parking level is approximately 800mm below the level of the car park on the adjoining property. The drainage outlets are currently above the proposed car parking level.

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Item 13.1.5 continued.

41. Element 10 - Incidental Development

External Fixtures:- conditions to be imposed on the planning approval can ensure compliance with this clause of the Codes.

42. Essential Facilities:- the development generally complies with the 'Acceptable Criteria' for storage spaces, waste facilities and clothes drying areas. With reference to clothes drying, the development complies with the 'Performance Criteria', as the units propose to include individual clothes dryers.

Public Comment

43. The plans were advertised to the public and a total of 8 letters and emails were received during the 21 day advertising period. All of the respondents raised objections to the development application, with the majority calling for no relaxation of the "*Central Albany Urban Design*" policy.
44. The setback of the third storey and its compliance with the "*Central Albany Urban Design*" policy has also been raised. Within the Central Business Precinct that policy requires a 3.0m setback for the wall of the third storey (allowing a balcony on the boundary), with two storeys below being allowed to have a nil setback. The front wall of the third storey units in the proposed development is setback a minimum of 2.0m from the front boundary for the middle four units and then increases to 5.0m for the two outermost units. Within the Residential Areas Precinct, "building orientation shall generally be consistent with the existing street pattern." That pattern would be described as being single storey, small cottages built close to the front building setback.
45. The balconies for those units are set back zero and three metres respectively from the front boundary. This change in setback along the front wall helps to break down the visual bulk of the building and gives it a residential character, not dissimilar to a group of 'town houses'.
46. A number of comments were also received calling for the development to be refused on the grounds of height, bulk and design. These comments are contrary to the findings of the SAT, the requirements of the Residential Design Codes and the broad principles espoused in the City's "*Central Albany Urban Design*" policy.

Central Albany Urban Design Policy

47. The first matter to be considered in reference to this policy is which "which precinct should the development be considered against?" The subject site is located within the "Residential Areas Precinct", but directly adjoins the "Central Business District Precinct" of the policy. The land has a zoning under the scheme of "Central Area" with a density coding of "R160". SAT members were concerned that the policy's application to this site was in conflict with the scheme, notwithstanding that they understood the rationale for the variation.

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Item 13.1.5 continued.

48. The allowable density of the site provided in the Scheme (R160) would normally allow for a building of a much larger scale than would generally be found in a “residential area”. The higher density designation (the largest available under the Codes) is more consistent with a commercial precinct and the development requirements of the City of Perth. SAT did not make a clear statement in its determination at the review as to which precinct (central business or residential) the development should be considered against. The SAT members did acknowledge the land as being in a transitional location, being on the interface of the Central Area and Residential zones and they suggested that changes should be made to the Scheme to better reflect the transition; those changes have been initiated, but the amendment is yet to be gazetted.
49. It needs to be emphasised that the proposed development does not comply with the development standards specified in either precinct of the policy, however the SAT determined that the Central Business Precinct criteria should take preference. The Proponent has submitted planning justification for the approval of the development against the policy provisions relative to both precincts. Council must determine if the policy provisions should be enforced or the policy used as a guide in the decision-making process; clause 7.21.4 of the Scheme states that a policy shall not bind the Council, but Council shall take into consideration the provisions and objectives of the policy.
50. As discussed earlier in this report, the land slopes downhill from the east to the west across its frontage and from the north to the south (rear boundary). The height of the eastern side of the development at the boundary is 10.0m. This height is less than the allowable 11.0m in the Central Business Precinct and greater than the 6.0m permitted in the Residential Areas Precinct. On the eastern side, the development’s average height is around 9.0m, with the maximum height being 9.4m over a small section. The acceptable development provisions of the Codes allow a building on the adjoining property with a roof pitch up to 9.0m.
51. The proposed development is a residential building and it generally exceeds the residential standards in the “Residential Areas Precinct” part of the policy by 3.0m or one storey. That part of the policy does allow on larger lots, for 40% of the development to be extended to three (3) storeys; all of the development is at three (3) storeys.
52. However, the development is located on land zoned for commercial purposes and under the same policy the landowner could develop a mixed use (commercial at street level with office and/or residential development above) building at three storeys or 11.0m in height (maximum of 14.0m to roof pitch).
53. The front setback of the building is inconsistent with both the “Residential Areas Precinct” and the “Central Business Precinct” provisions of the policy. The third floor does not comply with the Central Business Precinct provisions of the policy as the policy requires a 3.0m setback for the wall of the third storey (allowing balcony on the boundary), with the two storeys below being allowed to have a nil setback and a verandah over the footpath. The front wall of the third storey units in the proposed development is setback a minimum of 2.0m from the front boundary for the middle four units and then increases to 5.0m for the two outermost units. The balconies for those units are set back zero and three metres respectively from the front boundary.

DEVELOPMENT SERVICES REPORTS

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54. The built form of the apartments is more consistent with the Central Business Precinct provisions of the policy. The proposed development does not comfortably fit within either precinct of the policy. Nonetheless, the proposed development does reconcile the policy anomaly and it provides a positive transition between the two precincts shown in the policy and the different zonings that apply to the lots on its western and eastern boundaries.

General

55. Council is required under Section 7.8A of the Scheme to give consideration to a number of matters in its decision making process. The greater weight in the decision making process is given to the Scheme and then to the policies that are adopted under that scheme. Council can give legitimate consideration to any other planning consideration the Council considers relevant and the SAT has provided some clear guidelines to Council on what it considers are valid considerations. The development is three (3) storeys at the Earl Street frontage and it then continues to remain at three (3) storeys by reducing the built form as the land slopes to the south.
56. Notwithstanding that the proposed development fails to completely comply with Council's policy framework, staff recommend the application be given a conditional Planning Scheme Consent and suggested conditions of approval are outlined in the following Officer's Recommendation.

PUBLIC CONSULTATION / ENGAGEMENT

57. The plans were advertised to the public and a total of 8 letters and emails were received during the 21 day advertising period. All of the respondents raised objections to the development application, with the majority calling for no relaxing of the Central Albany Urban Design Policy.
58. The setback of the third storey and its compliance with the Central Albany Urban Design Policy has also been raised. A number of comments were also received calling for the development to be refused on the grounds of height, bulk and design. These comments are contrary to the findings of the SAT, the requirements of the Residential Design Codes and the broad principles espoused in the City's Central Albany Urban Design Policy.

GOVERNMENT CONSULTATION

59. None required for this proposal.

STATUTORY IMPLICATIONS

60. The lot is zoned "Central Area" in the City of Albany Town Planning Scheme No.1A (Scheme). A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m² of land area. As the land area is 2928m², the proposed 40 units meet this requirement.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

61. Multiple dwellings are a use that is “*not permitted unless planning consent to it is granted by the Council*” in the Central Area zone. Although not required by the Scheme, the proposal was advertised for public comment for a period of 21 days.
62. The Scheme, at Clause 4.12 states, “*Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.*”
63. The proposed development is to be used exclusively for residential purposes and it is automatically required to comply with the “Multiple Dwelling” provisions of the Codes.
64. In determining this application, Council is required to take into account the matters listed under Clause 7.8A of the Scheme. That clause outlines the “Matters to be Considered” by Council. Those “matters” are not reproduced here in full. They are highlighted and discussed in the Comments section, under the context in which they were raised by the public submissions. In summary, Clause 7.8A requires Council to give consideration to the:
 - provisions of the Scheme;
 - Residential Design Codes of Western Australia and any other state government policies;
 - public comments received;
 - policies adopted by Council under the Scheme;
 - requirements for orderly and proper planning;
 - compatibility of the development with its setting;
 - amenity of the locality;
 - traffic impacts and servicing availability; and
 - any other planning consideration the Council considers relevant.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

66. Albany Local Planning Strategy (ALPS)
The Strategic Objective of Section 8.3.3 Urban Infill of ALPS is stated to:

“Support urban infill development based on compatibility of land uses and infrastructure capacity”

POLICY IMPLICATIONS

67. The subject land is affected by the City of Albany “*Central Albany Urban Design*” policy (policy). The policy has been adopted by Council to provide clear direction for the future development of central Albany properties and to provide guidance on the assessment of projects under the performance standards of the Residential Design Codes.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

68. Council has the option to refuse the proposal, however this may prompt the proponent to apply for a review of that decision by the State Administrative Tribunal.

SUMMARY CONCLUSION

69. The proposal involves the submission of the previous application and the plans remain unchanged. The application has been assessed against the amended provisions of the “*Albany Central Urban Design*” policy, and the areas where conflict exists are considered by staff to be acceptable; the objectives and principles espoused in the policy are met by the proposed development. The proposal was previously subjected to the scrutiny of the State Administration Tribunal, which again provided direction as to what building bulk and scale was appropriate for this land. If Elected Members are intending to recommend the refusal of the application, Council will need to demonstrate that significant changes in Council’s policy has occurred, and those changes warrant a refusal of the proposal.

**ITEM: 13.1.5 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON**

THAT Council resolve to ISSUE Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for ‘Multiple Dwellings (40 units)’ at 79 Earl Street, Albany subject to the following conditions: -

- 1) Prior to a Building Licence being issued by the City of Albany (City) for the approved development, the Applicant is to provide a copy of a Certificate of Title for the subject land which demonstrates that a drainage easement has been provided on the title to Lot 10 (certificate of title 2101 / 297) in favour of the subject application land holding.**
- 2) An acoustic report is to be prepared by a suitably qualified acoustic consultant and submitted concurrently with the application for a building licence, demonstrating that the noise to be emitted from all air conditioning units, lift motors, pumps and other electrical equipment will comply with the Environmental Protection (Noise) Regulations 1997.**
- 3) Access ways to all units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 – 2001.**
- 4) Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a detailed schedule of building and external surface finishes for written approval.**

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM NUMBER – 13.1.5 OFFICER RECOMMENDATION (Cont.)

- 5) Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a revised plans showing the removal of the walkway joining the two buildings at its second level for written approval.
- 6) The new driveway crossovers are to be constructed by the developer to Council's specification, levels and satisfaction.
- 7) The developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.
- 8) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, and appropriately lit during the hours of darkness.
- 9) The driveway entering the site from the rear, across the neighbouring land, shall be clearly marked and signposted to carry traffic in a one way direction.
- 10) The applicant is to provide to the City a detailed plan of the proposed bin storage area, prior to the issue of a building licence, to verify that the allocated space is sufficient to house the required number of bins and the bins are capable of being accessed by patrons.
- 11) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
- 12) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 – 1993.
- 13) Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.
- 14) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
- 15) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- 16) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM NUMBER – 13.1.5 OFFICER RECOMMENDATION (Cont.)

- 17) All common access ways above ground level shall be totally protected from the weather in accordance with the requirements of clause 6.5.5 (A5.5) of the Residential Design Codes.
- 18) All plumbing fittings on external walls shall be concealed from external view.
- 19) A clothes dryer shall be provided within the laundry of each unit.
- 20) External clothes drying facilities shall be screened from view.
- 21) The height of the building shall not exceed the heights set out on the approved plan.
- 22) All letterboxes are to be incorporated into the building fabric or into a fence along the front boundary in accordance with the City of Albany's Local Laws Relating to Fencing 2001.
- 23) No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.
- 24) The designated visitor parking bays shall be clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".
- 25) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of grant of planning consent.
- 26) No materials are to be stored within the Earl Street road reservation and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- 27) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage:
 - i. the delivery of materials and equipment to the site;
 - ii. the storage of equipment and materials for the approved development;
 - iii. the parking arrangements for the contractor and subcontractors; and
 - iv. other matters likely to impact on the surrounding properties.

MOTION CARRIED 7-0

7:36:49 PM Councillor Price returned to the Chamber after the debate and vote.

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.6

ITEM TITLE: DEVELOPMENT APPLICATION – Conversion of Portion of Shed to Residential Use - Lot 150 Henty Road, Kalgan.

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	: A204181 and A208963 (Kalgan Ward)
Summary of Key Issues	: Application to retain an oversize shed, to convert portion of the shed to a dwelling and retain the balance as a shed.
Land Description	: Lot 150 Henty Road, Kalgan
Proponent	: K Wignall
Owner	: K Wignall
Reporting Officer(s)	: Executive Director Development Services (R Fenn)
Disclosure of Interest	: Nil
Previous Reference	: OCM 21/07/09 item 13.1.1 OCM 18/11/08 item 11.1.2
Bulletin Attachment Reference	: 1. Plan of proposed development. 2. City Fact Sheet on Living in Sheds

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

BACKGROUND

1. A Notice of Planning Scheme Consent Refusal was issued to Ms. K Wignall in January 2008 to place an oversized shed (300m²) on lot 150 Henty Road, Kalgan; the City's Outbuilding Policy has been reviewed on a biennial basis and that policy limits sheds and outbuildings on Special Rural lots to a maximum size of 180m². The colorbond surfaced, steel shed was then constructed by the proponent in May 2008, contrary to the Notice of Planning Scheme Refusal and with no building licence application being lodged with the City.
2. Notices were issued in July 2008 on the landowner, one for the contravention of the City's Town Planning Scheme and one under the Local Government (Miscellaneous Provisions) Act for the unauthorised construction. The proponent sought a review of those Notices with the State Administrative Tribunal (SAT). At paragraph 50 of the determination it states:

"In looking at the evidence presented and the submissions made in respect of the tests set out above, the Tribunal has concluded that the appropriate course is to affirm the s214 direction. In saying this, the Tribunal also considers that it would be reasonable for the applicant to have sufficient time to, should she wish to do so, apply for development approval for, and erect, a smaller shed. The 60 days for compliance with the s214 direction running from the date of this decision (23rd April 2009) should be sufficient for a fresh application for planning approval to be assessed by the respondent and determined."

3. An Application for Planning Scheme Consent was considered by Council at the July 2009 meeting for portion of the current shed (225sqm) to be retained on lot 150 Henty Road. Council resolved:

"THAT Council ISSUE a Notice of Planning Scheme Consent Refusal for an "Oversize Shed" to be constructed at Lot 150 Henty Road, Kalgan for the following reasons:

- i) the shed does not comply with the floor space restrictions contained within the City of Albany's Outbuildings Policy and no exceptional circumstances have been progressed to warrant consideration of the application;*
- ii) the shed is inconsistent with the objective of Special Rural Zone – Area 6, will be incompatible with the setting and will have a detrimental impact on the amenity of that zone;*
- iii) the uses conducted within the shed are inconsistent with the land use provisions of Special Rural Zone – Area 6; and*
- iv) the application is inconsistent with proper and orderly planning.*

and

That Council advise the applicant that it would be willing to support a revised application that reduces the size of the existing shed to 180m² or less to comply with Council's outbuilding policy and that the application be lodged and assessed within a 30 day period."

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

4. An incomplete application was lodged to reduce the shed in accordance with Council's decision in August 2009 and that additional information sought by City staff was not forthcoming; No approvals had been put in place by September 2009 and the requirements of the State Administrative Tribunal and the Council had not been met to avert the actioning of the Notices.
5. A Notice was issued upon the landowners on the 12th October 2009 advising that demolition contractors would be entering upon the property on or after the 19th October 2009 to commence the process of demolishing the shed. City staff entered upon the property on the 19th October and noted that the shed had been modified and that it appeared that it was being used for habitable purposes.
6. An application for a building licence for a 547m² house (342m² living, 124m² outdoor and 80m² garaging) was received on the 23rd September 2009 and a licence for that dwelling is pending. On the 8th October 2009, an "Application for the Grant of Planning Scheme" was also received to develop "secondary living" on the lot by "*converting 120m² of what is now a 300m² class 10 Building into a class 1 Building*" it was also acknowledged that "*retrospective planning approval to the existing shed will be required prior to Council processing the Building Licence application*". It is this application that this report relates to.

DISCUSSION

7. As previously reported to Council, the determination of the SAT (at paragraph 50) provided that there should be sufficient time provided to the landowners to "*apply for development approval for, and erect, a smaller shed*". The SAT determined that the implementation of the s214 Notice should be delayed for 60 days, with a compliance date of the 22nd June 2009, to allow the landowners time to find alternate storage space for the goods in the shed (paragraph 48 of determination).
8. In July 2009, Council considered the application to retain a 225m² shed on the property on the basis that the application was lodged afresh, not simply a response to the Notices issued on the property. The decision to only support an application for a shed that was in conformity with the City's Outbuilding policy was passed on a 9/1 vote of the Council.
9. It is the opinion of City staff that this application seeks to gain a Council approval to change the land use within a building that the City has previously determined is an illegal structure and has Notices in place requiring that structure to be "pulled down". The application needs to be considered as a number of separate and deliberate actions. Those actions are:
 - a) Agree that the application involves a change of use within an illegal structure and that application cannot be determined until the status of the structure is resolved;
 - b) Determine whether Council is prepared to 'put aside' the Notices that have been placed on the landowners, requiring the structure to be pulled down;
 - c) If the Notices are put aside, then determine the merits of the current application;

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

- d) If the Notices are put aside and Council determines the merits of the application in the negative, then the status of the Notices needs to be revisited;
- e) If the Notices are put aside and Council determines the merits of the application in the positive, then Council also needs to determine if the approval should be time limited and what happens with the proposed modifications and the shed should a primary residence be built on the lot; and
- f) If the Notice is not put aside, and point (a) is determined in the positive, then the application will be refused through administrative processes.

Capacity to Change Land Use within Declared Illegal Building:

10. The landowners have admitted that they constructed the shed contrary to the Notice of Planning Scheme Consent Refusal and without gaining a Building Licence. Within the State Administrative Tribunal, it was determined that the original Council decision to issue a Notice of Planning Scheme Refusal to a 300m² shed was an appropriate decision and that the

Notices issued by the City to have the shed “pulled down” was also appropriate in the circumstances of this case. Therefore, not only did the Tribunal determine the shed was an illegal structure, it concluded that it should be either brought into conformity with the City’s Outbuilding Policy (reduced to 180m² or less) or it should be demolished.

11. Before a change in the use of a building can be considered, the building must be a legal building; this shed fails to meet that basic requirement. If Council was to approve (with or without conditions) the current application, it would be issuing a retrospective approval for the 300m² shed and would be disregarding its earlier decision and the outcomes of the SAT review.

Conversion Class 10 Structure into Residence:

12. It is acknowledged in the City’s Outbuilding policy that *“unlike most dwellings, outbuildings are usually very bland metal clad structures devoid of architectural features such as windows, verandas, etc. Construction of large and/or high sheds may have adverse impacts on visual character of streets and neighbourhoods, neighbours and scenic rural or coastal landscapes”*. This shed has a 15m wide blank wall, up to 4.8m in height, facing Henty Road and will have 15m long and 3.6m high side walls perpendicular to the road; those walls are broken by a full height panel lift doors clad in the same material as the shed

13. The landowners have recently installed an air conditioning unit, hot water system, telephone connection, plumbing and other infrastructure to the rear of the shed as part of their occupation of the site. During the site inspection, a builder’s “portaloo” had been placed on-site and kitchen waste was being discharged onto the lot to the rear of the shed. Those additions fail to meet the basic requirements of the Building Code for a class 1 building (dwelling) and considerable modifications to the shed would be required if part of the building is to be classified as a dwelling.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

14. The proponents argue that approval can be gained from Council to ‘temporarily reside in a shed’ where an owner/builder is constructing their primary dwelling on the lot. Those approvals are given to convert an existing approved shed, are time limited and any modifications are to be removed once occupation of the primary residence occurs; a recent information pack provided by the City also encourages the use of a ‘donga’ or caravan for that period of occupancy in lieu of fitting out a shed. This application varies in that the conversion has occurred prior to the primary dwelling being approved, the conversion of the shed has already commenced, occupation has already taken place, the application is seeking approval for the permanent conversion of portion of the shed (the dwelling is to become future Ancillary Accommodation) and considerable modifications to the shed would be required to make it compliant with the Building Code.
15. Ironically, the area of the shed to be converted to a dwelling is 120m², leaving an area of approximately 180m² as an outbuilding. Council’s Outbuilding Policy stipulates a maximum area of 180m² for outbuildings on Special Rural zoned land.

Constructing Two Residences on a Single Lot:

The scheme provisions establish a range of uses that are capable of being developed on lot 150 Henty Road. The land use that are permissible are a Rural–Residential Dwelling, Public Recreation, Home Occupation, Craft Studio, Country Kitchen, Bed and Breakfast, Public Utility, Dam and/or soak construction, Rural Use, Cultural Use or other non-defined activity considered appropriate by Council which are consistent with the objectives of the zone. The final wording of the clause allows for other non defined uses to be given planning consideration provided that it contributes “*to providing a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export*”.

16. If both of the dwelling applications submitted to the City are to be given consideration by Council, the “second dwelling” would comprise a group dwelling development and require assessment outside the permissible provisions of the scheme. Staff support for a group dwelling application is unlikely to be supported by City staff as this development on a lifestyle lot encourages future fragmentation of the parent lot (either through subdivision or strata title), the provision of additional services to lots and additional built form.
17. An examination of the applications lodged indicates that, if both are approved, the dwellings would have floor areas of 466m² and 120m² (this area increased as area of mezzanine not specified) and there would be 80m² and 180m² of garaging space. The entire 846m² of building footprint is to be constructed on a cleared parcel of land at the foot of the escarpment, where it is not practical to achieve “*merging of development with the landscape*” and there is considerably greater potential for nutrient export.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

Removing Section 214 Notice (P&D Act) and Section 401 Notice (LGMP Act):

18. The Notices were originally imposed by City staff under the delegated authority of Council and that decision has been the subject of reviews by Elected Members and the SAT. The landowners have failed to carry out the works nominated in the Notices and they have frustrated attempts by City staff to enforce the Notice. The dismantling of the shed has been exacerbated by the decision of the owners to add additional services to the shed and to occupy the structure; additional costs will be incurred to enforce the Notices and those costs are recoverable from the landowners as a debt under the Local Government Act.
19. Council's current position on the shed is *"that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214(2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure"*.

PUBLIC CONSULTATION / ENGAGEMENT

20. No public consultation has been undertaken on the application. The original enforcement action was brought about by complaints from residents in the locality.

GOVERNMENT CONSULTATION

21. No government consultation is required.

STATUTORY IMPLICATIONS

22. The Land is zoned "Special Rural (No 6)" in the City's Town Planning Scheme No 3, which sets out the following objective: *"to provide a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export."*
23. Section 5.4 of Town Planning Scheme 3 states:
The Council in considering an application for planning consent is to have regard to such of the following matters as are in the opinion of Council relevant to the use or development the subject of the application ;
 - (a) *The aims and provisions of the Scheme.....;*
 - (b) *The requirement of orderly and proper planning....;*
 - (f) *Any town planning policy adopted by the Council under clause 6.9 and any other plan or guidelines adopted by the Council under the scheme;*
 - (i) *The compatibility of a use or development with its setting;*
 - (n) *The preservation of the amenity of the locality;*

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

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

(zb) *Any other planning consideration the Council considers relevant.*

24. Definitions for “Single Dwelling”, “Group Dwelling” and “Ancillary Accommodation” are included in the Residential Design Codes. No definition is provided in Scheme 3 for a Rural–Residential Dwelling.

25. A person is required to apply under the Builders Registration Act for permission to build a dwelling on their land and the Act would prevent a landowner from building two dwellings concurrently. The landowners have nominated that they will be owner builders for both dwellings.

FINANCIAL IMPLICATIONS

26. The financial implications would be limited to staff time should a refusal of the application be subject to a further review by SAT.

27. Quotes were obtained to have the shed professionally dismantled, in the event that the s214 Notice is required to be actioned by the City; all costs incurred can be recouped from the landowner as a charge against the land. Within the Development Services budget for 2009/10 an allocation has been provided for Legal Enforcement (job 2402) and that budget will be exceeded if City staff are required to remove the owner’s possessions and action the Notices without the owner’s cooperation. Recovering those costs will also be time consuming.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

28. Not Applicable.

POLICY IMPLICATIONS

29. Included in the Bulletin is the fact sheet supplied by the City of Albany for persons wishing to reside in a shed during the period when they are constructing their primary residence as an owner/builder.

30. This application seeks to retain the dwelling within the shed as a permanent structure and it can be argued that the City’s guidelines when considering requests for “temporary occupation” is not relevant to the matters under discussion. The guidelines are not a formal policy adopted by Council under the provisions of the Scheme.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

31. Council has the options outlined in paragraph 9 in relation to the proposal.
32. Should Council refuse the application, the proponent's consultant has indicated that they may wish to apply to the State Administrative Tribunal (SAT) to review the decision.
33. In November 2008, Council resolved to affirm the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.
34. Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 states:

"If a decision has been made at a Council meeting then any motion to revoke or change the decision must be supportedin any case by at least 1/3 of the number of offices (whether vacant or not) of members of the Council or committee inclusive of the mover."

No request has been submitted for the previous decision to be rescinded and there will need to be the support of five (5) Councillors at the meeting to agree to the rescission of this motion before the application could proceed.

SUMMARY CONCLUSION

35. This development application involves legitimising a land use that has been commenced without approval and within a building that Council has previously determined should be pulled down.
36. City staff are concerned with the prospect of two dwellings being approved on the site as the owners are unlikely to be granted approval to be the owner builders for both structures, the development of a second dwelling is contrary to the objective for the zone and there is inadequate justification for the development of two dwellings on the lot.
37. If Council issues a Notice of Planning Scheme Consent Refusal and proceeds to enforce the two Notices, the outcome would be the removal of the unauthorised structure, the necessity of the owners to find alternate accommodation during the construction of their primary residence and the resolution of any costs that Council incurred in resolving this matter.
38. Should Council support the application, the following motions would need to be passed with five (5) Elected members needed to debate motion 2 and an Absolute Majority needed to pass motion 3:

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

Draft Motion 1:

THAT Council has DETERMINED that it would be contrary to proper and orderly planning principles to approve a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

Draft Motion 2:

Pursuant to Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 Councillors _____, _____, _____, _____, and _____ have requested that the following motion be submitted for consideration

THAT the motion of the Council meeting of the 18th November 2008, item 11.1.2, which states:

“THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure”.

be rescinded.

Draft Motion 3:

THAT Council grant conditional Planning Scheme Consent for the conversion of 120m² of the Shed on lot 150 Henty Road, Kalgan into a dwelling subject to the following conditions: (to be inserted).

Draft Motion 4:

THAT Council resolves to take no further action to enforce the Notices issued upon lot 150 Henty Road, Kalgan.

NOTE: The recommendation of staff is that the application not be supported as it is inconsistent with Council Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ITEM: 13.1.6 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council has DETERMINED that it would be contrary to proper and orderly planning principles to approved a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

AND

THAT Council ISSUE a Notice of Planning Scheme Consent Refusal for “Secondary Living” to be constructed within the shed upon Lot 150 Henty Road, Kalgan for the following reasons:

- A. it would be contrary to proper and orderly planning principles to approved a change in land use activity where the structure accommodating that activity has previously been determined to be an illegal structure and Notices have been issued under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure; and
- B. granting approval to the conversion of portion of the shed for residential occupation would result in the potential that two dwellings will be constructed on the lot, inconsistent with the objective of Special Rural Zone – Area 6, incompatible with the setting and having a detrimental impact on the amenity of the zone.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

7:40:23 PM

ITEM: 13.1.6 ALTERNATE MOTION BY COUNCILLOR PRICE

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR SUTTON

THAT COUNCIL DEFER this item till the January 2010 Ordinary Council meeting.

MOTION 6-2

Councillor's Reason:

To allow the applicant and the City of Albany time to seek legal advice on the information that has been recently presented.

Record of Vote:

Against: Councillors Wolfe and Matla.

DEVELOPMENT SERVICES REPORTS

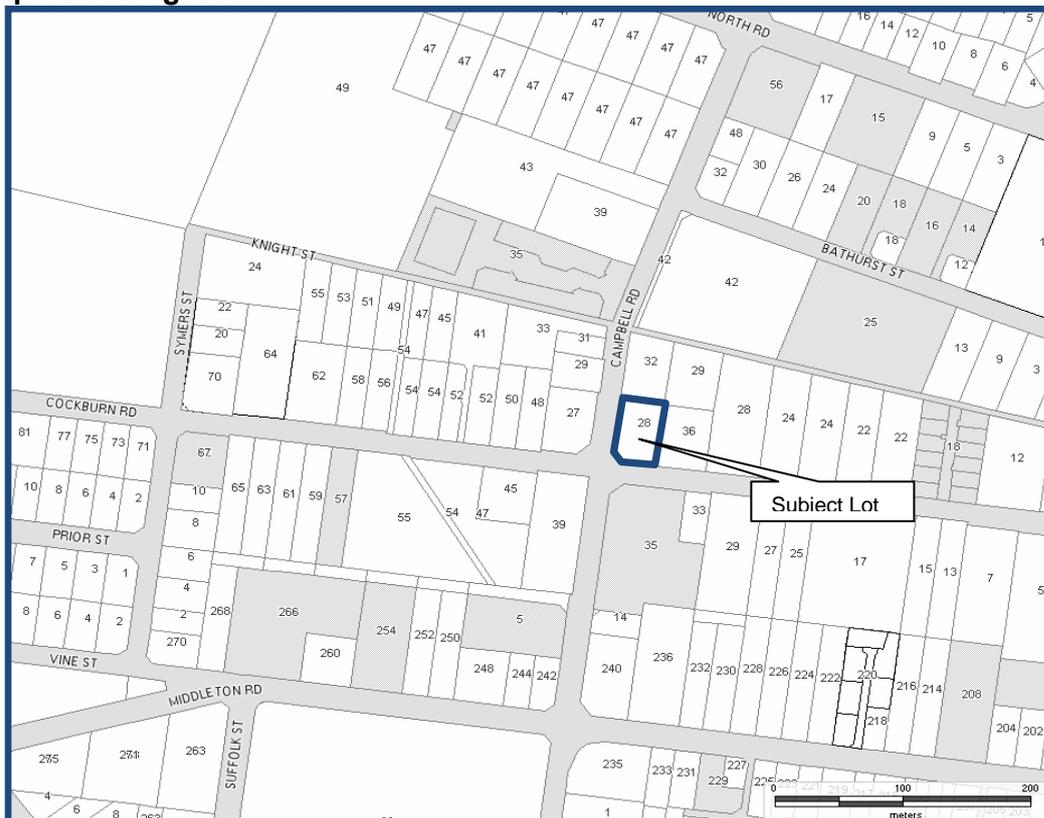
ITEM NUMBER: 13.2.1
ITEM TITLE: INITIATION OF SCHEME AMENDMENT – LOT 104 COCKBURN ROAD, MIRA MAR

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Legislative function: Council making and reviewing the legislation it requires to perform its function as a Local Government.

- File Number or Name of Ward** : AMD 175 (Breaksea Ward)
- Summary of Key Points** : Amend Town Planning Scheme 1A by designating Lot 104 Cockburn Road, Mira as a Special Site and allowing the additional use of ‘Medical Clinic’
- Land Description** : Lots 104 Cockburn Road, Mira Mar
- Proponent** : Harley Survey Group
- Owner** : T and O Management PTY LTD
- Reporting Officer(s)** : Coordinator Statutory Planning (J van der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Amending Documents
- Consulted References** : Albany Local Planning Strategy
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

BACKGROUND

1. An application has been received from the Harley Survey Group (planning consultants) to amend Town Planning Scheme No. 1A by including a “Special Site” with the additional use of ‘Medical Clinic’ on Lot 104 Cockburn Road, Mira Mar.
2. The subject lot is currently zoned “Residential” with an applicable R-code density of R30.
3. The subject lot is located approximately 1.3km from the Albany CBD via Middleton and Campbell Road. The lot is on a prominent corner, being opposite Reeves & Co Butchers, Outdoor World and in close proximity to a variety of other commercial and light industrial land uses.
4. The subject lot comprises a total of 1,693m² and is currently in the process of being converted from a Day Care Centre to Dental Consulting Rooms in accordance with a recent Planning Scheme Consent.

DISCUSSION

5. The current planning scheme consent for ‘Consulting Rooms’ limits the number of medical practitioners to a maximum of two.
6. The purpose of the rezoning is to enable the use ‘Medical Clinic’ to be approved on the subject land. The use ‘Medical Clinic’ would allow for more than 2 medical practitioners (which includes dentists) to operate from the site.
7. The Albany Local Planning Strategy earmarks the area as ‘City Centre’ and is recognised as part of an existing commercial complex in the Activity Centres Planning Strategy.
8. The surrounding land is predominantly zoned “Residential (R30)” to the north and east of the subject site, with the lot immediately to the east being used as an office. The lots to the south and west of the subject lot are zoned “Industry” and are primarily used for semi-commercial purposes. The lot to the southwest of the subject lot is zoned “Other Commercial” and is currently undeveloped.
9. The proposed change to the Special Site zoning and inclusion of the use ‘Medical Clinic’ is considered appropriate for the locality and compatible with the adjoining land uses.
10. Access to the subject lot is currently from Cockburn Road and is considered adequate for the proposed zoning and future use.
11. The subject lot is currently connected to all the necessary services and it is not anticipated that any major upgrades would be required.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

12. Parking requirements for the subject lot and proposed Special Site use would have to be in accordance with the Development Guidelines for Scheme 1A, adopted by the City as a local planning policy. Section 7.1 of the Guidelines outlines a parking requirement for a Medical Clinic of: *“6 bays per consultant for the first 2 consultants plus 2 bays for each additional consultant.”*

Seventeen (17) parking bays (one of which is for disabled parking) are currently provided on the subject lot and this is considered sufficient to allow for up to four (4) medical practitioners in the current building. The expansion of car parking at the rear and side of the property would be possible, should a future expansion be required.

13. The “Special Site” zoning over the subject lot is considered an appropriate zone for the subject lot and will strengthen the functions in the existing activity node. The proposed zoning is also consistent with the future strategic intention for the land as documented in ALPS.

PUBLIC CONSULTATION/ENGAGEMENT

14. Should Council initiate the amendment, and the Environmental Protection Authority decides not to assess the proposal, the amendment will be advertised to all affected and surrounding landowners.

GOVERNMENT CONSULTATION

15. Should Council initiate the amendment, and the Environmental Protection Authority decides not to assess the proposal, the amendment will be referred to all affected government agencies for comment.

STATUTORY IMPLICATIONS

16. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
17. Council’s resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
18. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
19. 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.
20. A resolution to initiate and advertise an amendment to a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

22. The subject land is shown as “City Centre” within the ALPS and is recognised as an existing commercial complex in the Activity Centres Planning Strategy that forms part of the ALPS.
23. The draft Local Planning Scheme No. 1 (initiated by Council and awaiting WAPC approval to advertise) had not proposed a change in zoning for the area.
24. The proposal is consistent with the objectives and outcomes of ALPS and the Activity Centres Planning Strategy.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

26. 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.
27. A resolution to initiate an amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
28. 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.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

SUMMARY CONCLUSION

29. Staff consider the proposal to be consistent with the objectives of the ALPS and an appropriate zoning for the subject lot. Staff recommend that the Scheme Amendment be initiated for advertising.

**ITEM: 13.2.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MATLA**

THAT Council in pursuance of Section 75 of the *Planning and Development Act 2005* and 25(i)(c) of the *Town Planning Regulations 1967* resolves to INITIATE Amendment No. 175 to Town Planning Scheme No. 1A for the purpose of:

- i) Including Special Additional Use S45 on Lot 104 Cockburn Road, Mira Mar;**
- ii) Amending Appendix II – ‘Schedule of Special Sites’ to include the following:**

	Code No.	Particulars of the Land	Base Zone	Additional Use	Conditions
S45	45	Lot 104 Cockburn Road, Mira Mar	Residential R30	Medical Clinic	1. On-site car parking to be provided in accordance with Council’s car parking requirements.

- iii) Amending the Scheme Maps accordingly.**

MOTION CARRIED 8-0

DEVELOPMENT SERVICES REPORTS

13.3 HEALTH, BUILDING & RANGERS

Nil

13.4 EMERGENCY MANAGEMENT

Nil

DEVELOPMENT SERVICES REPORTS

13.5 DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 13.5.1
ITEM TITLE: PLANNING AND ENVIRONMENTAL STRATEGY AND POLICY
COMMITTEE MEETING MINUTES – 19TH NOVEMBER 2009

File Number or Name of Ward : MAN235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of Committee meeting held on 19 Nov 09
Draft Albany Historic Town Design Policy

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PRICE

THAT Committee Recommendations 1, 2, 3, 4 and 5 are CARRIED en bloc.

MOTION CARRIED 8-0

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 6.0 CONFIRMATION OF MINUTES

THAT the UNCONFIRMED minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 19th November 2009 be RECEIVED.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.1 Albany Historic Town Design Policy

THAT Council ADOPT the Albany Historic Town Design Policy, which supercedes the existing Central Albany Urban Design Policy, pursuant to Clause 7.21 of Town Planning Scheme No. 1A.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.2 Catalina Road Structure Plan – Lots 30 to 35 Catalina Road, Lange

THAT Council resolves to **DEFER** its consideration of the Structure Plan until such time as the 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.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.3 Subdivision Guide Plan – 104 and 105 Willyung Road, Willyung

THAT Council resolve to **ADOPT** the Town Planning Scheme Policy titled 'Subdivision Guide Plan – 104 and 105 Willyung Road, Willyung – Special Residential Area 11' in accordance with Clause 6.9 of Town Planning Scheme No. 3, subject to the following addition to the policy text:

"At the time of subdivision, the City of Albany will require a notification on the titles of all lots advising that the use of Alternative Treatment Units (ATU's) for effluent disposal may be required subject to the outcome of site-specific soil tests".

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.1 COMMITTEE RECOMMENDATION 5
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 8.4 Final Modifications – Little Grove Structure Plan

THAT:

- i) The WAPC schedule of modifications be **NOTED**;
- ii) Pursuant to Clause 5.2.2 of the City of Albany Town Planning Scheme 3, Council **ADOPT** the Little Grove Structure Plan with the modifications as prescribed by the WAPC; and
- iii) The Little Grove Structure Plan **BE FORWARDED** to the Western Australian Planning Commission with a request that the document be **APPROVED** as soon as possible.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.5.2
ITEM TITLE: BUSH FIRE MANAGEMENT COMMITTEE MEETING MINUTES –
25TH NOVEMBER 2009

File Number or Name of Ward : MAN 261(All Wards)
Summary of Key Points : Bush Fire Management Committee Items for Council
Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the Bush Fire Management Committee
meeting held on 25 Nov 09

ITEM: 13.5.2 MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DUFTY

THAT Committee Recommendations 1, 2, 3, 4, 5, 6, 7, 8 and 9 are CARRIED en bloc.

MOTION CARRIED 8-0

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 3.0 Committee Terms of Reference

That the Terms of Reference for the City of Albany Bush Fire Management Committee be DEFINED as advising the City of Albany regarding;

- strategic matters relating to the preventing, controlling and extinguishing of bush fires;
- the strategic requirements for planning of the layout of fire-breaks in the district;
- the performance of the City in regards to its obligations under the *Bush Fires Act 1954*;
- the operational efficiency of bush fire brigades and the grouping thereof under group brigade officers;
- opportunities and deficiencies identified in the levels of co-operation and co-ordination of bush fire brigades in their efforts and activities and between bush fire brigades and other fire agencies; and
- any other matter relating to bush fire control.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 5.0 CONFIRMATION OF MINUTES

THAT the UNCONFIRMED minutes of the Planning Bushfire Management Committee Meeting held on 25th November 2009 be RECEIVED.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.1 Mutton Bird Reserve Post Incident Report

THAT City of Albany staff ACTION the recommendations of the Draft Post Incident Report and REPORT to the next meeting of the Management Committee on the level of compliance with the recommendations.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.2 Western Power Grants – Confirmation of Grants

THAT Council NOTE and SUPPORT the funding received by the Highway and Napier Volunteer Bush Fire Brigades under the Western Power Grant Scheme for a replacement hose reel and for a trailer transport the brigades fast fill pump respectively.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 5

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.3 Broadcasting of Harvest Bans on ABC Radio

THAT Council **SUPPORT** the actions of City Staff in voicing concerns with FESA and WALGA over the imposition of restrictions on the broadcasting of Harvest Bans by ABC Radio during the harvest period.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 6

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.4 Replacement of Operations Caravan

THAT City of Albany staff **EXPLORE** all available opportunities and options to replace the City's Operations Caravan at the earliest opportunity with a suitable replacement vehicle.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 7

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.5 Bush Fire Inspections 2009/10

THAT City of Albany staff **UNDERTAKE** a vigorous and thorough inspection of firebreaks, strategic firebreaks and low fuel zones on properties in the peri-urban area of the City of Albany and where landowners fail to install fire prevention measures in accordance with the City's Bushfire Notice, that City staff **AUTHORISE** the work to be carried out by a contractor and the costs be recovered from the landowners in accordance with the Bush Fire Act 1955.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 8

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 7.6 Reporting of Incidents of Arson

THAT Council **SUPPORT** the inter-agency initiative to secure the early reporting and investigation of potential fires that may have been started by an arsonist.

CARRIED EN BLOC

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 9

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council **RECEIVE** the following recommendations of the BFMC:

Item 9.0 Recommendations of Bush Fire Advisory Committee

At the October meeting of the Bush Fire Advisory Committee, the following motions were passed:

9.1 GPS Ability of new radios (agenda item 4.2)

RESOLVED that City staff **MAINTAIN** a watching brief on this issue.

9.2 Firebreak Inspections (agenda item 4.3)

Resolved that FCOs be **INVOLVED** in inspections, that the peri-urban area be the first area to be inspected and that non-compliant properties be **REQUIRED** to become compliant.

9.3 Hand Held Radios (agenda item 4.6)

RESOLVED that a communication strategy be **ADOPTED** by the City and it be communicated to FESA as a matter of urgency

9.4 Fire Protection of Semi Rural Areas (agenda item 7.1)

That the City of Albany **REVIEW** the use of Strategic Fire Breaks to protect low density urban areas and that an appropriate education program be commenced advising landowners of the inability of volunteer bush fire brigades to provide protection to houses located on heavily vegetated lots with restricted access on the lot.

DEVELOPMENT SERVICES REPORTS

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 9 (Cont.)

9.5 Vehicle Replacement Program (agenda item 7.2)

That the replacement of fire appliances with suitable vehicles, fit for purpose, remain a high priority for the City and that the City continually REVIEW the Risk to Resource arrangements within the City.

9.6 Changes to Bush Fires Act (agenda item 7.3)

That the information be NOTED and the City of Albany develop operating protocols for Fire Control Officers in association with DEC and FESA officers.

9.7 Conditions on Bush Fire Permits (agenda item 7.4)

That the CBFCO and DCBFCO, in association with City of Albany staff, PREPARE guidelines for the issuing of bush fire permits and draft conditions that can be utilised to Fire Control Officers to place on permits.

9.8 Fire Hydrants (agenda item 7.5)

That the relevant Volunteer Bush Fire Brigades SUBMIT to City staff their recommendations on locations where additional fire hydrants should be installed and locations where urgent maintenance may be required to existing hydrants.

9.9 Annual Calendar of Events (agenda item 7.6)

That a calendar of events be PREPARED by the City of Albany and be DISTRIBUTED to all brigade secretaries on a monthly basis with information included in the calendar on:

- **Advisory and Management Committee meetings agenda deadlines and agenda distribution dates;**
- **Training dates for brigade members;**
- **ESL reporting dates and budget submission deadlines;**
- **Brigade meeting dates (as advised by brigades);**
- **Declared restricted and prohibited burning periods;**
- **Nomination dates for service medals; and**
- **Closing dates for community grants.**

DEVELOPMENT SERVICES REPORTS

Item 13.5.2 continued.

ITEM: 13.5.2 COMMITTEE RECOMMENDATION 9 (Cont.)

9.10 Communications Plan (agenda item 8.4)

1. That for the 2009/10 fire season:

- i). The City CONTINUE to operate on mid-band and high band frequencies with main communication on high band frequency.**
- ii). Brigades be ENCOURAGED to have second external speaker placed on fire appliances, installed by technicians to allow mid and high band frequency communication to rear of appliance.**
- iii). The City of Albany EXPLORE the operational capabilities, the costs and the available technology to provide radio pagers to brigades.**
- iv). All brigades are ENCOURAGED to list appropriate volunteers for SMS callout.**
- v). The operational channels and procedures REMAIN unchanged from the 2008/09 fire season.**

2. That the City of Albany COMMENCE PLANNING for the 2010/11 fire season on the basis that:

- i). At fire grounds the main channel of communication will be high band, communication within sectors will also be high band and from appliance driver to fire fighters will be via UHF radio.**
- ii). Mid band radios will be removed from fire appliances and each will be provided with hand held UHF radios and one (1) high band hand held radio.**
- iii). Fire call out will transition to a combination of SMS and pager arrangement (subject to budget and rollout) with the mid band radio system maintained as back up only.**

3. That all brigades be ENCOURAGED to:

- i). Monitor and report areas where high band radio signals fail or are poorly received.**
- ii). Intensify member training in the use of high band radios.**
- iii). Identify areas where SMS servicing and radio pager signals may be problematic.**

AND

RESOLVED that communication blackouts for the WAERN radios be reported to FESA by brigades as a matter of urgency, using the prescribed FESA form.

CARRIED EN BLOC

DEVELOPMENT SERVICES REPORTS

13.6 DEVELOPMENT SERVICE COMMITTEES

Nil

**CORPORATE & COMMUNITY
SERVICES
Reports**

CORPORATE & COMMUNITY SERVICES REPORTS

14.1 FINANCE

ITEM NUMBER: 14.1.1

ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward : FIN 040 (All Wards)
Reporting Officer(s) : Finance Manager (P Wignall)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : List of Accounts for Payment

BACKGROUND

1. The List of Accounts for Payment is a list of the accounts which have been paid since the last report.

DISCUSSION

2. The Chief Executive Officer has delegated authority to pay accounts on behalf of Council, and a list of these accounts is to be presented to Council meetings and recorded in the minutes.
3. A summary of payments is as follows:

Municipal Fund			
Trust		Totalling	\$126,852.95
Cheques		Totalling	\$213,326.15
Electronic Fund transfer		Totalling	\$2,514,001.11
Credit Cards		Totalling	\$7,934.65
Payroll		Totalling	<u>\$787,010.91</u>
		Total	\$3,649,125.77

4. As at the 30th November 2009, the total outstanding creditors, stands at \$619,351.09
5. Cancelled cheques – 25949, 25978, 24984, 25991, 26002 and 26005

PUBLIC CONSULTATION / ENGAGEMENT

6. Nil

GOVERNMENT CONSULTATION

7. Nil

STATUTORY IMPLICATIONS

8. 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 had delegated the function to the Chief Executive Officer or alternatively authorises payment in advance.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.1 continued.

9. The Chief Executive Officer has delegated authority to authorise payments.
10. 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 should be presented to Council meetings and recorded in the minutes.

FINANCIAL IMPLICATIONS

11. The accounts for payment are in accordance with the adopted Annual Budget and approved amendments.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

12. 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 4.1: The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.”

POLICY IMPLICATIONS

13. The City’s 2009/10 Annual Budget applies to this item, as it provides a set of parameters which guides the City’s financial activities for the year.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

14. Nil

SUMMARY CONCLUSION

15. The list of accounts paid by delegated authority be received.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.1 continued.

**ITEM: 14.1.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WOLFE**

THAT the list of accounts authorised for payment by the Chief Executive Officer as presented in the Information Bulletin be RECEIVED.

MOTION CARRIED 8-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.1.2
ITEM TITLE: FINANCIAL ACTIVITY STATEMENT – 30 November 2009

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward : FIN 040 (All Wards)
Summary of Key Points : Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 30 November 2009
Reporting Officer(s) : Finance Manager (P Wignall)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : Nil

BACKGROUND

1. 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.
2. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide Council with a greater insight in relation to the ongoing financial performance of the local government.
3. 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 Council.

DISCUSSION

4. The Statement of Financial Activity for the period ending 30 November 2009 has been prepared and is listed below.
5. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the Council 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.

STATEMENT OF FINANCIAL ACTIVITY – AS AT 30 November 2009

6. See appendix 1 to report item 14.1.2

CITY OF ALBANY - BALANCE SHEET

7. See appendix 2 to report item 14.1.2

CITY OF ALBANY – INCOME STATEMENT

8. See appendix 3 to report item 14.1.2

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

INVESTMENT SUMMARY & COMMENT

9. See appendix 4 to report item 14.1.2.

PUBLIC CONSULTATION / ENGAGEMENT

10. Nil

GOVERNMENT CONSULTATION

11. Nil

STATUTORY IMPLICATIONS

12. 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);*
 - 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.”*

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

FINANCIAL IMPLICATIONS

13. Year to date expenditure has been incurred in accordance with the 2009/10 Budget parameters with variations in excess of 10% detailed below.

Section of Financial Activity Statement	Reason for Variation	Total Amount of Variation
Operating Revenue	Operating grants, subsidies and contributions are above budget mainly due to the timing of monies received from FESA	\$137,348
	Other Revenue is higher than budget due to timing	\$172,648
Operating Expenditure	Materials and Contracts expenditure is under Budget due to timing	\$736,853
	Utility charges mainly due to timing of costs related to street lighting	\$76,477
	Other Expenses are over budget due to timing	\$218,316
Capital Revenue	Non operating grants, subsidies and contributions are above budget due mainly to a timing difference on receipts for Roads to Recovery	\$429,968
Capital Expenditure	Timing issues on capital equipment purchases and developments	\$1,437,310

** NB: 2009/2010 introducing Project Management System; 2010/2011 phased costing will be introduced to reduce timing issues.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

14. 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.

Objective 4.1: The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

POLICY IMPLICATIONS

15. 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.
16. 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.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. Nil

SUMMARY CONCLUSION

18. Nil

**ITEM: 14.1.2 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MATLA**

**THAT the Financial Activity Statement for the period ending 30 November 2009 be
RECEIVED.**

MOTION CARRIED 8-0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 1

STATEMENT OF FINANCIAL ACTIVITY – YEAR TO DATE

30 NOVEMBER 2009

	Actual Year to Date 30-Nov-09	Current Budget Year to Date 30-Nov-09	Current Budget vs Actual Variance
REVENUE			
Operating Grants, Subsidies and Cont	1,423,795	1,286,447	137,348
Fees and Charges	2,953,905	2,905,619	48,286
Service Charges	2,994,978	2,996,718	-1,740
Interest Earnings	221,291	240,255	-18,964
Other Revenue	353,144	180,496	172,648
	7,947,113	7,609,535	337,578
EXPENDITURE			
Employee Costs	5,487,085	5,535,511	-48,426
Materials and Contracts	3,471,302	4,208,155	-736,853
Utility Charges	405,711	482,188	-76,477
Interest Expenses	12,099	13,122	-1,024
Insurance Expenses	491,802	454,625	37,177
Other Expenditure	273,530	55,214	218,316
Depreciation	4,604,069	4,879,099	-275,030
	14,745,598	15,627,914	-882,316
Adjustment for Non-cash Revenue and Expenditure:			
Depreciation	-4,604,069	-4,879,099	275,030
CAPITAL REVENUE			
Non-Operating Grants, Subsidies and Cont	1,806,281	1,376,313	429,968
Proceeds from asset disposals	27,818	1,455	26,363
Proceeds from New Loans	0	0	0
Self-Supporting Loan Principal Revenue	24,392	24,569	-177
Transfers from Reserves (Restricted Assets)	5,119,139	6,622,510	-1,503,371
	6,977,631	8,024,847	-1,047,216
CAPITAL EXPENDITURE			
Purchase Plant, Equipment and Infrastructure	4,867,366	3,430,056	1,437,310
Repayment of Loans	161,967	147,687	14,280
Transfers to Reserves (Restricted Assets)	91,100	60,000	31,100
	5,120,433	3,637,743	1,482,690
Estimated Surplus B/fwd			
ADD Net Current Assets July 1 B/fwd	-1,437,875	n/a	n/a
LESS Net Current Assets Year to Date	19,675,055	n/a	n/a
Amount Raised from Rates	-21,450,150	-21,235,441	-214,709

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 2

BALANCE SHEET AS AT 30 NOVEMBER 2009

	Actual 30-Nov-09	Budget 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS			
Cash - Municipal	16,095,864	776,514	690,808
Restricted cash (Trust)	1,634,013	1,976,788	1,987,438
Reserve Funds - Financial Assets	1,170,755	0	1,170,755
Reserve Funds - Other	2,122,661	2,647,383	7,146,568
Receivables & Other	6,711,300	1,600,000	2,866,283
Investment Land	(0)	0	(0)
Stock on hand	917,673	780,000	1,033,538
	28,652,265	7,780,685	14,895,390
CURRENT LIABILITIES			
Borrowings	925,930	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	1,939,091	2,200,000	2,023,128
Trust Liabilities	1,577,091	1,778,124	1,930,516
Creditors prov & accruals	2,274,409	3,000,000	4,190,793
	6,716,520	8,208,124	9,232,333
NET CURRENT ASSETS	21,935,746	(427,439)	5,663,056
NON CURRENT ASSETS			
Receivables	106,774	152,865	152,865
Pensioners Deferred Rates	292,616	265,945	292,616
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	63,280,708	131,774,682	59,728,628
Infrastructure Assets	190,931,948	197,134,056	194,220,647
Local Govt House Shares	19,501	19,501	19,501
	256,781,547	331,497,049	256,564,256
NON CURRENT LIABILITIES			
Borrowings	20,796,675	19,566,675	20,796,675
Creditors & Provisions	259,838	262,000	259,838
	21,056,513	19,828,675	21,056,513
NET ASSETS	257,660,780	311,240,935	241,170,800
EQUITY			
Accumulated Surplus	233,863,091	289,818,918	212,345,039
Reserves	5,023,056	2,647,383	10,051,127
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	257,660,780	311,240,935	241,170,800

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 3

**INCOME STATEMENT FOR THE PERIOD ENDED
30 NOVEMBER 2009**

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
INCOME			
Rates	21,450,150	21,346,462	19,277,114
Grants & Subsidies	1,250,043	3,069,252	4,051,358
Contributions. Reimb & Donations	173,752	362,187	408,897
Fees & Charges	2,952,546	7,294,973	7,276,163
Service Charges	2,994,978	2,996,718	2,698,198
Interest Earned	221,291	547,200	658,167
Other Revenue / Income	354,264	401,500	529,090
	29,397,024	36,018,292	34,898,987
EXPENDITURE			
Employee Costs	5,487,085	14,039,923	13,749,398
Utilities	405,711	1,311,912	903,193
Interest Expenses	12,099	1,179,588	1,322,148
Depreciation on non current assets	4,604,069	11,818,000	10,714,400
Contracts & materials	3,465,726	11,628,876	11,490,819
Insurance expenses	491,802	453,863	410,959
Other Expenses	274,650	(128,769)	11,553
	14,741,142	40,303,393	38,602,470
Change in net assets from operations	14,655,882	(4,285,101)	(3,703,483)
Grants and Subsidies - non-operating	1,748,367	70,066,581	6,497,507
Contributions Reimbursements and Donations - non-operating	57,914	5,175,706	4,738,136
Profit/Loss on Asset Disposals	27,818	(32,000)	61,301
Fair value - Investments adjustment	0	1,987,226	(193,144)
	16,489,981	72,912,412	7,400,317

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4

**Portfolio Valuation - Market Value
30 NOVEMBER 2009**

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market	Market	Market	Market	Market	Latest Monthly Variation
				Value Jul-09	Value Aug-09	Value Sep-09	Value Oct-09	Value Nov-09	
MUNICIPAL ACCOUNT									
ANZ	1/08/2009	1,000,000	3.55%	1,000,000					
Bendigo	30/11/2009	1,000,000	4.40%		1,000,000	1,000,000	1,000,000		
ANZ	29/12/2009	1,000,000	4.55%		1,000,000	1,000,000	1,000,000	1,000,000	
Bankwest	28/01/2010	1,000,000	4.40%		1,000,000	1,000,000	1,000,000	1,000,000	
Westpac	27/02/2010	1,000,000	4.60%		1,000,000	1,000,000	1,000,000	1,000,000	
ANZ	18/10/2009	2,000,000	3.90%			2,000,000			
Bankwest	17/11/2009	1,500,000	4.00%			1,500,000	1,500,000		
Westpac	17/11/2009	1,500,000	4.20%			1,500,000	1,500,000		
Westpac	17/12/2009	1,000,000	4.40%			1,000,000	1,000,000	1,000,000	
NAB	17/12/2009	1,000,000	4.23%			1,000,000	1,000,000	1,000,000	
Bendigo	17/12/2009	2,000,000	4.35%			2,000,000	2,000,000	2,000,000	
ANZ	20/11/2009	2,000,000	4.30%				2,000,000		
Bankwest	20/12/2009	1,500,000	4.60%				1,500,000	1,500,000	
Bankwest	15/02/2010	1,000,000	5.00%					1,000,000	
Westpac	16/02/2010	1,500,000	5.05%					1,500,000	
Bendigo	10/03/2010	1,000,000	5.17%					1,000,000	
NAB	10/03/2010	2,000,000	5.25%					2,000,000	
				1,000,000	4,000,000	13,000,000	14,500,000	14,000,000	N/A

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4 CONTINUED

Portfolio Valuation - Market Value
30 NOVEMBER 2009

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market	Market	Market	Market	Market	Latest Monthly Variation
				Value	Value	Value	Value	Value	
				Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	
RESERVES ACCOUNT									
Bendigo	22/12/2009	500,000	4.30%	500,000	500,000	500,000	500,000	500,000	
NAB	2/02/2010	1,000,000	4.47%	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
1,500,000				1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	N/A
COMMERCIAL SECURITIES - CDOs (New York Mellon)									
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	240,000	240,000	240,000	240,000	240,000	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	155,750	155,750	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	307,100	307,100	307,100	307,100	307,100	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	159,380	159,380	0
2,118,046				862,230	862,230	862,230	862,230	862,230	0
COMMERCIAL SECURITIES - CDOs - Other									
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	119,000	119,000	119,000	119,000	119,000	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	303	303	303	303	303	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,503	68,503	68,503	68,503	68,503	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	6,600	6,600	6,600	6,600	6,600	0
1,324,656				194,405	194,405	194,405	194,405	194,405	0
PORTFOLIO TOTAL		4,942,702		3,556,635	6,556,635	15,556,635	17,056,635	16,556,635	0

CORPORATE & COMMUNITY SERVICES REPORTS

14.2 ADMINISTRATION

ITEM NUMBER: 14.2.1

ITEM TITLE: CULL ROAD DEVELOPMENT PROJECT

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward	:	PRO 357 (Vancouver Ward)
Summary of Key Points	:	THAT Council re-allocate the sum of \$517,730 to the finalisation of stage 1A of the Cull Road Development Project
Reporting Officer(s)	:	Executive Director of Corporate & Community Services (WP Madigan)
Disclosure of Interest	:	Nil
Previous Reference	:	Item 19.1 OCM April 2009 Item 22.1 OCM August 2009
Bulletin Attachment(s)	:	Nil

BACKGROUND

1. At its meeting dated 21 April 2009 Council resolved inter alia the following:
“THAT: Council only complete stage 1A of the Cull Road subdivision.”
2. Practical completion of Stage 1A has been agreed and issued effective from 30 October 2009, and subdivision clearances are proceeding where practicable.
3. Final costs of construction are as follows:
 - Original contract sum: \$2,499,162.50 (ex GST)
 - Current variation: \$467,729.54 (ex GST)
4. The variations were generally the result of the redesign components brought about by the decision to finalise works at the completion of stage 1A, WAPC subdivision conditions and SAT decisions.
5. Opus has provided the following comments on the significant changes in quantities of stage 1A.
 - a. Between September 08 and January 09 the drainage basins below Cull Road had been completely redesigned (below ground storage had originally been proposed). To meet the DOW requirements significant additional earthworks and the inclusion of specifically selected drainage medium for the basins were required.
 - b. There were changes to the pavement designs, requiring more material to replace brick paving.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.2.1 continued.

- c. There was the inclusion of traffic islands on Cull Road requiring more pavement, earthworks and the islands.
- d. There were amendments to intersection tapers and road widening on Cull Road, requiring additional pavement earthworks.
- e. The split between 1A and 1B had been done arbitrarily. When 1B was removed, quantities needed to be refined to make the split work practically, this required minor amendments to the quantities and schedule for earthworks, drainage and pavement. (It should be noted this should reduce the cost of Stage 1B).
- f. There were additional paved parking bays added along MC40 – requiring brick paving, pavement and further earthworks.
- g. The raised paved intersection treatments were removed from the tender set of drawings.
- h. The road name signs were confirmed and this is normal to included as a variation at this stage of work.
- i. There was a requirement to include significantly more sub-soil drainage than was allowed for in the tender.
- j. The lower level drainage along Cull Road was amended to suit the new drainage storage basins.
- k. Water Corporation changed the approved water reticulation plans from 200mm to 250mm pipes.
- l. There was a significant increase in the landscape cost from a number of refinements from the preliminary to final design drawings. In fact, landscaping cost were a considerable component of the variations.
- m. The table below is a summary of the variation cost:

Variation Summary				
1.	Contract award	\$2,499,162.50	% of contract award	% of total variations
2.	Variations 1-10, 11, 26, 32 Amendment of Contract sums for stage 1A incorporating final COA requirements for design. Significant changes were adopted in the final design of the drainage ponds and associated pipe work / road layout and footpaths	\$264,521.44	11%	

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.2.1 continued.

Variation Summary				
3.	Variations 12, 14, 15, 21, 27, 31, 33 Additional to the landscape works provisional sum. Drawings were not confirmed at time of tender, additional items were identified throughout the contract for inclusion with the landscape works. Variation 25 29 refinement of landscape POS 2 footpath and handrail.	\$110,431.80	4%	
4.	Variations 17,18,19,28, 30 subsoil drainage and batter stabilisation – not in original design, could be argued that it was not really necessary if construction period had been completed in summer and site stabilized before winter – principally added as insurance to protect site	\$74,990.30	3%	
5.	Variations 16, 23, 34 latent site conditions – pavements and drainage that were identified and addressed through construction. Variation 20 22 services conflicts.	\$13,546.00	1%	
Variation adjustments		\$4,330.00		
Total Variations		\$467,729.54		
Final contract sum		\$2,966,892.04		

6. Consultant fees for the completion of stage 1A have not been finalized at this point, and it would be prudent to allow an additional amount of up to \$50,000 for this purpose.
7. No amounts have been included for land acquisition.

STATUTORY REQUIREMENTS

8. The cost of variations can be met from within the current approved budget, the money is not being sourced from reserve accounts, (s. 6.11, *Local Government Act 1995*), therefore, public notice of the proposed change of proposed use is not required.
9. In accordance with the *Local Government (Financial Management) Regulations 1996*, reg.46. The annual financial report must include all income and expenditure relating to this Major land transaction. The annual financial report is to clearly articulate how the funds are spent.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.2.1 continued.

POLICY IMPLICATIONS

10. There are no policy implications in relation to this item, and the finalisation of the project at the conclusion of stage 1A is in accordance with Council decision.

FINANCIAL IMPLICATIONS

11. Under the current budgetary constraints, there are limited opportunities identified to fund over expenditure. With this in mind, and anticipating possible variations in the Cull Road Project, the Executive team took the conscious decision to hold vacancies in a number of positions throughout the year.

Although it is recognised that this is not sustainable in the long term, and is therefore not proposed to be an ongoing solution, this saving currently estimated to realise in the vicinity of \$460,000 for 2009/2010.

It is a portion of this saving which is recommended to fund the variances on the Cull Road subdivision.

12. The cost of variations and additional consultant fees, totalling \$517,750 will be contained within the 2009/2010 budget, with the recommended funding as follows:

Surplus 2008/09	\$213,478
Cumulative effect of positions currently vacant on 2009/10 *Budget	\$304,252
Total	\$517,750

STRATEGIC IMPLICATIONS

13. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

14. The recommendation on this item provides for payment to the contractor, APH, for the works carried out. Further discussions will be held with the Project Managers, Coffey Projects, and the Project Design Team and Superintendent, Opus, in relation to the overall variance.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.2.1 continued.

SUMMARY CONCLUSION

15. Nil

ITEM: 14.2.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR DUFTY

THAT Council re-allocate the sum of \$517,730 from:

- a. Surplus 2008/09, \$213,478; and**
- b. Cumulative effect of positions currently vacant 2009/10, \$304,252;**

in order to finalise stage 1A of the Cull Road Development Project.

MOTION CARRIED 8-0
ABSOLUTE MAJORITY

CORPORATE & COMMUNITY SERVICES REPORTS

14.3 – LIBRARY SERVICES

Nil

14.4 – DAY CARE CENTRE

Nil

14.5 – TOWN HALL

Nil

14.6 – RECREATION SERVICES

Nil

14.7 - ECONOMIC DEVELOPMENT

Nil

14.8 - TOURISM & VISITORS CENTRE

Nil

14.9 – AIRPORT MANAGEMENT

Nil

14.10 – CONTRACT MANAGEMENT

Nil

CORPORATE & COMMUNITY SERVICES REPORTS

14.11 PROPERTY MANAGEMENT

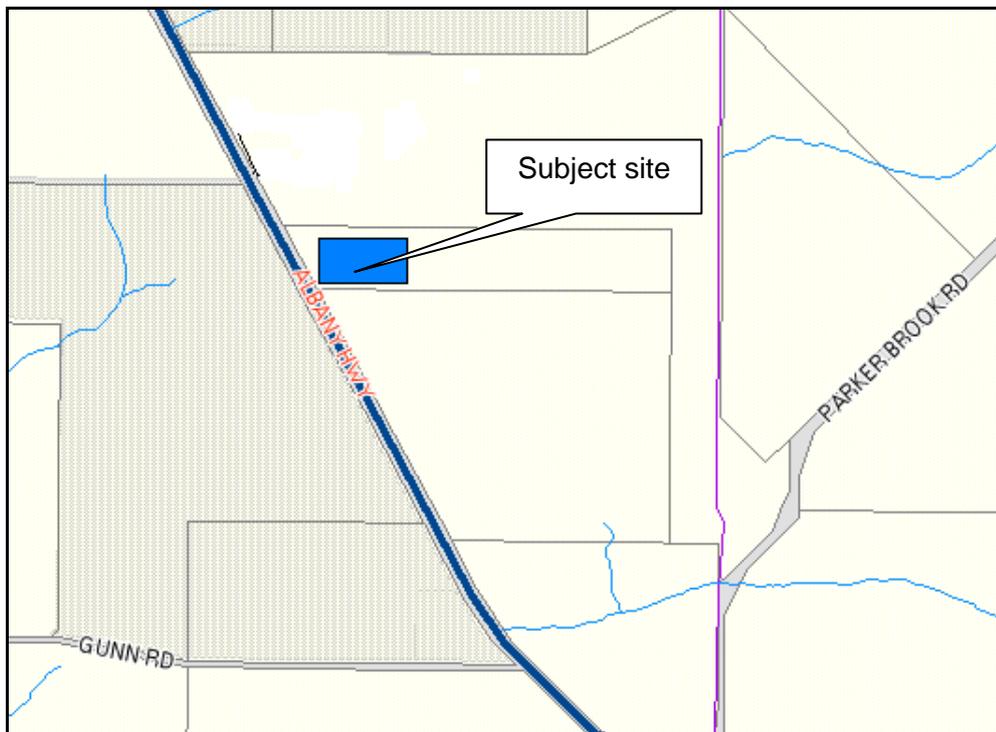
ITEM NUMBER: 14.11.1

ITEM TITLE: NEW LEASE FOR HERTZ RENTALS AT ALBANY REGIONAL AIRPORT TERMINAL

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : PRO374/A64802 (Kalgan Ward)
- Summary of Key Points** : Consider request for a new lease at Albany Regional Airport Terminal for SV Haoust Pty Ltd trading as Hertz Rentals for a term of 5 years with an option for a further 5 year term
- Land Description** : Lot 213 on Diagram 94445 situated at 35615 Albany Highway, Drome
- Proponent** : Hertz Albany
- Owner** : City of Albany
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council’s Policy – Property Management – Leases
Council’s Airport Business Plan
- Maps and Diagrams** :



CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

BACKGROUND

1. In 2001 the City of Albany called for registration of interest for 3 car hire sites at the Albany Regional Airport to formalise car hire operations at the Airport.
2. Avis Albany, Budget Rent a Car and Barnesby Ford, agents for Eurocar, were successful and awarded formal lease agreements. In September 2002, Barnesby Ford surrendered their lease leaving a vacant area which was advertised with no submissions received.
3. Since this time only 2 car hire companies, Avis Albany and Budget Rent a Car, have been operating from the Airport Terminal.
4. Upon the completion of the Airport Terminal refurbishment the vacant area of 13.3m² adjacent to the current SkyWest check-in counter was highlighted as suitable for a car hire operation.
5. A written request has been received from Hertz Albany seeking permission to lease the vacant area at the Albany Regional Airport Terminal including 4 exclusive car parking bays for a term of 5 years with an option of a further 5 year term for the purpose of car hire.
6. The existing car hire company leases with Avis Albany and Budget Rent a Car commenced on 21 November 2007 for a term of 5 years with an option of a further 5 year term. Annual rental for 5.52m² areas including 4 exclusive car parking bays being \$5,200.00 + GST per annum.

DISCUSSION

7. The Albany Regional Airport provides facilities for commuters to and from Albany and the Great Southern. With Airport being located 10 kilometres from the CBD it requires servicing by transport such as taxi's and car rental companies.
8. Car hire companies with a base at the Airport provide a more convenient service to commuters wishing to access self drive vehicles on disembarkation at the Albany Airport.
9. Hertz Albany commenced in 2009 providing rental vehicles for the community, local businesses and visitors to Albany. They currently have a fleet of 10 vehicles including standard sedans, utilities and trucks.
10. Hertz Albany receive many requests for pick up and drop offs to and from the Albany Regional Airport. Customers disembarking at the Airport currently have to make arrangements to collect rental vehicles from Hertz Albany office located at 13 Chevalier Street Albany.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

11. A rental space at the Airport would provide Hertz Albany customers a more convenient and easy collection and drop off car rental process, thus improving the service provided.
12. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases.

PUBLIC CONSULTATION / ENGAGEMENT

13. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
14. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
15. The proposed new lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

GOVERNMENT CONSULTATION

16. No Government consultation is required at this stage.

STATUTORY IMPLICATIONS

17. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.

FINANCIAL IMPLICATIONS

18. All costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent
19. The new lease rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision

Nil.

Priority Goals and Objectives

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

Objective 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities

City of Albany Mission Statement

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

POLICY IMPLICATIONS

21. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
22. The recommendation is consistent with Council’s Policy – Property Management – Leases and the Airport Business Plan.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

23. Council has the following options in relation to this item, which are:
- a. Approve the request for a new lease, or
 - b. Decline the request.
23. Should Council approve the request for a new lease, Hertz Albany will continue car hire operations from the Chevalier Street location.

SUMMARY CONCLUSION

24. In view of the service provided to commuters to and from Albany and the Great Southern, and Council have no current plans for vacant area in the Airport Terminal suitable for car hire operations, the proposed request for a new lease to Hertz Albany for a term of 5 years with an option of a further 5 year term is recommended.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

**ITEM: 14.11.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT Council subject to section 3.58 of the Local Government Act 1995 APPROVES the request for a new lease to SV Haoust Pty Ltd trading as Hertz Rentals at the Albany Regional Airport Terminal on Lot 213 on Diagram 94445 situated at 35615 Albany Highway, Drome, the lease being in compliance with Council's Policy – Property Management – Leases, and:

- **The lease term being for 5 years with an option of a further 5 year term;**
- **The rental will be determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with rent reviews in line with Council's Policy - Property Management - Leases for this category of agreement; and**
- **All costs associated with the preparation and implementation of the lease to be payable by the proponent.**

MOTION CARRIED 8-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.11.2
ITEM TITLE: SURRENDER LEASE AND SUB-LEASE AND SIMULTANEOUSLY REPLACE WITH NEW LEASE FOR EMU POINT BOAT STORAGE PTY LTD AND SUB-LEASE FOR WATERCRAFT MARINE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : PRO052/PRO280/A150506 (Breaksea Ward)
- Summary of Key Points** : Consider request to surrender existing lease and sub-lease and simultaneously replace with a new lease for the Emu Point Boat Storage Pty Ltd for a term of 21 years and sub-lease to G & S Keymer trading as Watercraft Marine for a term of 5 years with an option of a further 5 year term on Lot 1423 portion of Reserve 42964, Emu Point.
- Land Description** : Lot 1423 on Plan 191459 portion of Reserve 42964
- Proponent** : Emu Point Boat Storage Pty Ltd
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council’s Policy – Property Management - Leases
- Maps and Diagrams** :



CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.2 continued.

BACKGROUND

1. Reserve 42964 is under a Management Order issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of marine and associated purposes for a term not exceeding 50 years.
2. The Reserve is located on Swarbrick Street at the Emu Point Marina, an area of 3.5 hectares.
3. Council has at present various leases on this Reserve including a lease with H & CR Plug Pty Ltd trading as Emu Point Marine for a term of 21 years commencing 1 August 1990 and expiring 31 July 2011.
4. H & CR Plug Pty Ltd developed the site and constructed a number of buildings and small sheds to provide boat storage facilities and associated activities relating to boating for both the leisure and professional fishing industry.
5. This existing lease area of 2528m² returns a market rental to Council of \$12,640.00 plus GST per annum and subject to market rent reviews every 3 years and CPI rent reviews every 2 years.
6. In 2000 Council approved a request from H & CR Plug Pty Ltd to sub-lease a portion of their current leased site to G & S Keymer trading as Watercraft Marine for a term of 5 years with an option of a further 5 year term commencing 31 October 2000 and expiring 30 October 2010. This was for use of a portion of the land and infrastructure built and provided by H & CR Plug Pty Ltd.
7. The existing sub-lease area of 964m² returns a rental of \$41,671.00 per annum payable to the Head Lessee. Rental reviews are applied in the same manner as the Head lease. Council receives no financial benefit from the sub-lease; however the Head Lessee developed the site and the building becomes the property of Council at the end of the term should the tenant elect not to remove the buildings.
8. A written request has been received from Emu Point Boat Storage Pty Ltd formerly H & CR Plug Pty Ltd to surrender the existing lease and sub-lease and replace with a new lease for a term of 21 years with a sub-lease on portion of the leased area to G & S Keymer trading as Watercraft Marine for a term of 5 years with an option of a further 5 year term to provide security of tenure for both enterprises.

DISCUSSION

9. The company H & CR Plug Pty Ltd changed their name to Emu Point Boat Storage Pty Ltd as director Hank Plug is now deceased. Given the lease at this time was held in the company name and passed to his children under the estate the operations continued on as before, with the recent proposal providing an opportunity to update the company name.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.2 continued.

10. Emu Point Boat Storage Pty Ltd currently provides a number of storage sheds for hire. In accordance with the existing lease agreement these may only be hired for storage purposes associated with the boating industry.
11. Watercraft Marine is a boating and accessory business currently offering a range of marine equipment, boat sales and service department.
12. The City recently requested advice from HHG Legal Group with respect to sub-lease provisions in the City's leases, in particular where sub-leasing whole or part of the premises is at higher rents than the rent charged by the City.
13. HHG advised where the rent charged is the market rent for the premises, it is unlikely that a Lessee would be able to sub-lease for a higher than market rent, except in the circumstances where the premises are the only premises suitable for the Sub-Lessees proposed business, as is the case with Watercraft Marine.
14. In this instance, the City is charging market rental for the subject land of 2528m² as determined by a valuation undertaken in August 2008 in accordance with the lease agreement.
15. Whilst the existing sub-lease rent is higher than the market rent charged by the City for the subject land, the Head Lessee has developed the site and maintains all of the building and infrastructure in this location, with the premises being ideally suited to Watercraft Marine's boating business.
16. Other leases on portion of Reserve 42964, Emu Point are follows:

Name	Term	Area	Rental per annum
Albany Boating and Offshore Fishing Club Inc.	21 years	1027m ²	\$508.00 + GST (equivalent to minimum land rate as set by Council)
Albany Sea Rescue Squad Inc.	21 years	1567m ²	\$10.00 + GST
Sub-lease - The Squid Shack	5 years + 5 year option	268m ²	\$6,000 + GST (paid to Sea Rescue)
Emu Point Slipway Services Lease 1	12 years & 3 months + 10 year option	1327m ²	\$5,826.44 + GST
Emu Point Slipway Services Lease 2	6 years + 10 year option	4517m ²	\$4,517.20 + GST
Ocean Foods International Pty Ltd Lease 1	21 years	4224m ²	\$5,207.84 + GST
Ocean Foods International Pty Ltd Lease 2	9 years & 10 months	1372m ²	\$1730.27 + GST

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.2 continued.

17. To date Council has no current plans for the area of land being utilised by Emu Point Boat Storage Pty Ltd and Watercraft Marine.
18. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases.

PUBLIC CONSULTATION / ENGAGEMENT

19. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
20. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
21. The proposed new lease and sub-lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

GOVERNMENT CONSULTATION

22. As this is Crown land, Ministerial approval is required.

STATUTORY IMPLICATIONS

23. 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.
24. As this is Crown land, under a Management Order issued to the City of Albany for the purpose of marine and associated purposes, Ministerial approval will be required.
25. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.

FINANCIAL IMPLICATIONS

26. All costs associated with the preparation and implementation of the surrender and new lease and sub-lease documentation will be borne by the proponent.
27. The new lease rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.2 continued.

28. Council will receive no financial benefit from the sub-lease nor incur any costs, however the building becomes the property of Council at the end of the term should the tenant elect not to remove the building, thus offsetting any loss of rental income to the City during the term.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

29. 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 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities

City of Albany Mission Statement

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

POLICY IMPLICATIONS

30. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
31. The recommendation is consistent with Council's Policy – Property Management - Leases.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

32. Council has the following options in relation to this item, which are:
 - a. Approve the request to surrender lease and sub-lease and replace with a new lease and sub-lease, or
 - b. Decline the request.
33. Should council not support the request the lease and sub-lease will remain static until expiry on 31 July 2011 and 30 October 2010 respectively.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.2 continued.

SUMMARY CONCLUSION

34. In view of the service provided to the leisure and professional fishing industry and Albany community by the Emu Point Boat Storage Pty Ltd and Watercraft Marine at no cost to Council, the proposed request to surrender the existing lease and sub-lease and replace with a new lease and sub-lease is recommended.

**ITEM: 14.11.2 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR SUTTON**

THAT Council subject to Section 3.58 of the Local government Act 1995 and Section 18 of the Land Administration Act 1997 APPROVES the request to surrender the existing lease and sub-lease and simultaneously replace with a new lease to Emu Point Boat Storage Pty Ltd with a sub-lease to Watercraft Marine on Lot 1423 Portion of Reserve 42964, Emu Point, the lease and sub-lease being in compliance with Council's Policy – Property Management – Leases, and:

- **The lease term being 21 years commencing the day after surrender date;**
- **The rental will be determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with rent reviews in line with Council's Policy - Property Management - Leases for this category of agreement;**
- **The sub-lease being for a term of 5 years with an option of a further 5 year term commencing the day after surrender date; and**
- **All costs associated with the preparation and implementation of surrender and new leases to be payable by the proponent.**

MOTION CARRIED 8-0

CORPORATE & COMMUNITY SERVICES REPORTS

7:50:52 PM Councillor Leavesley declared a Financial Interest in item 14.11.3 and left the chamber.

ITEM NUMBER: 14.11.3
ITEM TITLE: SURRENDER LEASE AND SIMULTANEOUSLY REPLACE WITH NEW LEASE FOR SHUTTLEWORTH ALBANY PTY LTD KNOWN AS MIDDLETON BEACH HOLIDAY PARK

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : PRO090/A90148 (Frederickstown Ward)
- Summary of Key Points** : Consider request to surrender existing lease and simultaneously replace with a new lease for Shuttleworth Albany Pty Ltd as Trustee for the Shuttleworth Family Trust known as Middleton Beach Holiday Park for a term of 21 years on Lot 1340 portion of Reserve 36320, Middleton Beach
- Land Description** : Lot 1340 on Plan 91309 portion of Reserve 36320
- Proponent** : Shuttleworth Albany Pty Ltd Pty Ltd
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council’s Policy – Property Management – Leases
- Maps and Diagrams** :



CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.3 continued.

BACKGROUND

1. Reserve 36320 is under a Management Order issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of Caravan Park and camping for a term not exceeding 21 years.
2. The Reserve is located at 28 Flinders Parade, Middleton Beach.
3. In 2001 Council approved the surrender and new lease to Shuttleworth Albany Pty Ltd for a term of 21 years on the subject land commencing 12 December 2001 and expiring 11 December 2022 as the Lessee required security of tenure before commencing the proposed upgrade to Park facilities.
4. It was the intention of both parties the new lease area be delineated by the fence line of the Park, however the Lease executed by both parties mistakenly described the land as whole of Reserve 36320, an area of 2.2934 hectares which did not align with the fenced boundaries.
5. In correspondence between the parties it was acknowledged the land description should have been described as portion of Reserve 36320 delineated by the fenced boundaries of the Park, an area of 1.9667 hectares.
6. The current rental charged by the City determined by a market valuation undertaken in 2007, based on the lease area delineated by the fenced boundary of 1.9667 hectares, determined the rental to be \$29,500.00 plus GST per annum.
7. In response to the Lessee recently submitting a development application to extend the area of the Park utilising the whole of Reserve 36320, City staff have been in discussions with the Lessee to regularise the unfortunate boundary misalignment.
8. It was proposed by the parties the boundary of the lease will be between the existing fence line and 1.2m clear of the sealed access road to the Surfers Beach Car Park. This realignment increases the existing lease area marginally by 2347m² from 1.9667 hectares to 2.0549 hectares and ensures all existing public facilities are not within the proposed new lease area.
9. To formalise this proposal a written request has been received from Shuttleworth Albany Pty Ltd know as Middleton Beach Holiday Park to surrender the existing lease and simultaneously replace with a new lease for a term of 21 years on Lot 1340 portion of Reserve 36320 for the mutually agreed area, with the Lessee maintaining all of the building and infrastructure in this location.

DISCUSSION

10. The Middleton Beach Holiday Park is an RAC rated 4½ star Park offering several types of accommodation from chalets to caravan and camping sites for visitors to Albany. The Park has gone away from permanent residents and is focusing totally on tourism.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.3 continued.

11. With the decline in Caravan Parks across Western Australia, the Middleton Beach Holiday Park provides a much needed tourist accommodation site with flow on effects benefiting the wider Albany business community.
12. The Park is particularly well located, being adjacent one of Albany's main swimming beach. This is a popular locality with a high tourist passing trade.
13. If the proposed surrender and new lease are approved by Council the proponent has indicated they will proceed with a planning application for alterations and additions to complete the modernisation and upgrading of the Middleton Beach Holiday Park, with none of the proposed additions being used for permanent occupancy.
14. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases.

PUBLIC CONSULTATION / ENGAGEMENT

15. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
16. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
17. The proposed new lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

GOVERNMENT CONSULTATION

18. As this is Crown land, Ministerial approval is required.

STATUTORY IMPLICATIONS

19. 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.
20. As this is Crown land, under a Management Order issued to the City of Albany for the purpose of Caravan Park and camping, Ministerial approval will be required.
21. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.3 continued.

FINANCIAL IMPLICATIONS

22. All costs associated with the preparation and implementation of the surrender and new lease documentation will be borne by the proponent.
23. The new lease rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

24. 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 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities

City of Albany Mission Statement

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

POLICY IMPLICATIONS

25. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
26. The recommendation is consistent with Council's Policy – Property Management - Leases.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.3 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

27. Council has the following options in relation to this item, which are:

- a. Approve the request to surrender lease and replace with a new lease, or
- b. Decline the request.

28. Should council not support the request to surrender and simultaneously replace with a new lease, the existing lease will remain static until expiry on 11 December 2022.

SUMMARY CONCLUSION

29. In view of the service provided to tourists visiting Albany and the opportunity to realign the lease boundary at no cost to Council, the proposed request to surrender the existing lease and simultaneously replace with a new lease to Shuttleworth Albany Pty Ltd is recommended.

**ITEM: 14.11.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR DUFTY**

THAT Council subject to Section 3.58 of the Local government Act 1995 and Section 18 of the Land Administration Act 1997 APPROVES the request to surrender the existing lease and simultaneously replace with a new lease to Shuttleworth Albany Pty Ltd as Trustee for the Shuttleworth Family Trust known as Middleton Beach Holiday Park for the mutually agreed area on Lot 1340 portion of Reserve 36320, Middleton Beach, the lease being in compliance with Council's Policy – Property Management – Leases, and:

- **The lease term being 21 years commencing the day after surrender date;**
- **The rental will be determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with rent reviews in line with Council's Policy - Property Management - Leases for this category of agreement; and**
- **All costs associated with the preparation and implementation of surrender and new leases to be payable by the proponent.**

MOTION CARRIED 7-0

7:51:43 PM Councillor Leavesley returned to the Chamber after the debate and vote.

CORPORATE & COMMUNITY SERVICES REPORTS

14.12 CORPORATE & COMMUNITY SERVICES COMMITTEE

ITEM NUMBER: 14.12.1

**ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 19
NOVEMBER 2009**

File Number or Name of Ward : MAN 131 (All Wards)
Summary of Key Points : Receive the minutes of the Seniors Advisory
Committee.
Reporting Officer(s) : Executive Director Corporate & Community Services
(WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting minutes – 19 November 2009

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.1 COMMITTEE RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR WOLFE**

**THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 19
November 2009 be RECEIVED.**

MOTION CARRIED 8-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.2
ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES

File Number or Name of Ward : REL 164 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Manager Economic Development (J. Berry)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of Committee meeting held on 25 November 2009

ITEM: 14.12.2 MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA

THAT the Committee Recommendations 1, 2, and 3 are CARRIED en bloc.

MOTION CARRIED 8-0

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.2 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the 2014/15 Anzac Centenary Strategy Committee meeting held on 25 November 2009 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

CARRIED EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.2 COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council formally write to Smithson Planning welcoming any and all ideas in planning the 2014/15 Centenary and stating that Council is developing an advocacy strategy (on behalf of the Albany community) to promote participation and support for the 2014/15 ANZAC Centenary.

AND

THAT Council formally write to relevant Ministers clarifying that Smithson Planning does not represent the City of Albany in the organisation of the 2014/15 ANZAC Centenary.

CARRIED EN BLOC

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.2 COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- (a) arrange to fly the following international flags at the ANZAC Peace Park dedication ceremony on 24 April 2010 (Australian, New Zealand, British, Turkish, French, Japanese)*;**

NB. *(representing the countries supporting Australia in the convoys from Albany in 1914 and acknowledging Council's sister city affiliations that are based on military heritage)

- (b) drop all flags at 23.59 hours on 24 April 2010 and then raise the following flags at half mast until 12.00 hours on 25 April 2010, (Australian, New Zealand, British, Turkish, French, Australian).**

CARRIED EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.3
ITEM TITLE: AUDIT COMMITTEE MEETING MINUTES

File Number or Name of Ward : FIN020 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Manager - Finance (P Wignall)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the 24th October 2008 meeting.
Minutes of the 08th December 2009 meeting.
2008-2009 Annual Report distributed separately.

ITEM: 14.2.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MATLA

THAT Committee Recommendations 1, 2, 3, and 4 are CARRIED en bloc.

CARRIED 8-0
ABSOLUTE MAJORITY

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.2.3 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Audit Committee meeting held on the 8 December 2009 be RECEIVED.

CARRIED EN BLOC

ITEM: 14.2.3 COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Councillor Price be APPOINTED Chairperson of the Audit Committee.

CARRIED EN BLOC
ABSOLUTE MAJORITY

ITEM: 14.2.3 COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Audit Committee meeting held on 24th October 2008, as previously distributed, be confirmed as a true and accurate record of proceedings.

CARRIED EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.3 continued.

**ITEM: 14.2.3 COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

- i) THAT the Audit Committee NOTE the Audit Reports and Officer Responses for the year ending 30th June 2009.**
- ii) THAT COUNCIL in accordance with the requirements of section 5.54 of the *Local Government Act 1995*, ACCEPT the City of Albany Audited Financial Statements for the year ending 30th June 2009.**

**CARRIED EN BLOC
ABSOLUTE MAJORITY**

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.4
ITEM TITLE: COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 20 NOVEMBER 2009

File Number or Name of Ward : MAN 233 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting minutes – 20 November 2009

ITEM: 14.12.4 MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA

THAT Committee Recommendations 1, 2, 3, and 4 are CARRIED en bloc.

CARRIED 8-0

COUNCIL’S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Community and Economic Development Strategy and Policy Committee held on the Friday 20 November 2009 be RECEIVED.

CARRIED EN BLOC

COUNCIL’S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADOPT the draft Albany Public Library Strategic Plan.

CARRIED EN BLOC

COUNCIL’S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADOPT the draft City of Albany Economic Development Strategy (2010-2015).

CARRIED EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.4 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the draft Community Safety and Crime Prevention Plan and advertise it for public comment, with the results to be brought to council for consideration.

CARRIED EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.5
ITEM TITLE: ALBANY TOURISM MARKETING ADVISORY COMMITTEE MEETING MINUTES – 26 NOVEMBER 2009

File Number or Name of Ward : STR 208 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting minutes – 26 November 2009

ITEM: 14.12.4 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA

THAT Committee Recommendation 1, 2, 3, and 4 are CARRIED en bloc.

CARRIED 8-0

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Albany Tourism Marketing Advisory Committee held on the Thursday 26 November 2009 be RECEIVED.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADOPT the terms of reference subject to the inclusion of marketing for the Albany Entertainment Centre following the initial opening season.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the composition of the committee be two elected members, two tourism industry representatives and three business representatives.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.5 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.12.4 COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT all future Albany Tourism Marketing Advisory Committee meetings be restricted to one (1) hour per meeting.

WORKS & SERVICES Reports

WORKS & SERVICES REPORTS

15.0 REPORTS – WORKS & SERVICES

15.1 WASTE MANAGEMENT

Nil

WORKS & SERVICES REPORTS

15.2 CAPITAL WORKS

ITEM NUMBER: 15.2.1
ITEM TITLE: PROPOSAL TO SEEK FUNDING TO REFURBISH THE FORMER SHIRE OF ALBANY MERCER ROAD OFFICE FACILITIES UNDER THE LOTTERY WEST GRANT APPLICATION SCHEME

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward : PRO 351
Summary of Key Points : Proposal to seek funding for refurbishment of leased building at 39 Mercer Road, Walmsley, Former Shire Offices
Land Description : Portion of Lot 5, Mercer Road, Walmsley
Proponent : South Coast Natural Resource Management Inc
Owner : City of Albany
Reporting Officer(s) : Manager of City Assets (P Brown)
Disclosure of Interest : Nil
Previous Reference : Nil
Bulletin Attachment(s) : South Coast Natural Resource Management Inc. Request Details.
Consulted References : Nil
Councillors Lounge : Nil

BACKGROUND

1. The City entered into a lease in February 2008 of the former Shire of Albany building to South Coast Natural Resource Management Inc (SCNRM) for a term of five (5) years plus five.
2. The Mercer Road administration building was constructed in the 1970s for the former Shire. There has been only minor refurbishment over the past years; however the building is considered to be a sound asset.

DISCUSSION

3. SCNRM Inc. has approached the City to advise that they are proposing to submit a funding application under the Lottery West Grants Application Scheme to undertake refurbishment works at the Mercer Road facility.
4. The proposal plans to refurbish and renovate the existing building to incorporate a Natural Resource Management Community Information Network and Learning Centre. The proposed centre will provide the means for the organisation to more comprehensively engage with communities across the South Coast Region and beyond.

PUBLIC CONSULTATION / ENGAGEMENT

5. There has been no public consultation associated with this item

WORKS & SERVICES REPORTS

Item 15.2.1 continued.

GOVERNMENT CONSULTATION

6. SCNRM Inc. will submit the application.

STATUTORY IMPLICATIONS

7. There are no statutory implications with this item.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

8. Albany Insight ~Beyond 2020

“Lifestyle and 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 the environment.’

FINANCIAL IMPLICATIONS

9. The cost of proposal is estimated at \$500,000 and will be fully funded by the grant with no costs to Council.
10. The current return and conditions on the lease will remain unchanged.

POLICY IMPLICATIONS

11. There are no policy implications with this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. Council may choose not to support this proposal and the building will continue to operate under its current lease and in its current state.

SUMMARY CONCLUSION

13. The building, constructed in the 1970s, does not comply with current building standards with regards to environmental standards under the Building Code of Australia (BCA). While there is no requirement to retrospectively apply these standards, any major refurbishment would be subject to these standards.
14. The funding proposal by SCNRM Inc. would seek to improve the carbon footprint of the building and potentially prolong the life of the facility by improving the amenity and function of the building to meet present day expectations.
15. The proposal, at no cost the City, aligns with Councils vision for sustainable development.

WORKS & SERVICES REPORTS

Item 15.2.1 continued.

ITEM NUMBER: 15.2.1 OFFICER RECOMMENDATION

VOTING REQUIREMENTS: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR WOLFE

THAT Council agrees to SUPPORT the proposal by South Coast Natural Resource Management Inc. to submit an application to the Lottery West for the refurbishment of the former Shire of Albany administration building located Lot 5 Mercer Road Walmsley.

MOTION CARRIED 8-0

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.2

ITEM TITLE: FUNDING OPPORTUNITIES

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: STR 004 (All Wards)
Summary of Key Points	: Consideration of funding options to effectively utilise Federal and State Government grants
Land Description	: Nil.
Proponent	: City of Albany
Owner	: Nil.
Reporting Officer(s)	: Project Team Leader (S Pepper)
Disclosure of Interest	: Nil
Previous Reference	: OCM 21.October2008 item 12.8.2 OCM 17 November 2009 item 19.1 SCM 10 November 2009 item 7.0
Bulletin Attachment(s)	: Nil
Consulted References	: Nil
Councillors Lounge	: Nil

BACKGROUND

1. This report is to offer Council informed opinion to maximise funding source opportunities for the ratepayers of Albany and their prioritised allocation.
2. Funding sources include, but are not limited to:
 - a. Federal Funding (Regional and Local Community Infrastructure Program – RLCIP);
 - Non-competitive allocation (\$274,000 for Albany)
 - Strategic Projects
 - b. State Funding (Royalties for Regions)
 - Great Southern Regional Grants Scheme – contestable
 - Great Southern Regional Grants Scheme – up to \$10,000
 - c. Royalties for Regions - Annual
 - d. Royalties for Regions – Reform - Regional

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

Federal funding – Regional and Local Community Infrastructure Program

3. There are two components to RLCIP funding: non-competitive and strategic.
- a. **Non-competitive, RLCIP - \$274,000 allocation.** At the November 2009 Council meeting, item 19.1 – the following community infrastructure projects were approved:

Lawley Park Tennis – re surface courts	\$60,000
Albany Soccer Club – drainage, ground improvements	\$129,000
Albany Girl Guides – drainage and safety fencing	\$55,000
Princess Royal Sailing Club – Rescue boat compound, weather station /communications upgrade	\$30,000
Total	\$274,000

- b. In addition, Council approved the following reserve projects:

Apex Lookout Gazebo	\$45,000
Reserve Project – Public Toilets – attached to ALAC 2	\$100,000
Total	\$145,000

4. **Competitive.** The **second component** is known as the RLCIP Strategic Projects fund, provides funding to a value of \$120 million and is available on a competitive basis. Funding for this round will be made available on a competitive basis for a limited number of larger scale strategic projects where councils are seeking a minimum Commonwealth contribution of \$1 million.
5. Preference will be given to projects which can demonstrate community benefit, include partnership funding, are sustainable, possibly include needs for the local indigenous population, and promote green building technologies. Examples include social and cultural infrastructure, recreational facilities, tourism infrastructure, access facilities and environmental initiatives. Funding will not be provided for activities that support Council operations, those that make a direct benefit to private businesses or individuals, roads, toilets, works of art, etc.
6. To obtain this funding, applications must be submitted by **15 January 2010**, projects must begin construction within six months of signing the funding agreement, and the projects must be completed and expend all funding by 30 June 2011.
- one local authority project – Centennial Park Precinct \$ 55 million (**refer to OCM December 2009 item 15.2.4**)
 - one partnership project – Redevelopment of York St CBD \$34 million (**refer OCM December 2009 item 15.2.3**)

Notes:

1. Minimum contribution from Commonwealth government of \$1 million; and
2. It must be clearly stated that the City of Albany does not have the financial capacity to deliver these projects without external funding support.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

Royalties for Regions, Great Southern Regional Grants Scheme (RGS)

7. On 20 October 2009 the Minister for Regional Development, the Hon Brendon Grylls MP launched the second round of Royalties for Regions Great Southern Regional Grants Scheme. This round provides \$3.4 million being available through the contestable Great Southern RGS Program for grants above \$10,000, with applications closing on **10 February 2009**. Applicants seeking funds up to \$10,000 will be able to apply to a new Small Grants Program, with applications being accepted at any time until the \$100,000. Council has been notified of the guidelines for this funding on 20 October 2009.
8. The Small Grants Program is available for small projects of up to \$10,000 and these must be related to services, infrastructure, events and headworks. Eligible applicants include individual businesses, business groups, local authorities, and community and not-for-profit organisations.
9. The contestable Grants Program applies to projects seeking funds above \$10,000 applications close on **10 February 2010**, and should be project ready. To receive funding, a project must demonstrate that it will result in a positive economic, social and/or environmental return to the Great Southern region.
10. Noting the upcoming Anzac Celebrations 2014-15, and the City Mounts Management Plan (adopted in May 2006), it has been identified the Mount Clarence area is in need of an upgrade at the various monument sites. There are public infrastructure works outstanding in the Centennial Park Recreation Precinct Master Plan. Staff have identified various sites that could be amalgamated under one funding application, which includes:

Electrical upgrade of Mt Clarence Anzac sites	\$340,000
Apex Lookout Car Park	\$50,000
Interpretive signage	\$160,000
Monuments Enhancements	\$1,000,000
Centennial Park Drainage	\$800,000
Public toilets at ALAC	\$150,000
Total	<u>\$2,500,000</u>

11. The submission for this funding acknowledges the recently released George Report, detailed at appendix B. which in summary states that infrastructure should be centralised on coastal areas within the Regional Cities. In the case of the Great Southern the coastal area Regional City is Albany.
12. In addition to the George Report the City of Albany highlights the historical allocation of funding from the Royalties to Region initiative as disparity to the population levels across the Great Southern region, specifically Albany having 68% of the population and a negligible allocation from this funding source.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

13. It is further highlighted that Regional Groups in the Great Southern have introduced 'capping' systems which appear to have financially disadvantaged City of Albany ratepayers. The recent Local Government Reform agenda has identified the requirement for change in Local Government and the ongoing allocation of funding to Local Governments who are not deemed either sustainable or should be seeking amalgamations or boundary changes appears to again dis-advantage the ratepayers of the City of Albany.
14. The above submission for funding totalling \$2,500,000 relies upon business rationale, empirical data as supplied by the George Report, the general strategic direction of COAG and a balance to the apparent historical under-funding of the City of Albany. Perhaps more importantly it addresses the future necessary growth of the City of Albany from an infrastructure, economic and tourist development perspective to drive growth across the wider Great Southern Region.

NB. The harsh realities of the current economic climate must be recognised and covert methods of sustaining smaller Local Governments appropriately challenged and addressed.
15. This report will be recommending early and consistent engagement of all Stakeholders to seek support for this funding submission based on defensible allocations per head per resident.

Royalties for Regions Annual Allocation

16. Each year the City of Albany is allocated funding which for 2009/10 is **\$1,005,158** for infrastructure projects, which it must identify for funding approval.
17. It is recommended Council continues an 'acceleration' of its pathways projects, utilising the Council approved Asset Management Plan Pathways as the basis of prioritising works. The Asset Management Plan - Pathways, provides guidance on the management of the City's network of paths via a 15 year management plan.
18. The allocated funding allows Councils to complete many urgently required pathways within the City. Whilst other projects are held on file by the City the staff recommendation is that the vast majority of ratepayers would benefit from this delivery of an accelerated pathways projects and it offers Council the highest effective use of available funding for core business services to local residents/ratepayers. Alternative options exist but this would dilute the impact of the proposal being made and does not allow completion of other full project scope and costs.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

19. Staff have identified the following paths, prioritised from the Asset Management Plan – Paths document, for construction:

	Estimated \$
1. Flinders Parade path	209,000
2. Wollaston Rd path – Golf Links Rd to Flinders Pd	69,250
3. Brunswick Rd – existing path south of Cuddihy to cul-de-sac	168,000
4. Albany Hwy path – 689 Albany Hwy to Reserve 49711	321,000
5. Lancaster Rd path – from Albany Hwy to McGonnell St	81,250
6. Ulster Rd & Lower King Rd path – Rycraft Dr to Collingwood Rd	161,500
7. Mokare Rd path – from Hardie Rd to Mokare Park	56,000
8. Bay View Drive – from existing pathway to King George St	\$196,500
9. Eyre Park path – from Middleton Rd to Garden St	\$148,000
TOTAL	<u>1,410,500</u>

NB. The above list of paths and estimated costs total more than the funding amount, to allow flexibility in completing the works, within the approved funding budget. Should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$1,005,158.

Royalties for Regions Reform Allocation

20. The Department of Local Government’s Structural Reform Program required Local Governments to provide submissions on potential voluntary amalgamations, and also sought proposals for Regional Groupings. The City submitted its two proposals – the Reform Submission and a (draft) Memorandum of Understanding with the Shire of Katanning.
21. The Department of Local Government has elected to withhold a percentage of the Reform funding for the Regional Groupings alliance, until the Minister has reviewed all submissions.
22. The Shire of Katanning and the City of Albany, via the establishment of a MOU, have been **tentatively** allocated **\$885,000** for collaboration between the two councils relating to:
- a. economic growth and prosperity,
 - b. social advancement,
 - c. environmental and heritage protection and preservation, and
 - d. cultural preservation and governance.
23. The funding allocation and conditions for these Royalties for Regions moneys are subject to Ministerial direction, which is expected to be announced in February 2010.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

24. The monies will be released upon acquittal from all partner Local Governments of their 2008/09 allocations – it is anticipated that the City of Albany will be able to acquit in late 2009 with the Shire of Katanning in a similar position. Once so acquitted monies will be requested for release for the 2009/10 allocations and staff recommend that the following table form the basis of discussion with the Shire of Katanning for prioritisation as agreed Regional prioritised projects:

CoA Peace Park Lone Pine	\$300,000
CoA Peace Park Interpretive Signage	\$40,000
CoA Peace Park Interpretive Seating	\$150,000
CoA Mt Clarence Anzac 2014 Monuments	\$395,000
Total	<u>\$885,000</u>

AND

That should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$885,000.

DISCUSSION

25. The purpose of this report is for Council to consider approving a range of non budgeted projects to proceed.
26. Public consultation was sought and staff developed a 'masterlist' of projects for consideration by Council. Councillors were forwarded the potential projects 'masterlist' and a Councillor workshop was held on Monday 2nd Feb 2009. Councillors considered a draft prioritisation criteria and a draft projects shortlist.
27. With the second round of funding opportunities, it is recommended Council utilise the current list of projects nominated from the public consultation list, the Working Together list and other outstanding projects.
28. In assessing the list of proposed projects, staffs have been mindful of the guidelines for each funding source, which requires the projects to continue to address the backlog in infrastructure and improve the quality of life of residents in local communities. The projects must be ready to proceed, with construction commencing and being finalised within a defined timeframe, as set by the funding body.
29. It should be noted, that while projects are identified for funding applications, any external group involved, should not expect the City to be the only active participant seeking funding opportunities.

GOVERNMENT CONSULTATION

30. No Government consultation is required regarding this matter.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

STATUTORY IMPLICATIONS

31. In accordance with the provisions of the Local Government Act 1995, section 5.42, the Council may delegate to the Chief Executive Officer any of its powers other than those referred to in section 5.43.

FINANCIAL IMPLICATIONS

32. External funding for large infrastructure projects will increase the City's financial capacity to deliver projects within budget and enhance local economy and social well being of its residents. The projects specifically stated or support the strategic plans outlined within the City of Albany 'Insight' (see below) and Organisational (Strategic) Improvement Plans.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

33. This item relates to all major elements of the Albany Insight – Beyond 2020 Corporate Plan.

POLICY IMPLICATIONS

34. There are no Policy implications relating to this matter.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

35. Council has three options to consider with these funding proposals:
 - a. To approve the officer recommendation,
 - b. To amend the officer recommendation, or
 - c. To decline the officer recommendation.

SUMMARY CONCLUSION

36. Staffs have assessed the various funding sources against the current outstanding projects, and identified potential groupings of the projects to maximise Council returns.
37. **Great Southern Regional Grants Scheme – up to \$10,000**
Staffs recommend that as this funding is available to the community as well as local government, no action be taken.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

**ITEM: 15.2.2 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

i) THAT Council SUPPORT the following submissions and applications of funding:

1. Funding Source:

Regional and Local Community Infrastructure Program – Strategic Projects

- one local authority project – Centennial Park Precinct - \$30 million
- one partnership project – Redevelopment of York St CBD - \$34 million;

2. Funding Source:

State (Royalties for Regions) -Great Southern Regional Grants Scheme

Electrical upgrade of Mt Clarence Anzac sites	\$340,000
Apex Lookout Car Park	\$50,000
Interpretive signage	\$160,000
Monuments Enhancements	\$1,000,000
Centennial Park Drainage	\$800,000
Public toilets at ALAC	\$150,000
TOTAL	\$2,500,000

3. Funding Source:

Royalties for Regions Great Southern Regional Grants Scheme (below \$10,000 funding group) – City staff contact community groups who contributed to the ‘Working Together’ program, advising them of this funding opportunity;

4. Funding Source:

Royalties for Regions – Annual

Allocates \$1,005,158 to its pathways projects, utilising the Council approved Asset Management Plan Pathways as the basis of prioritising works;

	Estimated Budget \$
1. Flinders Parade path	209,000
2. Wollaston Rd path – Golf Links Rd to Flinders Pd	69,250
3. Brunswick Rd – existing path south of Cuddihy to cul-de-sac	168,000
4. Albany Hwy path – 689 Albany Hwy to Reserve 49711	321,000
5. Lancaster Rd path – from Albany Hwy to McGonnell St	81,250
6. Ulster Rd & Lower King Rd path – Rycraft Dr to Collingwood Rd	161,500
7. Mokare Rd path – from Hardie Rd to Mokare Park	56,000
8. Bay View Drive – from existing pathway to King George St	196,500
9. Eyre Park path – from Middleton Rd to Garden St	148,000
TOTAL	1,410,500

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

ITEM: 15.2.2 OFFICER RECOMMENDATION (Cont.)

NB: The above list of paths and estimated costs total more than the funding amount, to allow flexibility in completing the works, within the approved funding budget. Should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$1,005,158.

5. Royalties for Regions – Reform - Regional

Peace Park Lone Pine	\$300,000
Peace Park Interpretive Signage	\$40,000
Peace Park Interpretive Seating	\$150,000
Mt Clarence Anzac 2014 Monuments	\$395,000
TOTAL	<u>\$885,000</u>

AND

- ii) That should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of each funding source.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

**ITEM: 15.2.2 AMENDED OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR PRICE**

i) THAT Council SUPPORT the following submissions and applications of funding:

1. Funding Source:

Regional and Local Community Infrastructure Program – Strategic Projects

- one local authority project – Centennial Park Precinct - \$30 million
- one partnership project – Redevelopment of York St CBD - \$34 million;

2. Funding Source:

State (Royalties for Regions) -Great Southern Regional Grants Scheme

Electrical upgrade of Mt Clarence Anzac sites	\$340,000
Apex Lookout Car Park	\$50,000
Interpretive signage	\$160,000
Monuments Enhancements	\$1,000,000
Centennial Park Drainage	\$800,000
Public toilets at ALAC	\$150,000
TOTAL	<u>\$2,500,000</u>

3. Funding Source:

Royalties for Regions Great Southern Regional Grants Scheme (below \$10,000 funding group) – City staff contact community groups who contributed to the ‘Working Together’ program, advising them of this funding opportunity;

4. Funding Source:

Royalties for Regions – Annual

Allocates \$1,005,158 to its pathways projects, utilising the Council approved Asset Management Plan Pathways as the basis of prioritising works;

	Estimated Budget \$
1. Flinders Parade path	209,000
2. Wollaston Rd path – Golf Links Rd to Flinders Pd	69,250
3. Brunswick Rd – existing path south of Cuddihy to cul-de-sac	168,000
4. Albany Hwy path – 689 Albany Hwy to Reserve 49711	321,000
5. Lancaster Rd path – from Albany Hwy to McGonnell St	81,250
6. Ulster Rd & Lower King Rd path – Rycraft Dr to Collingwood Rd	161,500
7. Mokare Rd path – from Hardie Rd to Mokare Park	56,000
8. Bay View Dr – from existing pathway to King George St	196,500
9. Eyre Park path – from Middleton Rd to Garden St	148,000
TOTAL	<u>1,410,500</u>

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

ITEM: 15.2.2 AMENDED OFFICER RECOMMENDATION (Cont.)

NB: The above list of paths and estimated costs total more than the funding amount, to allow flexibility in completing the works, within the approved funding budget. Should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$1,005,158.

5. Royalties for Regions – Reform - Regional

Peace Park Interpretive Signage	\$40,000
Peace Park Interpretive Seating	\$100,000
Mt Clarence Anzac 2014 Monuments	\$455,000
TOTAL	<u>\$595,000</u>

AND

- ii) **That should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of each funding source.**

**CARRIED 8-0
ABSOLUTE MAJORITY**

Officers Reason (S Jamieson):

The City of Albany received correspondence on the 10 Dec 09, advising that the Department of Local Government will commence the transitioning of several local governments into a single entity by 2013, using a transitional grouping model (correspondence attached). Therefore it is now recommended that the proposed \$885,000 detailed at Paragraph 22 of the report is limited to \$600,000 to ensure that the City of Albany acquits all of its money prior to any potential reform directives.

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.3
ITEM TITLE: FUNDING SUBMISSION – REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM (RLCIP) – ALBANY CENTRAL AREA CIVIC PRECINCT AND STREETScape PROJECT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : MAN252 (Vancouver Ward)
- Summary of Key Issues** : To consider the lodgement of a funding submission for the Albany Central Area under the RLCIP (Strategic Projects)
- Land Description** : Portions of York Street, St Emilie Way and Albany Highway and the Civic and Cultural Precinct bounded by York Street, Serpentine Road, Collie Street and Grey Street West
- Proponent** : City of Albany
- Owner** : City of Albany & Department of Education
- Reporting Officer(s)** : Executive Services Manager – Planning & Councillor Liaison (G Bride)
- Disclosure of Interest** : Nil
- Previous Reference** : Item 19.1 OCM 19/08/08
Item 13.5.1 OCM 18/08/09
- Bulletin Attachment(s)** : Proposed Project Initiation Brief (PIB)
The RLCIP funding guidelines
- Consulted References** : N/A
- Councillor’s Lounge** : N/A
- Maps and Diagrams:**



WORKS & SERVICES REPORTS

Item 15.2.3 continued.

BACKGROUND

1. Council, through the Albany Central Area Steering Committee, is currently preparing an overall master plan for the Central Area of Albany and a final draft will be lodged by the consultant (Chris Antill & Associates) prior to the end of this calendar year.
2. The Master Plan is an action plan that will include streetscape concepts, parking opportunities, development options on Council owned land (specifically the Civic Precinct) and a range of new planning policies that seek to promote appropriate redevelopment.
3. Separate to this process the Federal Government is now calling for funding submissions as part of its \$120 million Regional and Local Community Infrastructure Fund (Strategic Projects), with an application deadline of 15 January 2010.
4. Given the stimulus funding may not be continued past this current round, due in part to the recovery of the Australian economy, the lodgement of a funding application represents an opportunity to 'fast track' the construction of high priority projects identified by the Albany Central Area Master Plan Steering Committee and previously through the York Street Masterplan.
5. The proposed funding application will include the following components:
 - The beautification and upgrade of York Street, Albany Highway and St Emillie Way;
 - The completion of the Civic Precinct, including the construction of a town square and a proposed Multi-Use Arts and Education Centre (including a Regional Art Gallery);
 - The removal of a portion of seating within the town hall to create a multi-purpose flat floor space and general upgrade of the lower level of the hall for exhibition/meeting spaces;
 - The extension of the existing library;
 - The creation of Mokare Park (recognising the site of Mokare's Grave); and
 - The refurbishment of the District Education Offices on the corner of Serpentine Road and Collie Street to suit the requirements of UWA.
6. The entire project is estimated to cost \$34,923,617 (including contingencies and professional fees). A detailed cost breakdown is identified in the Project Initiation Brief (PIB), located within the Information Bulletin.

DISCUSSION

7. One of the key components of the project is to promote the relocation of the University of Western Australia (UWA) from Stirling Terrace into the civic precinct, which along with the Regional Art Gallery and an alfresco cafe facing the square, will bring much needed activity and vibrancy to the precinct. Preliminary discussions have been held with UWA, and whilst positive to date, are ongoing.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

8. Ongoing discussions with other key stakeholders including the Department of Education, Department of Culture and the Arts, UWA, Heritage Council of WA, the State Library Board, Regional Development Australia and the Department of Indigenous Affairs are also occurring and similarly updated positions will be provided to Councillors prior to the Council meeting.
9. The streetscape projects will assist in lowering traffic speed, providing landscaping opportunities, improving pedestrian safety and increasing the provision of public parking. In total at least 65 new on-street parking bays will be provided which will assist in providing short term customer parking to support retail outlets within the CBD.
10. The project components within the civic and cultural precinct seek to add increased vitality and activity and solidify the precinct as the hub (gathering point) of Albany. The inclusion of an art gallery and UWA within a new multi-purpose arts and education centre will have obvious synergies with the existing town hall and library. The provision of retail tenancies at ground and first floor facing the town square (including alfresco dining) will also ensure the square is well utilised.
11. Further information in relation to the projects involved are detailed in the attached PIB, including drawings and concept plans, indicative project costings, risk management assessment and projected time table.
12. It is advised that a Business Plan and Feasibility Study for the project will be circulated to Councillors prior to the Council Meeting.
13. It is also proposed that a desk top publisher and marketing consultant be engaged to prepare advertising material to assist in the display of the project to the community, and ultimately the advertising of the Master Plan as a whole.
14. In formally presenting the proposed funding submission to the community and the projects involved it is proposed that a mini-expo be held at the Albany Town Hall to allow the interested persons to view the 3D 'fly around' prepared for the proposed precinct development and concept drawings associated with the streetscape works. This is proposed to be undertaken after the Christmas break (early January) before the lodgement of the funding submission.

PUBLIC CONSULTATION / ENGAGEMENT

15. The draft Albany Central Area Master Plan is expected to be lodged by the consultant prior to the end of the calendar year and is intended to be considered by Council at the January Council meeting to put the plan out to advertising.
16. The funding deadline is 15 January 2010 and therefore the funding submission will need to be lodged prior to the public exhibition of the Master Plan. It should be noted however that the project components have previously been discussed and included as part of previous Council plans including the York Street Master Plan and the Albany Community Vision.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

17. The Albany Central Area Master Plan Steering Committee also contains representatives of Council (Councillors Matla and Price), the Albany Chamber of Commerce and Industry, CBD landowners, the Albany Urban Design Forum, the Frederickstown Progress Association and both the Youth and the Seniors Committee's of the City of Albany.
18. At its meeting dated 25 November 2009 the Albany Central Area Master Plan Steering Committee added its support to the lodgement of the funding proposal.
19. As noted above an opportunity will be provided for the community to view the concept drawings and 3D presentations involved in the funding submission at the Town Hall, whereby support or otherwise for the project can be recorded and included with the funding submission.

GOVERNMENT CONSULTATION

20. Consultation with key stakeholders including government agencies is ongoing and an updated position from each stakeholder will be provided to Councillors prior to the Council meeting.

STATUTORY IMPLICATIONS

21. There are no statutory implications related to this item.

FINANCIAL IMPLICATIONS

22. The Business Plan is being finalised for the project and will be circulated to all Councillors prior to the Council Meeting, however the following initial financial implications are as follows:
 - The Art Gallery is expected to operate at a loss of around \$190,000 per year, when annual revenue of around \$210,000 from leased retail outlets and office space are included in the cash flow projections;
 - The revised Town Hall is expected to operate at a loss of around \$55,000 per year.
23. Costs of around \$11,000 have been incurred in preparation for the funding submission, which involves the sourcing of independent costings (for streetscape works and buildings) and concept designs for the new buildings and alterations. These costs are an integral part of the funding requirements and can be met within the existing budget for the Albany Central Area Master Plan. The business planning and feasibility study has been done by city staff at no cost.
24. It is proposed however that a budget reallocation of \$15,000 be allocated to assist in the marketing of the Master Plan through the preparation of advertising material to assist with community engagement and formal public advertising associated with the draft Master Plan.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

25. This item directly relates to the following elements of Albany Insight ~ Beyond 2020:

- “1. Lifestyle & Environment,
Albany will be a City where...
1.4 Our Cultural and artistic communities are valued, celebrated and supported.
3. City Centre
Albany’s City Centre will be.....
3.1 Family and pedestrian friendly.
3.2 A vibrant cultural hub stimulated by attractive inner city residential and tourism accommodation.
3.3 A unique and accessible retail experience.
3.4 Serviced by a regular and affordable public transport service.”*

POLICY IMPLICATIONS

- 26. The extension of the Library and the proposed new Arts and Education centre will be subject to the Albany Historic Design Policy (if this policy is adopted by Council at this meeting). The proposed Arts and Education Centre would be higher than the height parameters specified in the Policy, however the elevations and 3D wrap around prepared by Howard and Heaver Architects (as contained in the PIB) highlight that the building height is appropriate in context with the historic town hall.
- 27. A total of 54 car parking bays have been provided in the area known as ‘the bottom car park’, with 43 of these bays to be provided underneath the footprint of the new building. An additional 39 bays are also proposed at the rear of the existing DOE offices on the corner of Collie Street and Serpentine Road. This will be short of the car parking requirements specified in the Scheme, however it is important to note that as part of the upgrade of York Street an additional 35 on-street bays will be provided to further reduce parking requirements. In the future when the site to the west is developed for residential apartments, or other use deemed suitable by Council, additional car parking will be also be provided below to further increase parking availability.
- 28. Council will ultimately need to consider these issues in detail as part of its planning assessment should the funding be supported, however staff’s preliminary view is that there is considerable justification to address the policy issues affecting the proposal.
- 29. The funding body does not require the issue of planning consent prior to lodging a submission; however they will make this a condition of funding if the City is successful.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

- 30. Council could resolve not to lodge a funding submission or request that a component of the project be removed from the submission or modified.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

31. Although there is no guarantee that Council would be successful in its submission, it should be noted that given the high capital costs of the project involved, without considerable funding from the state or federal government, the delivery of the projects contained within the Master Plan are unlikely to be realised in the short to medium term.

SUMMARY CONCLUSION

32. It is recommended that Council lodge a funding submission under the RLCIP for the civic and cultural precinct and for the streetscape improvements.
33. It is also recommended that a desktop publisher / graphic designer be employed to prepare advertising material to assist in the advertising of the draft Albany Central Area Master Plan.

**ITEM: 15.2.3 OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MATLA**

THAT Council:

- a) **APPROVES** the attached Planning Initiation Brief (PIB) for the Albany Central Area Civic Precinct and Streetscape Project;
- b) **NOTES** the Business Plan and Feasibility Study prepared for the project and accepts the identified operational costs associated with the Arts and Education Centre (Regional Art Gallery) and Town Hall;
- c) **AUTHORISES** the lodgement of the funding submission under the Regional and Local Community Infrastructure Program (Strategic Projects);
- d) **DISPLAYS** the project to the Albany community prior to the lodgement of the funding submission via a community expo.

MOTION CARRIED 8-0

**ITEM: 15.2.3 OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT Council allocates an additional \$15,000 to account 3777 (CBD Master Plan) as part of the 2nd Quarterly Review to engage a desktop publisher and marketing consultant to prepare and produce advertising material for the funding submission and the draft Albany Central Area Master Plan.

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.4
ITEM TITLE: FUNDING SUBMISSION – REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM (RLCIP) – CENTENNIAL PARK RECREATION PRECINCT MASTERPLAN PROJECT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : MAN258 (Frederickstown Ward)
- Summary of Key Issues** : To consider the lodgement of a funding submission for the ‘Centennial Park Recreation Precinct Project’ under the RLCIP (Strategic Projects)
- Land Description** : Albany’s central municipal sporting precinct, bounded to the north by North rd, west by Wellington st and east by Campbell rd.
- Proponent** : City of Albany
- Owner** : City of Albany & Department of Education
- Reporting Officer(s)** : Executive Director Corporate and Community Services (P Madigan), Community Development Officer (T Martin).
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/10/08 Item 12.8.2
- Bulletin Attachment(s)** : Proposed Project Initiation Brief (PIB)
The RLCIP funding guidelines
- Consulted References** : N/A
- Councillor’s Lounge** : N/A
- Maps and Diagrams** :



Figure 1 – Aerial Perspective of North Road Recreation and Sporting Precinct – from the North

WORKS & SERVICES REPORTS

Item 15.2.4 continued.

BACKGROUND

1. The City is currently preparing a 'Master plan' for the Centennial Park Recreation Precinct.
2. Separate to this process the Federal Government is now calling for funding submissions as part of its \$120 million Regional and Local Community Infrastructure Fund (Strategic Projects), with an application deadline of 15 January 2010.
3. Given the stimulus funding may not be continued past this current round, due in part to the recovery of the Australian economy, the lodgement of a funding application represents an opportunity to 'fast track' the construction of high priority projects identified by Council.
4. The project will implement integrated and sustainable design concepts for flood mitigation for the Centennial Park Recreation Precinct sporting fields as well as appropriate sporting infrastructure. It is aimed that the following benefits will be delivered to the Albany community and that of the surrounding districts.
 - Sporting Facilities
Enhance the quality of outdoor sporting grounds for a range of sporting activities including cricket, soccer, football, rugby and little athletics.

Enhance the quality of indoor sporting facilities and infrastructure for a range of sporting activities including netball, basketball, volleyball, indoor hockey and badminton plus clubrooms, storage and amenities.
 - Recreation Infrastructure
Provide a greater range of passive and active recreation opportunities through improved recreation infrastructure provision integrated with a systematically planned environment. This will result in a healthier community including improved intergenerational social interaction and disabled access to the precinct.
 - Environment
Instigate water re-use strategies by assessing water catchment and treatment options using contemporary bio-filtering and ecological best practice techniques. These strategies will assist flood mitigation and provide a solution to water shortages caused by climate change.

Design interpretation to provide education about best practice environmental systems and the City's efforts to combat climate change.
 - Community
It is expected that the upgrade of the precinct will result in enhanced community connectedness and participation.
5. Order of magnitude costing estimates that the entire project will cost \$55,000,000.

WORKS & SERVICES REPORTS

Item 15.2.4 continued.

6. The vision for the Centennial precinct is:

“Albany’s Centennial Park Recreation Precinct is recognised as regional Western Australia’s premier recreational and community precinct which is unique in its application of environmental best practice in preparing for climate change”

DISCUSSION

7. Upgrade and development of Albany’s Central Sporting Precinct has been identified as a priority by Council within the City’s Recreation Planning Strategy.
8. The strategy also recognises the importance of the need for consideration of the effects of climate change and resource scarcity in major recreation facility development.
9. It is believed that a highly accessible, central, in town sporting precinct is a major point of difference and drawcard for life in Albany for its community. In the event funding can be secured for the project it is believed that the development will have significant local and regional benefit.

PUBLIC CONSULTATION / ENGAGEMENT

10. The development of the masterplan involves a comprehensive stakeholder consultation phase which is currently under way.
11. To date this consultation has involved a combined meeting of precinct user groups and individual consultation and receipt of submissions in relation to their believed future needs.
12. Users groups within the precinct are highly supportive of the need for facilities to be developed and there is a level of perceived urgency. However during all consultation officers are careful to attempt to not unrealistically or unfairly raise community expectations – especially where funding streams are not confirmed.

GOVERNMENT CONSULTATION

13. Consultation with key stakeholders including government and government funded agencies is currently occurring. It is anticipated that the City will be able to work in strategic partnership with agencies, particularly for the design and delivery of the environmental components of the project.

STATUTORY IMPLICATIONS

14. There are no statutory implications related to this item.

WORKS & SERVICES REPORTS

Item 15.2.4 continued.

FINANCIAL IMPLICATIONS

15. Given the order of magnitude of capital funding required (\$55 Million) it is highly unlikely that the City would be able to fund the project in the short term without the requested level of Government Funding.
16. Currently there is no allocation of City capital funds towards the project, however the City would fund a level of officer time in project development administration through currently allocated staff wages.
17. As part of the project a feasibility study will be required to be conducted detailing the ongoing financial implications of implementation of the project.
18. Part of the justification of the project is that the environmental components will provide a level of insurance against possible future detrimental impacts of climate change (in ability to water due to dry periods and damage from flooding), which have a flow on operational financial impact.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

19. This item directly relates to the following elements of Albany Insight ~ Beyond 2020:
 1. **Lifestyle & Environment**
 - *Young adults are well catered for.*
 - *Recreation facilities provide a diverse range of sporting and exercise opportunities.*
 - *The development responds to our unique environmental values.*
 - *The development embraces environmentally responsible approaches to energy and water consumption.*
 - *The development incorporates healthy lifestyle activities and access to green space.*
 2. **Economic Development**
 - *Investment is complementary to Albany's sense of place and occurs within an up to date and effective planning framework.*
 3. **City Centre**
 - *Family and pedestrian friendly.*
 4. **Governance**
 - *Manage our municipal assets to ensure they are capable of supporting our growing community.*
 - *Deliver excellent community services that meet the needs and interests of our diverse communities.*

POLICY IMPLICATIONS

20. N/A

WORKS & SERVICES REPORTS

Item 15.2.4 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. Council could resolve not to lodge a funding submission or request that a component of the project be removed from the submission or modified.
22. While the best possible submission will be put forward within the limits of the project, it should be noted that there is no guarantee that Council would be successful in its submission. Further to this given the high capital costs involved and the fact that the City is unlikely to be in a position to make major financial contribution towards the project in the short to medium term, the delivery of the projects contained within the Centennial Park Recreation Precinct Masterplan are conditional on the majority of funding being sourced from the State or Federal government or another external funding source.

SUMMARY CONCLUSION

23. It is recommended that Council lodge a funding submission under the RLCIP for the Centennial Park Recreation Precinct Plan Project.

**ITEM: 15.2.4 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR SUTTON**

THAT Council:

- a) **CONFIRMS** the Planning Initiation Brief (PIB) for the Centennial Park Recreation Precinct Master Plan; and
- b) **AUTHORISES** the lodgement of the funding submission under the Regional and Local Community Infrastructure Program (Strategic Projects).

MOTION CARRIED 8-0

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.5
ITEM TITLE: CONTRACT C09020 – TENDER FOR RECONSTRUCTION AND WIDENING OF 1.4 KM OF MILLBROOK RD IN MILLBROOK

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward : DES 130 (Kalgan Ward)
Summary of Key Points : The acceptance of a tender for the reconstruction and widening of Millbrook Rd in Millbrook.
Land Description : Road reserve for Millbrook Rd
Proponent : City of Albany
Owner : City of Albany
Reporting Officer(s) : Engineer Asset Planning (G Hoey) and Manager City Assets (P Brown)
Disclosure of Interest : Nil
Previous Reference : Nil
Councillors Lounge : Nil
Bulletin Attachment(s) : Tender Review and Evaluation Report
Maps and Diagrams : Nil.

BACKGROUND

1. Tenders were called for the reconstruction and widening of approximately 1.4 km of Millbrook Rd
2. The request for tenders was advertised in the West Australian on 28 October 2009, in the Albany Advertiser on 29 October 2009 and the Albany Extra on 30 October 2009.
3. Wood & Grieve Engineers are acting as the design consultant and Superintendent of this contract on behalf of the City.
4. Eight tenders were received. Consulting Engineers within Wood & Grieve and Graeme Hoey reviewed the tenders for compliance and accuracy, and evaluated the tenders. The review and evaluation report is attached.

DISCUSSION

5. The pricing of the eight tenders received is:

TENDERER	PRICE – INC GST	PRICE EX GST	* PRICE EX (Contract Contingency of \$47,500)
Palmer Earthmoving	\$434,533	\$395,030	\$347,530
AD Contractors	\$602,696	\$547,905	\$500,405
Albany Industrial Services	\$629,537	\$572,306	\$524,806
Tricoast Civil	\$646,823	\$588,021	\$540,521
GSS	\$718,288	\$652,989	\$605,489
Mako Civil	\$1,009,140	\$917,400	\$869,900
Downer EDI Works	\$1,026,884	\$933,531	\$886,031
Albany Civil Contractors	\$1,041,929	\$947,208	\$899,708

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

* Note: The contract documents included a contingency amount. This is not normal practise for the City of Albany. The necessary contingency should be removed from the contract and be managed by the City outside of the construction contract.

6. The tenders were evaluated and Palmer Earthmoving was rated to be the preferred tenderer.
7. Palmer Earthmoving did not include approximately \$10,000 worth of line marking and signage work in its price.

TENDER EVALUATION

8. Tenders were evaluated in four (4) key areas;
 - Cost;
 - Technical Compliance;
 - Reliability; and
 - Experience.
9. The rating scale method used is as set out by the City of Albany's tender evaluation cost scoring formula.
10. The Tender Review and Evaluation Report are attached.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

11. 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

12. The City of Albany Regional Price Preference Policy is applicable to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

13. There are no legal implications relating to this item.

FINANCIAL IMPLICATIONS

14. The amount of \$460,442 is budgeted in the 2009/10 capital works program for this project, including \$232,961 of Regional Roads Group funding. Subsequent to budget adoption Main Roads WA notified the City that total funds allocated to the Great Southern Regional Roads Group had been reduced, resulting in a reduction of \$24,875 in funds available for this project.

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

15. Based on the funding reduction and tender result, the funding situation is:

BUDGET – ex GST	
Original Budget for Millbrook Rd project	\$460,442
Post-budget Regional Road Group funding reduction	-\$24,875
Proposed Budget – to be confirmed at Q2 Quarterly Review	\$435,567
PROPOSED EXPENDITURE – ex GST	
Superintendents fees	\$25,000
Preferred tenderer sum – including \$10,000 of omitted items	\$357,530
Contingency - including \$47,500 removed from the construction contract	\$53,037
Anticipated Total Expenditure	\$435,567

SUMMARY CONCLUSION

16. The Palmer Earthmoving tender submission scored the highest total points In the evaluation process for the Reconstruction and Widening of Millbrook Rd . That tender should be accepted.

**ITEM: 15.2.5 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DUFTY**

THAT Council:

i) **ACCEPTS** the tender from Palmer Earthmoving for \$357,530 excluding GST.

AND

ii) **APPROVES** the provision of a contingency amount of \$53,037 excluding GST.

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

15.3 RESERVES, PLANNING & MANAGEMENT

Nil

WORKS & SERVICES REPORTS

15.4 WORKS & SERVICES COMMITTEES

ITEM NUMBER: 15.4.1
ITEM TITLE: ASSET MANAGEMENT AND CITY SERVICES STRATEGY AND POLICY COMMITTEE MEETING – 20TH NOVEMBER 2009

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Works and Services (K Ketterer)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting Minutes – 20th November 2009.
Councillors Lounge : Nil.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 15.4.1 MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR DUFTY

THAT Committee Recommendation 1, 2 & 3 be CARRIED en bloc.

MOTION CARRIED 8-0

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 15.4.1 COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 5.0 - Confirmation of Minutes

THAT the UNCONFIRMED minutes of the Asset Management and City Services Strategy and Policy Committee Meeting held on 20 November 2009, be RECEIVED.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 15.4.1 COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

ITEM 5.0 Terms of Reference

THAT the name of the Asset Management and City Services Strategy and Policy Committee Meeting be changed to the Asset Management Policy and Strategy Committee Meeting, to reflect the committee's Terms of Reference;

THAT Parks be added to the Terms of Reference for the Asset Management and City Services Strategy and Policy Committee; and

THAT Airport and Leases be removed from the Terms of Reference for the Asset Management and City Services Strategy and Policy Committee.

WORKS & SERVICES REPORTS

Item 15.4.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM: 15.4.1 COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

ITEM 4.0 Election of Chairperson and Deputy Chairperson

THAT Council CONFIRM the appointment of Councillor Wolfe as Chairperson and Councillor Leavesley as Deputy Chairperson to the Asset Management Strategy and Policy Committee.

**GENERAL MANAGEMENT
SERVICES
Reports**

GENERAL MANAGEMENT SERVICES REPORTS

14.1 CORPORATE GOVERNANCE

Nil

14.2 GENERAL MANAGEMENT SERVICES COMMITTEE

Nil

17.0 ADOPTION OF THE INFORMATION BULLETIN

ITEM: 17.0 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR SUTTON

THAT the Information Bulletin, as circulated, be received and the contents noted.

MOTION CARRIED 8-0

Motion lapsed due to no mover.

18.0 MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

ITEM NUMBER: 18.1
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR PAVER - ACCESS TO INFORMATION

ITEM: 18.1 NOTICE OF MOTION BY COUNCILLOR PAVER
VOTING REQUIREMENT: SIMPLE MAJORITY

Whenever Councillors, collectively or individually, in the proper exercise of their roles and responsibilities request information from the City of Albany the information requested shall be provided within a reasonable time, and if the CEO in the exercise of his statutory authority decides to deny Councillors access to the information they seek, he shall, in conformity with the Local Government Act objective to provide more open and accountable government, do so in writing to the Councillor/s concerned giving a full rational explanation why he has so decided, and it shall not be sufficient for this purpose for the CEO merely to assert without more that the information sought relates to an operational or a confidential matter or that it relates to a matter which he might refer to the CCC.

Officer's Comment:

At the Nov 09 ordinary meeting, Council resolved to bring this item back to the Dec 09 meeting. Legal advice directly follows this item.

Item 18.1 continued.

HUDSON HENNING & GOODMAN
Solicitors, Barristers & Notaries Since 1919



PLEASE REPLY TO ALBANY OFFICE:

27 November 2009

Mr Peter Madigan
The City of Albany
PO Box 484
ALBANY WA 6331

OUR REF:MNT:KP:91923

By Email: peterm@albany.wa.gov.au

Dear Mr Madigan

CITY OF ALBANY – MOTION FOR ACCESS TO ALL COUNCIL INFORMATION

We refer to your email dated 25 November 2009, seeking advice in relation the legitimacy of an amended version of the proposed motion we advised upon in our letter to you dated 13 November 2009. The amended motion states:

"Whenever Councillors collectively or individually in the proper exercise of their roles and responsibilities request information from the City of Albany the information requested shall be provided within a reasonable time, and if the CEO in the exercise of his statutory authority decides to deny Councillors access to the information they seek, he shall, in conformity with the Local Government Act objective to provide more open and accountable government, do so in writing to the Councillor/s concerned giving a full rational explanation why he has so decided, and it shall not be sufficient for this purpose for the CEO merely to assert without more that the information sought relates to an operational or a confidential matter or that it relates to a matter which he might refer to the CCC."
(Amended Motion)

The Amended Motion seeks to address the problems with the original motion. However, it still purports to empower Councillors to direct the CEO, in contravention of section 10 of the *Local Government (Rules of Conduct) Regulation 2007 (Rules of Conduct)*, and to empower Councillors to constrain, fetter or control the CEO in the exercise of his statutory functions under section 5.41 of the *Local Government Act 1995 (Act)*. It may also, potentially, give rise to a situation where the CEO is required to act contrary to a CCC directive, as mentioned in our previous advice.

It is likely that if the Amended Motion is passed it would be ultra vires and is therefore an inappropriate motion for Council to vote upon. We recognise that it could be argued that the Amended Motion contains a proviso, to the effect that information may only be requested in the proper exercise of Councillors' roles and responsibilities, and that this would enable the CEO to exercise his statutory discretion to deny access to information if he considers that any request is not a proper exercise of the Councillors' roles and responsibilities. However, in our view that is a weak argument as the Amended Motion, read as a whole, would make it very difficult for the CEO to rely on any such proviso in order to act in a manner contrary to the Amended Motion.

Item 18.1 continued.

2



Further, the Amended Motion seeks to constrain the CEO in his explanation of (whether he gives any explanation) to individual Councillors of the reasons for decisions he is authorised to make pursuant to section 5.41 of the Act. If passed the Amended Motion would also empower Councillors, in a defacto manner, to participate in decision making processes that are, firstly, the exclusive function of the CEO and, secondly, beyond the decision-making function of Councillors. This is because the Councillors requesting documents pursuant to the Amended Motion would be able to invoke the Amended Motion to control the CEO's response to any request.

On balance, we consider that the Amended Motion, if passed, would be ultra vires and subject to challenge on that basis, and therefore an improper motion to vote upon.

We note that WALGA has developed a suite of useful materials relating to a raft of Council matters, including the roles and responsibilities of Councillors and the proper exercise of the functions of Council, and recommend that Councillors avail themselves of this information.

If individual Councillors are aggrieved by the manner in which the CEO handles requests for information they are entitled to and it would be appropriate to seek independent legal advice about the avenues open to them to address this issue or refer to the WALGA information mentioned above.

Please contact Murray Thornhill if you wish to discuss this advice further.

Yours faithfully
HUDSON HENNING & GOODMAN

Hudson Henning & Goodman

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ITEM NUMBER: 18.2
ITEM TITLE: NOTICE OF MOTION – DEPUTY MAYOR – COUNCILLOR WELLINGTON
RECEIVED: 29 OCT 09 at 11.58 AM

8:16:34 PM

Councillor Leavesley requested that Councillor Bostock's tabled address in regards to this item, tabled at the Nov OCM be read out.

Mr Jamieson, EMBG read out the tabled address. (Detailed at appendix D)

ITEM 18.2 - NOTICE OF MOTION – DEPUTY MAYOR WELLINGTON
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR SUTTON

THAT Pursuant to Section 8 of the Local Government Act 1995, The Minister for Local Government be requested to immediately undertake an inquiry into the affairs of the City of Albany relating to the inappropriate, recalcitrant and threatening behaviour by some elected members towards staff.

MOTION 8-0

Deputy Mayor's Reason:

Failure to intervene by way of an inquiry will have a significant detrimental impact on the health of staff and leave the City exposed to significant liability in terms of breaches to Occupational Health and Safety legislation.

Officer Comment (S Jamieson):

Local Government Act 1995, Part 8 – Scrutiny of the affairs of local governments. This Part deals with:

- (a) inquiring into the affairs and performance of local governments;*
- (b) suspending and dismissing councils; and*
- (c) making members or local government employees accountable for the misapplication of property.*

ITEM NUMBER: 18.3
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR HAMMOND
RECEIVED: 17 NOV 09 at 11.27 AM

ITEM: 18.3 NOTICE OF MOTION COUNCILLOR HAMMOND
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR HAMMOND
SECONDED COUNCILLOR SUTTON

THAT All rezoning and development application reports are to include the registered business names of all businesses operating at or from the property subject of the application.

MOTION CARRIED 8-0

Councillor's Reason:

In order to minimise the prospect of inadvertently not disclosing an interest in respect to any development project and rezoning issue through non recognition. The fact of the matter is that my tourism business deals with over 250 businesses in Albany area, some are managed by absent owners, some are owned by Companies and even Trusts. (many owners I have never met).

They all have one thing in common: a registered business name.

It is by their registered business name they are all known to me, certainly all transactions and relationships are identified accordingly. So, to minimise error and non recognition and to provide council with a more comprehensive understanding of the land usage

Officer's Comment (G Bride):

Application forms will require to be amended to request this information.

19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

ITEM NUMBER: 19.1
ITEM TITLE: NOMINATION FOR BUSH FIRE MANAGEMENT COMMITTEE

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Advocacy: Council advocating on behalf of the community on matters affecting the betterment of the City.

File Number or Name of Ward	:	MAN 089 (All Wards)
Summary of Key Points	:	Appoint Cr Leavesley to the Bushfire Management Committee
Reporting Officer(s)	:	Executive Manger Business Governance
Disclosure of Interest	:	Nil
Previous Reference	:	Special Council Meeting 10/11/09 - 6.1.9
Bulletin Attachment(s)	:	Nil
Consulted References	:	Nil
Maps and Diagrams	:	N/A

BACKGROUND

1. Council resolved at the 10/11/09 Special Council meeting to appoint two members to the Bush Fire Management Committee, being: Councillor Wolfe and Dufty.
2. The committee currently holds two vacancies for elected members on the committee. .
3. Councillor Leavesley also is a member of the Airport Emergency Committee (Statutory Committee) and the Local Emergency Management Committee (Statutory Requirement).

ITEM: 19.1 OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA

THAT Council ACCEPT Item 19.1 as an urgent item.

MOTION CARRIED 8-0
ABSOLUTE MAJORITY

Reason for Urgent Business (S Jamieson):

Councillor Leavesley has requested to be nominated as a member of the Bush Fire Management Committee. The committee is currently holds two vacancies for elected members on this committee.

Item 19.1 continued.

ITEM: 19.1 OFFICER RECOMMENDATION 2

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR SUTTON

THAT Council APPOINT Councillor Leavesley to the Bush Fire Management Committee.

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

ITEM NUMBER: 19.2
ITEM TITLE: CONTRACT C09021 – TENDER FOR CONSTRUCTION OF ALAC STAGE TWO SPORTS HALL

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: MAN 254 (Breaksea Ward)
Summary of Key Points	: Construction contractor for Albany Leisure and Aquatic Centre Stage Two.
Land Description	: ALAC outdoor netball courts
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer(s)	: Project Co-ordinator (R Taylor), Executive Director Works and Services (K Ketterer)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment(s)	: Record MAN254 / EF8094272 Albany Leisure and Aquatic Centre Stage II (Contract C09021) Tender Assessment

BACKGROUND

4. The ALAC Stage 1 redevelopment and upgrade of the existing aquatic facility has brought about a modern, high standard recreation and aquatic facility. The ALAC Stage 1 was recently completed in March 2008.
5. The proposed ALAC Stage 2 facility has received funding from State Government (Election Commitment) (\$3,000,000) and Federal Government (Local and Regional Infrastructure Program) (\$2,919,375), bringing about a total budget of \$5,919,375.
Federal Funding has already allocated \$1.4m which has been received by City of Albany.
6. Essentially, the ALAC Stage II project will deliver an indoor stadium space consisting of three indoor netball/basketball courts at a total area of 3026m². The courts will be designed to host “grass root” level sports up to international standard competitions, as well as community based events.
7. This tender for Construction Contractors Services for ALAC Stage Two is for the delivery of construction of ALAC Stage Two. A Superintendent has been appointed to act on The City’s behalf during the construction phase of the project and will administer the contractual requirements.
8. The ALAC Stage Two project will be completed in compliance with the State and Federal Government funding conditions with an estimated date for practical completion of October 2010.

Item 19.2 continued.

9. The project has been divided into two into two phases:
- Phase 1: Design, contract documentation and tender. The last part of this phase being tender for construction is in progress and closed on 4th December 2009.
 - Phase 2: Construction (40 weeks) will commence upon Councils approval of tender, and is scheduled for 13 January 2010.

DISCUSSION

10. Refer to Bollig Design Groups tender assessment report that has been attached as a Bulletin Item that details areas of evaluation and compliance with the tender request. The first set of tables is Bollig Design Groups evaluation rating scale that summarised two evaluation criteria together. This was expanded out by City of Albany Procurement Officer in the second set of tables to reflect the tender documents request that has them listed individually. The Buy local assessments were recalculated as this was misinterpreted by Bollig Design Group, please see the second set of tables.

FINANCIAL IMPLICATIONS

11. A summary of the recommended tenderer's financial offer as submitted and corrected, is included in the table below.

Tenderer	Tender amount (ex GST)	Corrected Tender amount (ex GST)
DUWAL Constructions	\$4,922,898.76	\$4,922,898.76
TOTAL		\$4,922,898.76

ALAC Stage II Project Budget	\$5,919,375.00 ex GST
Committed expenditure	\$303,582.00 ex GST
Balance	\$5,615,793.00 ex GST
This Tender	\$4,922,898.76 ex GST
Balance	\$692,894.24 ex GST
Contingency 11.7%	\$692,894.24 ex GST
Balance	NIL

12. Budget line number: 194140 (Note: Fully funded externally).

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

13. Strategic plan relevant to the matter; Recreation Planning Strategy 2008-2013.

Item 19.2 continued.

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

“Lifestyle & Environment”:

1.3 Recreation facilities provide a diverse range of sporting and exercise opportunities

1.5 Development. Responds to our unique historical and environmental values.

“Economic Development”:

2.5 Our unique cultural heritage attractions deliver world class tourism experiences.

“Governance”:

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

POLICY IMPLICATIONS

15. The Procurement Policy has been applied in all respects.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. Council can elect to approve the recommended tender, not approve any tender, or appoint any submitted tender. Any variation from the recommended tender would need to be motivated as a variation of the current Procurement Policy and tender assessment guidelines.

SUMMARY CONCLUSION

17. DUWAL Constructions tender submission scored the highest total points of the required evaluation criteria for Construction of Albany Leisure and Aquatic Centre Stage Two.

ITEM: 19.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR DUFTY

THAT Council accepts the tender from DUWAL Constructions Total contract of \$4,922,898.76 excluding GST as the tender submitted scored the highest points.

AND

THAT Council provides an 11.7% contingency amount of \$692,894.24 excluding GST for any variations and contingencies incurred during the execution of the construction.

MOTION CARRIED 8-0

20.0 REQUEST FOR REPORTS FOR FUTURE CONSIDERATION

Nil

21.0 ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING.

ITEM NUMBER: 21.1
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR HAMMOND - CCTV
RECEIVED: 25 NOV 09 at 1.24 PM.

ITEM: 21.1 NOTICE OF MOTION – COUNCILLOR HAMMOND
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council allows access to static City Assets in order to extend the CCTV network.

Councillor's Reason:

It is not the intent of this motion to seek financial, technical or any of support for CCTV, beyond the provision of access to static City Assets in order to extend the CCTV network.

ITEM NUMBER: 21.2
ITEM TITLE: NOTICE OF MOTION 1 – COUNCILLOR D BOSTOCK
RECEIVED: 30 NOV 09 at 7.08 PM.

ITEM: 21.2 NOTICE OF MOTION COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY

That council requests the CEO to investigate the feasibility of installing tamper proof sharps containers in children’s play areas and other public open spaces in the Lockyer and Orana districts and report the results to council at the March OCM.

Councillor’s Reason:

There have been a number of incidents involving needle stick injuries to children in play parks and parents are extremely concerned about the danger of infection. The provision of dedicated disposal containers will reduce this risk.

ITEM NUMBER: 21.3
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR D BOSTOCK
RECEIVED: 30 NOV 09 at 7.08 PM.

ITEM: 21.2 NOTICE OF MOTION 2 COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY

That council approves the draft proposal by the CEO to rearrange the seating plan in the chamber.

Councillor’s Reason:

Some council members are uncomfortable about giving presentations with their back to the electors of the city while others have expressed their unconcern. Therefore a simple and cost free solution would be to allow the two groups to change places as suggested by the CEO.

22.0 ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC

Nil

23.0 NEXT ORDINARY MEETING DATE

Tuesday 19th January 2010, 7.00pm

ITEM: 23.0 MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR MATLA

THAT Council resume Standing Order 3.1 - Recording of Proceedings.

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

24.0 CLOSURE OF MEETING

The Deputy Mayor declared the meeting closed at 8:24:38 PM

Confirmed as a true and accurate record of proceedings.

Councillor Dennis Wellington
DEPUTY MAYOR

APPENDIX A

**STATUS REPORT ON DEFERRED ITEMS
FROM PREVIOUS MEETINGS**

Meeting Date	Item Number	Status
17 Nov 09	18.3	Item 18.1 OCM 15/12/09

WRITTEN NOTICE OF DISCLOSURE

Name	Item Number	Nature of Interest
Councillor Hammond	13.1.1	Proximity. The nature of the interest being that Cr Hammond's business is located in the Visitors Centre within the immediate area of Proudlove Parade. Cr Hammond remained in the Chamber.
Councillor Price	13.1.5	Financial. Cr Price owns property which will be affected by this development if approved, loss of views. Cr Price was linked to a previous SAT hearing opposing a former development application on the same site and therefore also an Impartiality Interest. Cr Price left the Chamber and did not participate in the debate or vote.
Councillor Leavesley	13.1.5	Impartiality. Past and future customers of Cr Leavesley's business are owners of the subject proposal. Cr Leavesley remained in the Chamber.
Councillor Leavesley	14.11.3	Financial. Applicant is a customer of Cr Leavesley's private business. Cr Leavesley left the Chamber and did not participate in the debate or vote.

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING

Name	Item Number	Nature of Interest
Nil		

INTEREST DISCLOSED BY OFFICERS

Name	Item Number	Nature of Interest
All Staff	18.2	Impartiality. All staff present have an interest as they are employees and the Notice of Motion affects them. Staff remained in the Chamber.

APPENDIX C

RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME

Nil

APPENDIX D

PUBLIC TABLED DOCUMENTS

Document Tabled By	Subject	Page No
Mr Neil Smithson	EF8094988 - MAN006 - Item 14.12.2 – Anzac Centenary Strategy Committee	178

ELECTED MEMBER TABLED DOCUMENTS

Document Tabled By	Subject	Page No
Nil		

STAFF TABLED DOCUMENTS

Document Tabled By	Subject	Page No
EMBG (S Jamieson)	Councillor J Bostock's address in regards to item 18.2 – Notice of Motion by Councillor Wellington.	180
CEO (P Richards)	George Report Recommendations – Item 15.2.2	181

From: Smithson [mailto:smithson@smithsonplanning.com.au]
Sent: 16 December 2009 12:29
To: Stuart Jamieson
Cc: Paul Richards
Subject: City of Albany Minutes - 20091215 - Item 12.14.2 Albany Anzac Centenary Strategy

Thank you Mister Deputy Mayor / Councillors

Neil Smithson of Smithson Planning, 364 Middleton Loop, Albany

Item 14.12.2 – Anzac Centenary Strategy Committee

Can I thank the Mayor for his letter dated 2 December 2009 addressed to Smithson Planning covering the executive function of the Anzac Centenary Strategy Committee – in essence acting for the Council, although we note (as Cr David Bostock has previously observed) that these actions will not actually be endorsed until they are considered at this evening's meeting.

I note that Cr Dot Price and Mr Gerry Hand as members of the Anzac Advisory Strategy Committee were both apologies for the meeting of 25 November 2009.

I am sure that the Mayor's letter will be included in the Bulletin attachments somewhere, but I have been unable to find it, and so I was wondering (based on the decision of the Committee) to which Ministers the Mayor had indeed written.

Mister Deputy Mayor / Councillors, as previously advised, Smithson Planning has been pursuing an Anzac 2014-18 National Celebration Strategy with both State and Commonwealth Governments for many years now.

In this regard, both the Government and Opposition have been fully apprised of our activities in respect to the Rainbow 2000© Project and the Albany Anzac Project for the last twelve years.

I can advise that the Mayor's letter has now been sent to the Deputy Prime Minister, the Minister for Foreign Affairs, the Minister for Veterans' Affairs, the Minister for Defence, the Minister for Trade, the Minister Resources Energy & Tourism, the Minister for Infrastructure, Transport, Local Government, and the Parliamentary Secretary for Regional Development, the Leaders of the Opposition, the Nationals and Greens, Shadow Ministers for Foreign Affairs, Veterans' Affairs and Defence, and the Independent Senators for South Australia and Victoria.

In accordance with Council's wishes, and as copied to Council on 10 December 2009, the Mayor's letter has also been sent to the Premier, the Minister for the Arts, Culture and Planning, the Minister for Heritage and Local Government, and the Leader of the State Opposition.

Most of those people have been aware of our activities for the past 12 years in terms of developing the Anzac Celebrations for 2014, and in particular the Prime Minister Kevin Rudd was made aware on 27 December 2006 when he was still the Leader of the Opposition – and Smithson Planning has been continuously providing project updates to both Federal and State cabinets and shadow cabinets.

You will appreciate that the Commonwealth must maintain an international relationship with all foreign nations (including those associated with Anzac for the imminent 2014-18 celebrations), and that this necessarily extends to all those nations previously mentioned relative to Albany Anzac (up to Gallipoli Anzac); and in all probability a few more as the conflict moves to Europe.

In any event, Council may care to reconsider its position for consistency of diplomatic protocol – and to clarify the matter, the Mayor's letter has also been sent to most of those foreign missions.

**Appendix D to
OCM Minutes 15/12/09**

As indicated in our correspondence to those diplomatic missions, the City of Albany and the RSL are now playing catch-up for twelve years of inaction. Given an opportunity, and adequate promotion of the cause, I am confident of a very successful international participation in Albany in both 2010 and 2014.

It would have been useful had the Federal government made known its protocol preferences in this matter already, but I believe we all have the best intentions in mind preparing for Albany Anzac 2014-15.

Finally, I refer to the full page advertisement for Oakajee Port & Rail appearing in today's West Australian (page33) detailing that proposal's achievements – Done 2009, Doing 2010, and To do 2011-14.

Consider if you will the billions in investment and thousands of jobs created, and contemplate the possibility of a similar headline for an Albany Port Corporation.

Thank you for your time this evening.

Yours faithfully
SMITHSON PLANNING

Neil R. Smithson

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OCM 17 November 2009

Item 21.1 Notice of Motion Deputy Mayor Dennis Wellington.

I have to speak against this motion, not because I would not welcome a full inquiry with regard to the governance, operations and affairs of the City of Albany, but because this motion is ill conceived and entirely inappropriate for the following reasons:

1. Given the potential of this motion in damaging the reputation of Councillors and this Local Government, Council must question the appropriateness of its placement in the public arena.
2. Evidence in support of the statement, that unspecified Councillors have acted inappropriately or that the health and safety of the staff has been jeopardized has not been produced.
3. This motion assumes guilt, contrary to the rules of natural justice and the requirement for a fair hearing.
4. The manner in which this motion has been announced results in the reputation and integrity of all Councillors being subject to public doubt.
5. The governing body has not met, discussed, examined or identified a problem.
6. In the event of a "problem" within the Local Government it is the foremost duty and responsibility for Council to put its own house in order.
7. Since there has been no governance meeting, explanation or evidence how can Council determine if a problem exists or a referral to the Department is either warranted, necessary or desirable.
8. To make a referral in these circumstances would bring into question the authority and effectiveness of the entire Council. It would demonstrate a complete inability to manage its own affairs, let alone those of the City.
9. This motion does not stipulate how and by whom the referral is to be made, what supporting evidence would be included, the extent of the perceived problem and in what way the alleged behaviour impacts on the health and safety of the work place.

In conclusion, I find it disappointing that our Deputy Mayor of only a few weeks has determined that there is a problem of such magnitude that it warrants this precipitous action without Council consultation or appropriate consideration in safeguarding the reputation of Councillors and the Local Government.

This Council has a responsibility to attempt to resolve any difficulty before seeking outside help. I would like to bring your attention to the Local Government Act 1995 section 8.27 The Local Government may have to meet inquiry costs. "the minister may order the local government to pay all or part of the costs of the inquiry and the local government is to comply with that order"

Mayor and Councillors to take this action is indicative of "failure to govern." The repercussions and cost to the ratepayer may be considerable.

Councillor Jill Bostock

List of recommendations

1 Introduction

Recommendation 1

The Committee recommends that the Australian Government commission a study on international coastal zone governance arrangements, policies and programs for addressing coastal climate change impacts, and adaptation strategies. The completed study should be made public.

2 Climate change and the coastal zone: the science and the impacts

Recommendation 2

The Committee notes the importance of mitigation measures in addressing climate change impacts and accordingly recommends that the Australian Government continue to take urgent action to ensure that Australia can best contribute to a reduction in global greenhouse gas emissions.

Recommendation 3

The Committee recommends that the Australian Government increase its investment in coastal based climate change research on:

- sea level rise projections and the dynamics of polar ice sheets, particularly in the Antarctic
- extreme sea level events, including as a result of storm surge and tropical cyclones
- regional variations in sea level rise
- ocean acidification, particularly impacts on Australia's coral reefs, higher ocean temperatures and changing ocean currents

Recommendation 4

The Committee recommends that the coastal zone component of the National Climate Change Science Framework and proposed National Climate Change Science strategy be clearly identified by the proposed high level coordination group and involve key coastal stakeholders.

3 Climate change and the coastal zone: adaptation strategies and practices to promote resilience

Recommendation 5

The Committee recommends that the Department of Climate Change continue to fund research to:

- establish the wave climate around the coast so as to identify those locations most at risk from wave erosion
- examine how the wave climate nationally interacts with varying landform types

Recommendation 6

The Committee recommends that the Australian Government continue funding under the Climate Change Adaptation Skills for Professionals Program. In addition, the Australian Government should liaise with tertiary institutions to ensure an adequate supply of appropriately skilled coastal planners and engineers.

Recommendation 7

The Committee recommends that the Australian Government:

- continue the Local Adaptation Pathways Program as a competitive funding program
- review the program's guidelines to secure better outcomes by:
 - ⇒ use of consistent methodology for vulnerability assessments
 - ⇒ evaluation of the outcomes of the projects that are undertaken with the grants
 - ⇒ encouraging regional applications from local councils whenever possible *xvi*

Recommendation 8

The Committee recommends that the Department of Climate Change share all data collected through vulnerability assessments undertaken as part of the Australian Government Local Adaptation Pathways Program on the proposed National Coastal Zone Database (see also recommendation 42).

Recommendation 9

The Committee recommends that the Australian Government establish a coastal zone research network within the National Climate Change Adaptation Research Facility and that it complete a coastal zone research plan.

Recommendation 10

The Committee recommends that:

- the Department of Infrastructure, Transport, Regional Development and Local Government undertake a study into the human and resourcing needs of local governments to effectively plan for and adapt to the impacts of climate change
- this study be carried out in conjunction with the Australian Local Government Association and the National Sea Change Taskforce

Recommendation 11

The Committee recommends that the Australian Government establish a National Coastal Zone Database to improve access to and consistency of information relevant to coastal zone adaptation. The National Coastal Zone Database should be an online portal that allows ready access to:

- 'first pass' National Coastal Vulnerability Assessment data
- state and local Digital Elevation Modelling
- National Climate Change Adaptation Research Facility reports
- federal Local Adaptation Pathways Program reports
- state and local coastal vulnerability assessment results

Recommendation 12

The Committee recommends that, following the completion of the 'first pass' National Coastal Vulnerability Assessment, the Australian Government consider the resourcing and financing of second and third pass assessments, in conjunction with state, territory and local government authorities.

Recommendation 13

The Committee recommends that the Australian Government take urgent action to protect Australians from the threats of dengue fever and chikungunya virus. The knowledge gaps identified by the National Climate Change Adaptation Research Facility research plan with regards to the relationship between climate variation and vector-borne disease should be urgently addressed. The Australian Government should:

- undertake research into the relationship between climate change and vector-borne disease
- produce modelling to allow for advanced early warning of impending threats from vector-borne disease
- continue to work towards producing a structured national framework for dealing with mosquito outbreaks in Australia
- increase biosecurity measures to better protect against chikungunya virus entering Australia

Recommendation 14

To further enhance Australia's disaster mitigation, preparedness, response and recovery arrangements in the event of possible major coastal disasters, the Committee recommends that the Australian Government establish a grants program, the Coastal Natural Disaster Mitigation Program, to fund natural disaster mitigation projects in the Australian coastal zone.

The Committee also recommends that the Australian Emergency Management Committee (AEMC) consider the following issues:

- improved data on coastal disaster risk assessment and vulnerable coastal sites
- improved access and evacuation routes for coastal communities
- improved coastal community awareness of and resilience to natural disasters
- improved coordination of coastal disaster mitigation arrangements with other initiatives currently underway, such as reviews of the Australian Building Code and land use planning policies to take into account climate change impacts

- improved early warning systems for coastal areas in the event of an extreme sea level event (storm surge, erosion, flooding) The Committee further recommends that the AEMC provide a report on these matters to the Ministerial Council for Police and Emergency Management.

Recommendation 15

The Committee recommends that the Australian Government, through the Ministerial Council for Police and Emergency Management, recognise the extensive Surf Life Saving Australia network and take appropriate steps to integrate this network into emergency services preparedness, planning, and response systems and activities.

Recommendation 16

The Committee notes that major initiatives relating to climate change adaptation risk assessment and infrastructure are currently in progress. Given that much of Australia's infrastructure is in the coastal zone and the particular threats facing the coastal zone from climate change, involving significant socioeconomic costs, the Committee recommends that the Australian Government ensure there is a comprehensive national assessment of coastal infrastructure vulnerability to inundation from sea level rise and extreme sea level events.

Recommendation 17

The Committee recommends that the Department of Climate Change, in collaboration with the Queensland Government, CSIRO and Indigenous communities in the Torres Strait, undertake a major study into the vulnerability of the Torres Strait to the impacts of climate change and provide assistance in the development of an adaptation plan.

Recommendation 18

The Committee recommends that the Australian Government give the five recommendations calling for information, studies and data, as proposed by the Torres Strait Regional Authority, early and urgent consideration with a view to their implementation.

4 Key emerging issues: insurance, planning and legal matters relating to the coastal zone

Recommendation 19

The Committee recommends that the Australian Government request the Productivity Commission to undertake an inquiry into the projected impacts of climate change and related insurance matters, with a particular focus on:

- insurance coverage of coastal properties, given the concentration of Australia's population and infrastructure along the coast
- estimates of the value of properties potentially exposed to this risk
- insurance affordability, availability and uptake
- existing and emerging gaps in insurance coverage, with a particular focus on coverage of coastal risks such as storm surge/inundation, landslip/erosion and sea level rise (including the combined effects of sea inundation and riverine flooding)
- the need for a clear definition of the circumstances under which an insurance claim is payable due to storm surge/inundation, landslip/erosion and sea level rise, as well as due to permanent submersion of some or all of the land
- the possibility of a government instrument that prohibits continued occupation of the land or future building development on the property due to sea hazard
- gaps in the information needed to properly assess insurance risk and availability of nationally consistent data on climate change risks
- examining the key actions for governments proposed by the Insurance Council of Australia and the Insurance Australia Group in their submissions to this inquiry
- possible responses to a withdrawal of insurance for certain risks or regions, noting the increased burden this could place on government and taxpayers

Recommendation 20

The Committee notes the Council of Australian Governments initiative (through the Local Government and Planning Ministers Council) to develop state-specific climate change planning policies by mid 2011, to inform local governments and regional planning responses to climate change. The Committee recommends that the Australian Government ensure that the outcomes of this initiative are included as part of the action plan under the proposed new Intergovernmental Agreement on the Coastal Zone.

Recommendation 21

The Committee recommends that the Australian Government consider the benefits of adopting a nationally consistent sea level rise planning benchmark and, if so, whether this be done on a statutory basis or otherwise. The outcomes of this consideration should then be included as part of the action plan for the proposed Intergovernmental Agreement on the Coastal Zone.

Recommendation 22

The Committee recommends that the Building Code of Australia, including cyclone building codes, be revised with the objective of increasing resilience to climate change.

Recommendation 23

Noting the gap in research on legal issues and climate change impacts on the coastal zone, the Committee recommends that the Australian Government request that the Australian Law Reform Commission undertake an urgent inquiry into this area, with particular focus on:

- clarification of liability issues with regard to public authorities acting or not acting in terms of climate change adaptation and possible coastal hazards (eg legal basis to implement adaptation strategies of protect, redesign, rebuild, elevate, relocate and retreat)
- clarification of liability issues with regard to private property holders acting to protect their properties from the impacts of climate change
- legal issues associated with the impacts of climate change on existing developments, as opposed to planned new developments
- mechanisms to ensure mandatory risk disclosure to the public about climate change risks and coastal hazards (eg legislation harmonised across all states requiring mandatory disclosure of all known and predicted risk data by state and local governments to property purchasers during property conveyance and title search processes)
- whether there should be broader indemnification of local government authorities

5 Sustainable coastal communities and environmental impacts on the coastal zone

Recommendation 24

The Committee recommends that the Australian Government, through the Council of Australian Governments process, examine the establishment of a system of national coastal zone environmental accounts, employing the model developed by the South East Queensland Healthy Waterways Partnership.

Recommendation 25

The Committee recommends that the Australian Government, through the Australian Bureau of Statistics, ensure that:

- accurate and consistent methods of measuring the numbers and the impact of tourists and other non-residents in coastal areas are undertaken to enable resources to be better matched with demand for infrastructure and services
- improved data on long-term demographic trends in coastal areas is made available to assist in coastal zone planning and management

Recommendation 26

The Committee recommends that the Australian Government:

- expand the list of national priority areas identified under the Caring for our Country program to include climate change impacts on biodiversity
- give consideration in future funding rounds to projects that:
 - ⇒ involve working with state/territory and local governments to improve coastal land use planning
 - ⇒ seek to address loss of coastal habitat as a result of coastal development and population pressures

Recommendation 27

The Committee recommends that, in seeking to expand the area protected within Australia's National Reserve System (NRS) under the Caring for our Country program, the Australian Government focus on high biodiversity coastal habitat, including more effective off-reserve coastal zone conservation and expanded coastal reserves that provide larger buffer zones. In undertaking this initiative, the Australian Government should continue to work with state/territory and local governments, Indigenous groups, conservation organisations, private landholders and other stakeholders to ensure that these protected areas are added to the NRS in a timely manner.

Recommendation 28

The Committee recommends that the Australian Government, in considering its response to the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), take into account concerns about the EPBC Act and coastal zone management raised as part of this inquiry – in particular, the need to address the cumulative impacts of coastal development. This could be achieved by numerous means, including:

- a land clearing trigger
- defining coastal ecosystems as a matter of national environmental significance
- making more use of landscape-scale assessments through strategic assessments or bioregional plans

Recommendation 29

The Committee recommends that the Australian Government:

- continue working with the Queensland Government and local councils under the existing Great Barrier Reef Intergovernmental Agreement to improve land use planning in the catchment
- commission analysis of the Great Barrier Reef as a case study for integrated coastal one management (ICZM) in Australia. The study should draw out possible directions for ICZM in Australia with regard to:
 - ⇒ addressing challenges associated with climate change impacts on biodiversity
 - ⇒ declining water quality from catchment runoff and loss of coastal habitat from coastal development and population pressures
 - ⇒ building cooperative partnerships between Commonwealth, state and local government, and other stakeholders
 - ⇒ establishing governance and institutional frameworks

Recommendation 30

The Committee recommends that the Australian Government urgently commission a detailed climate change vulnerability assessment for Kakadu National Park, in consultation with the park's traditional owners and other stakeholders and drawing on the results of the

'first pass' National Coastal Vulnerability Assessment of the park. This assessment should specifically focus on the vulnerability of Kakadu's freshwater wetland systems to saltwater intrusion. A key outcome of the assessment should be the development of a Climate Change Action Plan for Kakadu National Park, with coordinated input from the Australian Government and Northern Territory Government, Indigenous land owners, researchers and other stakeholders.

Recommendation 31

The Committee recommends that the Australian Government:

- require that all Ramsar listed wetlands have effective and operational management plans and that resources are allocated by governments to monitor the implementation of these plans
- increase the number of coastal wetlands classified as Ramsar sites, particularly those classified as Nationally Important wetlands
- work with state and territory governments through the Natural Resource Management Ministerial Council, and in consultation with other stakeholders, to improve the management and monitoring of coastal wetlands, particularly Ramsar sites located in close proximity to development
- improve public awareness about what actions impacting on a Ramsar wetland should be referred to the Minister under the Environment Protection and Biodiversity Conservation Act 1999
- ensure that the National Guidelines for Ramsar Wetlands also include modules on the process for nominating Ramsar wetlands
- develop a climate change action plan for coastal Ramsar wetlands and Nationally Important wetlands

Recommendation 32

The Committee recommends that the Australian Government:

- work through the Natural Resource Management Ministerial Council and in consultation with Birds Australia and other stakeholders to implement a National Shorebirds Protection Strategy. The strategy should focus on tightening restrictions on beach driving and access to bird breeding habitat, preserving habitat, identifying suitable buffer zones for migration of coastal bird habitat, managing pest animals and increased public education
- provide further funding to Birds Australia and other research groups to ensure continued monitoring and data collection with regard to migratory and resident shorebirds
- provide funding to strengthen partnerships between domestic and international shorebird conservation groups to increase awareness and conservation efforts in other countries
- commission a detailed climate change impact study on Australia's migratory and resident shorebirds

- in its consideration of amendments to the *Environment Protection and Biodiversity Conservation Act 1999* following the independent review, give consideration to the formal listing of coastal shorebird and sea bird communities as threatened species/ecological communities under the act

Recommendation 33

The Committee recommends that the Australian Government:

- work with the Natural Resource Management Ministerial Council and other stakeholders to develop an action plan to:
 - ⇒ ensure that coastal buffers, coastal habitat corridors and high ecological value areas are identified and included in Commonwealth, state and local government management processes
 - ⇒ ensure appropriate infrastructure planning and that land is made available to allow for the migration of coastal ecosystems
 - ⇒ promote cooperative ecosystem-based planning and management approaches across jurisdictions
 - ⇒ implement a nationally consistent coastal and marine biodiversity monitoring and reporting framework
 - ⇒ develop a targeted strategy to address key gaps in knowledge of coastal and marine biodiversity and improve access and sharing of knowledge and data
 - ⇒ develop regional climate change adaptation policies and plans and integrate them into coastal and marine bioregional planning processes
- ensure that all future national coastal zone policy incorporates these priorities, as well as future revised national sustainability, biodiversity, climate change and environmental policy frameworks

Recommendation 34

The Committee recommends that coastal based Natural Resource Management bodies seeking funding under the Caring for our Country program have coastal and marine priorities, as well as coastal zone management principles integrated in their management plans.

Recommendation 35

The Committee recommends that the Australian Government, in consultation with Indigenous Australians and other coastal stakeholders, commission work to provide a national repository identifying Indigenous and non-Indigenous cultural heritage sites in vulnerable coastal areas.

Recommendation 36

The Committee recommends that the Australian Government urgently commission further research on socioeconomic vulnerability to climate change impacts, particularly in coastal communities.

Recommendation 37

The Committee recommends that the Australian Government:

- consider the Victorian Government's model of a sustainable coastal community as part of the proposed Intergovernmental Agreement on the Coastal Zone to be concluded through the Council of Australian Governments
- ensure an early response to the recommendations provided in the Sustainability for Survival: Creating a Climate for Change – Inquiry into a Sustainability Charter report and the Sustainable Cities report

6 Governance arrangements and the coastal zone

Recommendation 38

The Committee recommends that the Australian Government request that the Centre for Excellence for Local Government ensure a particular focus on capacity building for coastal local councils. Capacity building should focus on addressing issues relating to:

- population growth pressure
- planning and design of new infrastructure
- integrated coastal zone management
- climate change impacts and adaptation

Recommendation 39

The Committee recommends that the Australian Government give consideration to establishing a separate funding program for infrastructure enhancement in coastal areas vulnerable to climate change. Such funding should be provided according to a formula requiring contributions, either financial or in-kind, from state governments and relevant local government authorities.

Recommendation 40

The Committee recommends that the Australian Government undertake an awareness campaign to alert coastal communities to the key challenges facing the coastal zone and the value of community engagement in addressing these challenges. The campaign should aim to build understanding and awareness of coastal management issues to encourage the continued membership and support of volunteer networks in the coastal zone.

Recommendation 41

The Committee recommends that the Australian Government nominate 2012 as the Year of the Coast, to further build community awareness about the issues facing the coastal zone. The Australian Government should work with coastal stakeholders, volunteer groups and the general community in determining key activities as part of this initiative.

Recommendation 42

The Committee recommends that the National Coastal Zone Database be expanded over time to include information on environmental data and management and planning information relevant to the coastal zone.

Recommendation 43

The Committee recommends that the Australian Government provide funding support for the ongoing activities of the Australian Coastal Alliance in providing a national information and communication interface between research organisations and local government authorities and other coastal stakeholders.

Recommendation 44

The Committee recommends that the Australian Government, in cooperation with state, territory and local governments, and in consultation with coastal stakeholders, develop an Intergovernmental Agreement on the Coastal Zone to be endorsed by the Council of Australian Governments. The intergovernmental agreement should:

- define the roles and responsibilities of the three tiers of government – federal, state and local – involved in coastal zone management
- include a formal mechanism for community consultation
- incorporate principles based on strategic regional coastal planning and landscape scale/ecosystem based coastal zone management
- include an effective implementation plan with resources allocated to ensure that objectives are realised
- be overseen by a new Coastal Zone Ministerial Council
- be made public

Recommendation 45

The Committee recommends that the Australian Government:

- ensure that the Intergovernmental Agreement on the Coastal Zone forms the basis for a National Coastal Zone Policy and Strategy, which should set out the principles, objectives and actions that must be undertaken to address the challenges of integrated coastal zone management for Australia
- establish a broad based National Catchment-Coast-Marine Management program to provide funding for initiatives relating to:
 - ⇒ sustainable coastal communities
 - ⇒ climate change and biodiversity
 - ⇒ implementation of projects to progress integrated coastal zone management
- establish a National Coastal Zone Management Unit within the Department of Environment, Water, Heritage and the Arts to support the implementation of these national initiatives
- develop a Coastal Sustainability Charter based on the Victorian Government model

Recommendation 46

The Committee recommends that the Australian Government establish a National Coastal Advisory Council to:

- provide independent advice to government
- advise the new coastal unit within the Department of the Environment, Water, Heritage and the Arts
- ensure community input into national coastal zone policy, planning and management

Recommendation 47

The Committee recommends that proposals for a National Oceans and Coast Act and a statutory Coastal Council be the subject of ongoing consideration once the Intergovernmental Coastal Zone Agreement is determined.