

---

# MINUTES

---

**Of the Ordinary Meeting of Council  
Held on  
Tuesday, 16 November 2010  
7.00pm  
City of Albany Council Chambers**

**TABLE OF CONTENTS**

	<b>Pg#</b>	<b>Rec Pg#</b>
<b>Details</b>		
<b>I. DECLARATIONS OF OPENING</b>	3	
<b>II. OPENING PRAYER</b>	3	
<b>III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION</b>	3	
<b>IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME</b>	8	
<b>V. PUBLIC QUESTION AND STATEMENT TIME</b>	8	
<b>VI. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED</b>	12	
<b>VII. APPLICATIONS FOR LEAVE OF ABSENCE</b>	12	
<b>VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b>	13	13
<b>IX. DECLARATIONS OF INTEREST</b>	14	
<b>X. IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS</b>	15	
2.7 Request to Exercise Option to Renew Lease for a Further 30 Year Term- Redwood Corporate Pty Ltd Trading as Rose Gardens Caravan Park		
18.1 Executive Contract-Executive Director Development Services (Confidential Item)		
<b>XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS</b>	15	
<b>XII. ADOPTION OF RECOMMENDATIONS EN BLOC</b>	15	
Report Items 4.3 – 4.6	197	
<b>XIII. REPORTS</b>		
<b>1.0 REPORTS-DEVELOPMENT SERVICES</b>		
1.1 Development Application-Change of Use-Tavern-18 Adelaide Crescent, Middleton Beach	16	29
1.2 Development Application-Use Not Listed-Wind Turbine-Lot 158 Randell Crescent, Warrenup	30	39
1.3 Development Application-Use Not Listed-Wind Turbine-Lot 154 Randell Crescent, Warrenup	40	49
1.4 Scheme Amendment Request-Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan	50	57
1.5 Scheme Amendment Request-Lot 1001 Catalina Road and Lot 1007 (160) Chester Pass Road, Lange	58	69
1.6 Initiation of Scheme Amendment-Lot 90 Menang Drive, Willyung	70	75
1.7 Final Approval of Scheme Amendment-Pt Lot 1 and 2 Frenchman Bay Road, Frenchman Bay	76	86
1.8 Outline Development Plan (ODP007) Lot 55 Lancaster Road-Final Approval	87	94
<b>2.0 REPORTS-CORPORATE &amp; COMMUNITY SERVICES</b>		
2.1 List of Accounts for Payment	95	96
2.2 Financial Activity Statement-31 October 2010 Appendices 1 to 5	97	110
2.3 New Lease to the Federation of Western Australia Police and Community Youth Centres Inc (PCYC) in Partnership with Neighbourhood Watch at Lotteries House	111	115
2.4 Albany Regional Airport Focus Group	116	119
2.5 Albany Public Library-University Western Australia Agreement	120	123
2.6 Surrender Lease over Hangar Site 2 and Simultaneously Replace with New Lease for Hangar Sites 2 and 3 at the Albany Regional Airport for Purpose of Developing and Operating a Multi User Facility for Activities Associated with Aviation	124	131
2.7 Request to Exercise Option to Renew Lease for a Further 30 Year Term- Redwood Corporate Pty Ltd Trading as Rose Gardens Caravan Park on Portion of Reserve 22698, Emu Point	132	139
2.8 Variation of Lease for Rainbow Coast Neighbourhood Centre Inc at Lotteries House	140	143
2.9 New Lease for Rainbow Coast Wreckers on Portion of Reserve 30599, Gledhow	144	148
2.10 South Coast Natural Resource Management Inc Request to Delay New Lease Rental	149	152

<b>3.0</b>	<b>REPORTS – WORKS &amp; SERVICES</b>		
3.1	Supply and Delivery of Asphalt-Contract C10025	153	156
3.2	In Kind Financial Assistance for NAB AFL Regional Challenge Match	157	161
3.3	Underground Power Program, Localised Enhancement Projects-Albany Highway, York Street to Sanford Road	162	168
3.4	Portion Reserve 30424-Little Grove-Proposed Disposal	169	172
3.5	Acceptance of Management Order of Portion of Lot 6821, Henry Street (Former Reserve 26057)	173	175
3.6	Contract C10028-Tender for Overlay and Widening of 2.4 km of Lower Denmark Road (SLK 18.2-21.5)	176	180
3.7	Final Adoption of Climate Change Action Plan	181	184
3.8	Lake Seppings Drive-Condition and Future Direction	185	188
3.9	Reserve 35988 North Road-Proposed Management Order Request	189	191
<b>4.0</b>	<b>REPORTS-GENERAL MANAGEMENT SERVICES</b>		
4.1	Appointment of Councillor Holden to Seniors Advisory Committee	192	192
4.2	Consideration of Recommendations from Planning Services Review (September 2010)	193	196
4.3	Seniors Advisory Committee Meeting-30 September 2010	197	197
4.4	Albany Entertainment Centre (AEC) Committee Meeting Minutes 30/09/10	198	198
4.5	Albany Tourism Marketing Advisory Committee Meeting Minutes 13/10/10	199	199
4.6	Local Emergency Management Committee Meeting Minutes 6/10/10	200	200
4.7	Annual Review of Delegations	201	215
4.8	Festive Season Closures-Report to be presented at Agenda Briefing	216	221
<b>XIV.</b>	<b>MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING Nil</b>		
<b>XV.</b>	<b>URGENT BUSINESS APPROVED BY DECISION OF THE MEETING .</b>		
15.1	Annual General Meeting of Electors Change of Date	222	223
15.2	Cull Road Subdivision-Sales and Marketing	224	228
<b>XVI.</b>	<b>REQUEST FOR REPORTS FOR FUTURE CONSIDERATION Nil.</b>		
<b>XVII.</b>	<b>ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING Nil.</b>		
17.1	Notice of Motion by Councillor Paver-Frenchman Bay Application Special Council Meeting Resolution-13/10/2009	229	
<b>XVIII.</b>	<b>ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC</b>		
18.1	Executive Contract-Executive Director Development Services (Confidential Item)	235	235
<b>XIX.</b>	<b>NEXT ORDINARY MEETING DATE</b>	236	
<b>XX.</b>	<b>CLOSURE OF MEETING</b>	236	

Appendix A: Status of Deferred Items (Page 237), Appendix B: Tabled Documents (Page 238)

**I. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Mayor declared the meeting open at [7:02:05 PM](#)

**II. OPENING PRAYER**

CEO Mr J Bonker read the opening prayer.

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

**ITEM 2.0: RESOLUTION**

**MOVED: COUNCILLOR MATLA**

**SECONDED: COUNCILLOR WOLFE**

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

**CARRIED 12-0**

**III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION**

[7:03:24 PM](#) **Councillor Holden**

Summary of Key Points:

- Attended opening of community centre in Wellstead
- Attended last meeting of King River Progress Association

[7:04:06 PM](#) **Councillor Leavesley**

Summary of Key Points:

- Viewed inside of AEC
- Impressive and outstanding building
- Council is facing a challenge to ensure that the AEC meets the expectations of the community
- Perth Theatre Trust and AEG Ogden involvement essential to success of AEC

7:05:22 PM **Councillor Swann**

Summary of Key Points:

- Debate over the use of the Town Hall into the future
- Proposed that the city examine possibility of partnering with GS TAFE and other bodies to form Institute of Arts
- Would be excellent opportunity to provide qualifications for young people
- Workshops from visiting artists
- Current artistic and cultural groups involvement

7:07:05 PM **Councillor Dufty**

Summary of Key Points:

- Attended Peronne function
- Attended Albany Show
- Commended Works and Services on a speedy resolution to ratepayer request

7:09:19 PM **Councillor D Bostock**

Summary of Key Points:

- Wished Councillor Wellington a speedy recovery
- Spoke of the criticism that council received at the last Electors meeting
- Business conducted by Council behind closed doors-Council is constrained by Standing Orders to discuss certain matters in private

7:10:52 PM **Councillor Hammond**

Summary of Key Points:

- Hooning in Middleton Beach car park
- Constant nuisance
- Damage to tourism in the area
- Council must respond to support police in targeting anti social behaviour
- Current police operation to curb antisocial behaviour has seen 320 hours work from police officers involved
- This operation has resulted in a significant reduction in antisocial behaviour
- Operation needs follow up support
- Foreshadowed a motion to have cameras installed in the area

7:13:24 PM **Councillor J Bostock**

Summary of Key Points:

- Will be absent for December and January, returning for the February 2011 OCM

[7:13:59 PM](#) **Mayors Report, 16 November 2010**

Councillors

I would like to summarise the most significant aspects of my attendance at the Sustainable Economic Growth for Regional Australia conference in October, which I attended as Chair of Regional Development Australia-Great Southern, and as Mayor of Albany, member of WA Regional Cities Alliance.

The first day of the conference was devoted to Building the RDA brand. Relevant issues were discussed, such as:

- How to facilitate collaboration between RDA's
- Identify and address some of the priority issues and actions for RDA's at a local level based on the implementation of their regional plans
- Provision of a wide range of perspectives on regional development
- Develop strategies that allow RDA's to consult and engage with communities to support regional planning
- Where are the big ideas for innovative regional development?

The second day began with an address by The Hon. Simon Crean, MP, Minister for Regional Australia, Regional Development and Local Government, and the Arts.

Minister Crean will be in WA in December to meet with our local RDA's.

WA Regional Cities Alliance met, and I presented an agenda item seeking support from the Alliance for the funding of Regional CBD improvements. It was supported and we are expecting in the new year to meet with Premier Barnett, and Ministers John Castrilli and Brendon Grylls.

Other activities included:

- A visit to Queensland Nickel Refinery
- Townsville Port Authority where they export zinc, copper, nickel and magnetite. How they deal with land use conflicts being so close to the centre of Townsville
- We received a briefing from Lt Col John Hathaway of the Australian Defence Force on the Army and Airbase that contributes 10% of Townsvilles GDP

Since the October Ordinary Council Meeting, the most significant event was the visit between 10 and 14 November by guests from our Sister City Peronne, in France-Mayor Valerie Kumm and Director of Tourism Laurent Duprez, Region of Somme.

Their visit coincided with the RSL Remembrance Day Service and Mayor Kumm was honoured to lay a wreath on behalf of the citizens of Peronne.

A Civic Reception followed when we had an opportunity to perform a reciprocal signing of the Friendship Agreement which was originally signed in Peronne in November 2008, coinciding with the 90<sup>th</sup> Anniversary of Armistice in France.

Another significant outcome of their visit was an opportunity to welcome Mayor Kumm as an honorary member of the Albany Anzac Centenary Alliance and to involve both our guests in the significant work and progress which has been achieved and how we can work in unison as we move towards 2014 and beyond to promote Albany as one of Australia's most important military history and tourism destinations.

In conjunction with the visit, we were fortunate to attend a Parliamentary hosted luncheon in Perth for our Peronne guests, which gave City staff and Alliance members a wonderful opportunity to promote and gain support in the political circle for the Albany Anzac Centenary programme and significant military heritage tourism product.

We were formally welcomed and acknowledged in the Legislative Council by the President, the Hon. Barry House.

I extend my thanks to the many people and organisations who contributed to make their visit a memorable one.

It was also a pleasure to host students from the John Calvin School in the Council Chamber and give them an insight into the operations of Council. Thank you to Mr Jamieson for his significant contribution to this occasion.

Other activities attended since 19<sup>th</sup> October have included:

- Friday 22 October. As members of the AEC Operational Advisory Committee, Councillor Holden and I attended a meeting in Perth
- Princess Royal Sailing Club Season Opening Day
- Emerald Australia Group Albany Office opening
- Albany Hockey Club sponsored dinner for Ric Charlesworth
- St Joseph's Presentation Night
- Cheque presentations to 2 winners of the Albany parks competition
- RSL Nurses Memorial Day Service
- Senior's Week Functions, hosted in Council Civic Rooms
- St Joseph's Early Learning Centre Opening
- RSL Desert Mounted Corps Memorial Service
- Energy Efficiency Presentation hosted in the Civic Rooms
- Opening of the Over 50's 'Have a Go Day'
- WA Library Board meeting in Perth as WALGA representative
- Whilst at the Library Board meeting I also took the opportunity to accept an invitation to attend the launch of PIAF 2011
- I hosted a luncheon for Artistic Directors and staff from the Theatres and Entertainment Centres throughout WA
- Joint opening of the Albany Agricultural Society 2010 Show with the Mayor of Peronne
- Berliner Philharmonic Orchestra simulcast-and how wonderful was that-the first function in our amazing AEC

And finally, having farewelled our Sister City visitors from Peronne on Monday morning at Albany Airport, on Monday afternoon I welcomed 11 delegates and 4 students from our soon to be confirmed Japanese Sister City, Nichinan.

The Albany Port Authority, the Albany Chamber of Commerce and Industry, Great Southern Grammar and APEC are all contributing to make our visitors most welcome.

Tomorrow evening I look forward to hosting a Civic Reception when the Friendship Agreement will be formally acknowledge with the signing of the agreement.

It has indeed been a demanding month and I thank Councillors who have assisted at functions on my behalf.

The Mayor announced the next Elected Members Workshop to be held on Tuesday 23 November 2010-5.30pm for a 6.00pm, at which the following topics will be discussed:

- Albany Cultural Development Committee Review (EMCCS)
- Review of SPRUNG Festival (EMCCS)
- Strategic Plan Review Program (EDCCS)
- Town Planning Policies (EDPDS)
- Process/Efficiency Audit of the Administration (CEO)
- Admitting written statements by non attending Elected Members at a Special Council Meeting (Cr Leavesley)

**ITEM 3.0: RESOLUTION**

**MOVED: COUNCILLOR LEAVESLEY**

**SECONDED: COUNCILLOR HOLDEN**

**The Mayors Report be RECEIVED.**

**CARRIED 12-0**

#### IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC

Nil.

#### V. PUBLIC QUESTION AND STATEMENT TIME

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

##### 7:24:09 PM **Mr David Caddy, TPG Town Planning and Urban Design**

Summary of Key Points:

- Mr Caddy addressed Council regarding Item 1.5
- Hoped that council had enough information to make an informed decision
- Purchase of land within the town centre-Big W have carried out feasibility study
- Cost prohibitive
- Employment opportunities-detailed in tabled address
- 150 new jobs will be created in Big W and 147 in associated shops
- Welcomed the initiative for further consultation on the viability of the project.

##### 7:28:15 PM **Mr Tim Hodgson, Wakefield Crescent**

Summary of Key Points:

- Mr Hodgson addressed Council regarding Item 3.8
- Residents have been waiting 35 years for a sealed road (Lake Seppings Drive)
- Wants proper consultation with residents
- Gravel dust is an issue
- Wants council to support Cr J Bostock's alternate recommendation
- Sealing the road will stop dust and hooning

##### 7:31:06 PM **Mr Les Eskett, 82 Randall Crescent, Warrenup**

Summary of Key Points:

- Mr Eskett addressed Council regarding Items 1.2 and 1.3
- Mr Eskett stated that there had been 8 objections to the proposed wind turbines
- Concerned over impact to area
- Area is lifestyle area
- Wind turbines will be completely out of character with the area
- Visual impact due to height of structure
- Noise from turbines
- Impact on immediate neighbours
- Increase in noise with age of turbine is a concern
- All below ground services in the area
- Concerns over negative impact on property values in the area
- Does council have a policy on this issue?

Through the Mayor, EDDS Mr Bride responded that there needs to be draft policy on this issue. Council will consider these applications on their merit.

**7:37:18 PM Mr Neil Smithson, Smithson Planning**

Summary of Key Points:

- Addressed Council regarding the ANZAC submission
- Said that local media do not have information on the submission
- Stated that Council should consider sister city relationships with London and Wellington
- Item 4.2-Council should lay this matter on the table
- Looked forward to the Ombudsman visit later in the week

**7:39:39 PM Ms Vera Torr, Sussex Street**

Summary of Key Points:

- Ms Torr addressed Council regarding Cull Road
- Marketing-Ms Torr stated that no real estate agents were aware of marketing opportunities
- Ms Torr tabled a newspaper advertisement showing the City of Albany advertisement for marketing and selling agents and stated that no agents were aware that this advertisement was in the paper
- Wind turbine item should be tabled

**7:42:32 PM Mr Eric Wake, Albany**

Summary of Key Points:

- Mr Wake addressed Council regarding Item 2.7
- Mr Wake asked for show of hands from council as to whether they had received the letter from Mr Wake
- Mr Wake said that he was well aware of the situation at Rose Gardens Caravan Park
- Mr Wake stated that there was currently no star rating for Rose Gardens Caravan Park- Inspectors had visited several times but were unable to come to a resolution
- Even a senior inspector could not resolve the matter
- Café at the caravan park was designed by Mr Wake and he supplied the equipment. Owners have not paid Mr Wake for this.
- Non payment for this has affected Mr Wakes business
- Mr Wake stated that renewing the lease for 30 years is too long and the lease is too cheap
- Mr Wake felt that there were other business people in Albany who could run Rose Gardens Caravan Park better

**7:47:37 PM Mr Tony Harrison, Little Grove**

Summary of Key Points:

- Attended Albany Show
- Was shocked at one display by real estate agent showing the development of Oyster Harbour.
- This development is destroying lifestyle
- Mr Harrison felt that there were too many planning amendments
- Remnant vegetation and bush areas need to be protected

**7:52:06 PM Ms Sally Chako, Redwood Pty Ltd**

Summary of Key Points:

- Ms Chako addressed Council regarding Item 2.7
- Ms Chako stated that there have been no issues with the star rating
- Assessors will not carry out assessment while renovations are in progress
- Rating has been postponed
- Not aware that café that they implemented was designed by Mr Wake
- Currently have dispute with Mr Wake over pricing and unnecessary equipment
- This dispute is ongoing
- Not aware of any contractor that is owed money at this time
- No suppliers have closed accounts
- Mr Wake has made very damaging statements

**7:55:47 PM Mr Jacob Chako, Redwood Pty Ltd**

Summary of Key Points:

- Mr Chako addressed Council regarding Item 2.7
- Mr Chako said that he was shocked and stunned at the recommendation
- Lease expires on 8 February 2011
- Mr Chako said that he had made significant investment to improve the park
- Very old and rundown when purchased
- Park was now deep sewerred
- Mr Chako said that in the last 18 months he had spent over \$400 000 dollars on improvements
- Discussed exercise of option in 2009
- Have addressed AAA rating issues
- Park has to be four star rated
- Mr Chako asked Council to allow Redwood to exercise its option
- This item should be deferred until an open discussion has occurred

[8:01:25 PM](#) **Mr Graham Harvey, CEO Chamber of Commerce and Industry**

Summary of Key Points:

- Mr Harvey addressed Council regarding Item 2.7
- Mr Harvey said that there were differing stories
- Offered to facilitate or mediate the issue
- Big W-Mr Harvey said that the CCI opposed the current proposed siting of Big W
- CCI felt there was insufficient independent information on the impact on CBD
- Not opposing free enterprise
- Local Government Reform-30 to 40 local governments have abandoned the ward system
- Would like council to revisit ward system

[8:06:08 PM](#) **Ms Natalie Bole, Randell Crescent, Warrenup**

Summary of Key Points:

- Ms Bole addressed Council regarding Items 1.2 and 1.3
- Ms Bole lives in the middle of the two proposed turbines
- Warrenup is not suited to this development
- Are the locations of the wind turbine negotiable
- Mr Bride will make available DVD for viewing
- Mr Bride responded that any complaints over noise from turbines would be monitored by Health and Environmental Officers

[8:09:01 PM](#) Mayor closed the open forum.

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

Mayor MJ Evans

**Councillors:**

Breaksea Ward	R Hammond
Breaksea Ward	J Bostock
Frederickstown Ward	J Swann
Kalgan Ward	C Holden
Kalgan Ward	M Leavesley
West Ward	D Dufty
West Ward	D Wolfe
Yakamia Ward	J Matla
Yakamia Ward	R Sutton
Vancouver Ward	D Bostock
Vancouver Ward	R Paver

**Staff:**

Chief Executive Officer	J Bonker
E/Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Director Development Services	G Bride
Executive Manager Business Governance	S Jamieson
Assistant Business Governance Officer	J Williamson

**Apologies:**

Frederickstown Ward	D Wellington
---------------------	--------------

**VII. APPLICATIONS FOR LEAVE OF ABSENCE**

Councillors J Bostock, D Bostock and D Dufty applied for Leave of Absence for the December 2010 Ordinary Meeting of Council.

**ITEM 7.0: RESOLUTION**

**MOVED: COUNCILLOR WOLFE**  
**SECONDED: COUNCILLOR SUTTON**

**THAT Leave of Absence be granted to Councillor J Bostock, Councillor D Bostock and Councillor Dufty for December 2010.**

**CARRIED 12-0**

**VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

[8:14:52 PM](#) Councillor J Bostock left the Chamber

**ITEM 8.0: RESOLUTION 1**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR MATLA**

**THAT the minutes of the Ordinary Council Meeting held on 19 October 2010, as previously distributed, be confirmed as a true and accurate record of proceedings.**

**CARRIED 10-1**

**Against the Motion:** Councillor Paver

**ITEM 8.0: RESOLUTION 2**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR DUFTY**

**THAT the minutes of the Special Council Meeting held on 2 November 2010, as previously distributed, be confirmed as a true and accurate record of proceedings.**

**CARRIED 8-3**

**Against the Motion:** Councillors Sutton, Paver and Leavesley

[8:15:33 PM](#) Councillor J Bostock returned to the Chamber.

## IX. DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest
CEO J Bonker	1.6 and 2.1	<b>Financial.</b> The nature of the interest being that Mr Bonker's wife holds shares in Caltex in excess of the prescribed limit. Mr Bonker remained in the Chamber.
Councillor R Hammond	2.7	<b>Financial.</b> The nature of the interest being that Cr Hammond is the owner of a tourism business which has regularly transacted business with the business in question. Councillor Hammond left the chamber and did not participate in the discussion or vote.
Councillor M Leavesley	2.7	<b>Impartiality.</b> The nature of the interest being that Councillor Leavesley gains income from the tourism industry.
Councillor R Paver	2.7	<b>Impartiality.</b> The nature of the interest being that Councillor Paver supplies gratuitous tourism information services to Rose Gardens Caravan Park.
Councillor R Sutton	3.2	<b>Impartiality.</b> The nature of the interest being that Councillor Sutton is a life member of the North Albany Football Club. Councillor Sutton remained in the chamber and participated in the discussion and vote.
Councillor J Swann	3.6	<b>Impartiality.</b> The nature of the interest being the Councillor Swann is legal adviser to one of the applicants. Councillor Swann remained in the chamber and participated in the discussion and vote.
Councillor R Hammond	4.5	<b>Impartiality.</b> The nature of the interest being that Councillor Hammond has numerous interests in the tourism sector.
Councillor R Paver	4.5	<b>Impartiality.</b> The nature of the interest being that Councillor Paver operates a tourism marketing related business supplying services to the City.
EDDS Graeme Bride	18.1	<b>Financial.</b> The nature of the interest being that Mr Bride is the incumbent EDDS, and a contract extension is being considered for this position. Mr Bride left the chamber.

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

- 2.7 Request to Exercise Option to Renew Lease for a Further 360 Year Term
- 18.1 Executive Contract-Executive Director Development Services (Confidential Item)

**XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS**

Nil.

**XII. ADOPTION OF RECOMMENDATIONS EN BLOC**

**1.1: DEVELOPMENT APPLICATION - CHANGE OF USE - TAVERN - 18  
ADELAIDE CRESCENT, MIDDLETON BEACH**

- File Number (Name of Ward)** : A133891 (Frederickstown Ward)  
**Land Description** : Part of 18 Adelaide Crescent, Middleton Beach  
**Proponent** : Trish Flowers  
**Owner** : R G & J P Flowers  
**Business Entity Name** : Bay Merchants  
**Previous Reference** : OCM 16/03/2010 Item 13.1.3  
**Appendices** : Application for Planning Scheme Consent  
**Consulted References** : Residential Design Code Policy  
Guidelines for the Assessment of Off-site, Verge and Cash-  
In-Lieu Carparking Proposals  
**Councillors Lounge** : Copies of Submissions  
**Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)  
**Responsible Officer** : Executive Director Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- The proposal is for a change of use of most of the previously approved 'Shop' to a 'Tavern'.
- Twenty-Two (22) submissions were received, with four (4) objecting, fourteen (14) in support and four (4) having no objection subject to concerns being addressed.
- It is recommended that planning scheme consent be granted and that advice be provided to the proponent on the proposed liquor licence request for a tavern licence.

**BACKGROUND**

1. This application follows the previous request by the proponent for a Section 40 Certificate for a Tavern Licence on the cafe and general store element of the premises. This previous request was conditioned such to restrict the licence to that equivalent to a restaurant licence, with the continuation of bottle shop takeaway sales.
2. It has subsequently come to light that this scenario was unworkable as the Department of Racing, Gaming and Liquor requirements would have resulted in juveniles no longer being able to enter the store without being accompanied by an adult.
3. The application is now made for an alternate, physically separated part of the building. This is most of the shop floor area approved in 2008.
4. The application has been referred to Council in accordance with Council's "*Processing Planning Applications*" guidelines, as the use Tavern is required to be presented to Council for determination.

**DISCUSSION**

5. The proposed Tavern is part of the Bay Merchants premises. It was previously part of the Bed & Breakfast accommodation being the eastern portion of the premises. In 2008 permission was granted to alter the B&B use to one self contained holiday accommodation apartment and a retail shop in what was the four front bedrooms of the B&B. It is the majority of the shop element that is now proposed to be converted to a Tavern.
6. The wider Bay Merchants site at 18 Adelaide Crescent also incorporates the cafe and general store and a fish and chip takeaway. Adding the proposed tavern into this mix of uses reinforces the mixed use nature of the site, which is supported in general terms as Adelaide Crescent is designated a '*Local Mixed Use Street*' under the Council's Residential Design Code Policy (2007).
7. The land is zoned Tourist Residential under Town Planning Scheme 1A. A Tavern is an 'SA' use in this zone meaning it can be considered by Council after the proposal has been advertised in accordance with Clause 7.5 of the Scheme. Advertising has been undertaken and a summary of responses received are outlined in Paragraphs 9 to 11 below.

8. It is important to note that since the completion of advertising the proponent has lodged amended plans which have repositioned the toilets within the building footprint, thereby resulting in a marginally increased floor area of the tavern use from 42m<sup>2</sup> to 52m<sup>2</sup>. The proponent has also proposed a reduced tavern licence area extending onto Council's verge so that it applies to the area adjacent to Marine Terrace only (the original proposal included the licence area extending into the alfresco area fronting Adelaide Crescent). Both these amendments respond in part to some of the comments made through the public submissions in relation to toilet use/provision and the issue of alcohol consumption on Council land.
9. The responses in support of the proposal included:
- Such a facility will be well received by locals and tourists.
  - The proponent's current enterprise is unique and popular and this will be of an equally high standard.
  - Even though there is no parking, this will not be a problem as many people enjoy walking in the area and this could be incorporated as part of a walk on the beach or boardwalk.
  - The residents & tourists have suffered from a lack of a suitable alternative to the Esplanade and this upmarket facility can only improve this area.
  - We would support opening hours extended to 9:30pm.
  - We are thrilled at the possibility of somewhere to go nearby to relax and enjoy being with friends.
  - The loss of the Esplanade has had a huge impact on the Middleton Beach area and visitors have missed out on being able to sit and enjoy a drink overlooking the perfect setting of Middleton Beach.
  - Bay Merchants draws support from all who reside and visit the locality. This will compliment the trade of the existing Bay Merchants and be a worthy asset.
  - This will add to the amenity of the area for local residents and tourists alike.
  - This will go some way to compensating for the loss of services in the area due to the closure of the Esplanade Hotel.
  - The plan will make a good establishment even better and will benefit Middleton Beach and Albany in general. It will be wonderful to walk to have a meal and drink with friends.
  - It is pleasing to see some positive action in the district.
  - We commend the concept and think having a tavern of this nature will add to the tourism and local community of the area.
  - We used to enjoy the convenience of having a hotel and bottle shop in our neighbourhood. We have not appreciated the current situation whereby we have to drive into town to meet friends for a drink.
  - As business proprietors we will have somewhere close by to direct our clients and will be a very important development for both tourists and locals.
  - It will be good to have somewhere within walking distance to take friends.

10. The responses objecting to the proposal include the comments:
- We have concerns that the proposal extends over the footpath and terrace. This is concerning for us and families staying in the area as people will be sitting outside drinking anytime after 10am.
  - The application states they will only cater for 30-65 year olds, but in reality this may not be the case and can't be controlled.
  - The toilets being provided internally will not be sufficient and people would have to use the outside toilets that are staff toilets shared with other businesses.
  - The back area should be blocked from public access as this is supposed to be a staff area.
  - Selling boutique beers and wines are all in bottles which seems very unsafe.
  - Parking is already an issue in the immediate area.
  - Cyclists are a major part of their clientele and it is against the law to ride a bike when you have consumed alcohol.
  - Calamari's on the Beach has a licence and Valentines has applied for a licence. These are enclosed and not on the main road. A replacement for the Esplanade will also want a licence so it would be better to leave that area to be designated for a hotel site.
  - There could be problems with consumption of alcohol on the pavement as children often frequent Bay Merchants and the Fish & Chip shop
  - Much of the area shaded on the plans appears to be public area and not the property of Bay Merchants.
  - Parking along Adelaide Crescent sometimes poses a hazard with parking on one side of the street and this is not a marked or designated parking area.
  - A tavern licence is not appropriate for the intended service. It should be a restaurant or small bar licence, not a tavern.
  - Liquor licensing has become much more stringent with applications for similar facilities within a locality being refused. Gaining a tavern licence at Bay Merchants could severely impact the Esplanade site development potential.
  - A tavern licence is not necessary as Bay Merchants already has a licence and so does Calamari's at Beachside.
  - There is discrepancy in the times stated, both 8:30 and 10pm are given for closing times.
  - The parking area is often full during fine weather and with parking up to the corner of Marine Terrace visibility is limited when turning right into Adelaide Crescent. Additional footpaths are required.
11. Of the responses that do not raise objection or strongly support the proposal, the following comments are made:
- Car parking and traffic management are significant issues facing the Middleton Beach area and these should be addressed through a Middleton Beach Master Plan similar to the CBD Master Plan.
  - The proposal will neither benefit nor nuisance us, but the selfish attitude of motorists parking on our verge lawn is a common occurrence.

- There are inconsistencies and questionable claims in the proponent's rationale. There is no evidence to support the community and tourist demand or that it is consistent with current reforms in the liquor industry.
  - The intended target of 30-65 year olds implies that under 30s will not want to go there.
  - There is contradiction in the requested opening hours first is 10pm Mon-Sat and 6pm Sunday then it is stated closing at 8:30pm.
  - A tavern is not the same thing as running a small bottle shop, so the claim of a proven track record has only limited value.
12. From the above it is evident that the majority of respondents to the consultation support the proposal and the concerns and objections relate mainly to parking and the use of the alfresco areas shown on the plans for consumption of alcohol. There are also the points raised of internal facilities and potential impact on any future development of the Esplanade Hotel site.
13. The issue of licensing and potential impact on the development of the former Esplanade Hotel site has been discussed with officers at the Department of Racing, Gaming and Liquor. They have advised that in the past a permit would not be granted where more than a certain number of particular categories of liquor licences existed within a defined geographic location. However, this is no longer the case and each application is judged on its own individual merits including public interest grounds.
14. The amended plans identify a 'licensed area' over the alfresco area on Marine Terrace (verge area). This alfresco area was previously approved by the City in 2008. Council at its meeting of 18 March 2010 supported the tavern licence extending into this alfresco area (and the area adjacent to Adelaide Crescent which has now been removed from consideration) subject to the condition that patrons are required to consume alcohol with food only.
15. It should be noted that the planning application for the tavern is concerned with the use of the land within the property boundary (building and that area under verandah) and not the public thoroughfare/alfresco area. It is however considered important that when a request for a Section 40 Certificate is received, that Council outlines its position on the conditions of the licence, especially where the area extends onto public land.
16. Any request to use the alfresco areas beyond the property boundary will be considered in accordance with Council's direction to staff (Item 13.5.1 OCM 18/08/09). The relevant statement within the Guidelines states:

*"THAT the following GUIDELINES BE USED by City of Albany staff, when dealing with proposals within or affecting licensed premises:*

- *Support applications for restaurants to use small bar licenses provided the licence area does not extend onto or incorporate public land (eg alfresco areas), the premises are not located adjacent to locations which have a high potential to be frequented by children (beaches, public parks, etc) and the licensed premises can be adequately demarcated."*

17. Whilst the licence requested by the proponent is a Tavern Licence, it is similar to a Small Bar licence, in that it allows for the consumption of alcohol without food. Based on these guidelines and Council's previous resolution of 18 March 2010, it is recommended that a similarly worded condition be applied to a future Section 40 Certificate to ensure that tavern patrons using the alfresco area on public land consume alcohol ancillary to food. The proponent has advised that this option could cause management and licensing issues, in ensuring patrons from the Tavern, that utilise the alfresco areas on public land, have food. These management issues could be resolved if the licence area is pulled back to areas within private property, however the proponent does not wish to entertain this alternative.
18. The proponent has advised that they would only be seeking Council's support to utilise the previously approved alfresco area on Marine Terrace which is clearly demarcated with chains and bollards and does not attract the same pedestrian traffic as Adelaide Crescent. The proponent has stated that any concerns relating to pedestrians (especially children) feeling intimidated by walking past licensed alfresco areas, to access the fish and chip takeaway or the Bay Merchants Cafe on Adelaide Crescent would therefore be lessened considerably.
19. Advice from the Department of Racing, Gaming and Liquor has revealed that the vast majority of alfresco areas adjacent to Tavern premises throughout the State have conditions requiring food to be served with alcohol (there are only 3 such premises within the State that do not have such restrictions), and that these establishments have been able to appropriately manage such a licensing condition. It is also important to note that Council has previously opposed requests from the Albany Hotel, Bar Cino and Nonna's Restaurant to allow the consumption of alcohol without food in their alfresco areas; the only point of difference is that these other examples would have a considerably higher volume of passing pedestrians when compared to the subject site.
20. As previously stated a tavern is a use that can be considered in this zone and this use has a specific parking requirement as set out in the use development table for Town Planning Scheme 1A. The parking requirement is one bay for every 6m<sup>2</sup> of public floor area. The public area, including the alfresco area (within the property boundary) but excluding the public toilets, covers approximately 52m<sup>2</sup> and therefore would require nine (9) off street parking bays to be provided. The existing use of Shop over the same area subject to the tavern proposal generates a requirement for 3 bays under the Scheme, and therefore the change of use would involve a net parking demand of 6 additional bays.
21. No car parking bays are shown to be provided onsite, however a dedicated disabled bay could be accommodated between the rear of the building and the staff toilet block, which represents as a requirement under the Building Code of Australia. This would reduce the parking requirement to 5 bays.

22. This site falls within the area covered by the Council Policy – *Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car parking Proposals*. This policy sets the basis for determining alternative provisions for parking where parking cannot be provided for on site. Providing car parking bays on an adjoining or nearby site has not been explored and is not considered achievable. The policy does allow a proponent, where possible and practical, to provide the shortage of parking bays as new bays within existing road reserves at the proponents cost (ie. design and construction to Council's satisfaction), or alternatively require the proponent to provide a cash payment in lieu of parking.
23. The proponent has queried whether the existing bus bay, which is serviced a few times each day by Loves Bus Service, could be utilised to accommodate on-street parking bays. Staff have undertaken an inspection with a representative of Loves Bus Service with a view to identifying a possible location to relocate the bus stop. It was clear from the inspection that as there is on-street parking on the opposite side of the street, there would be insufficient width to allow for the passing of vehicles while the bus is stationary (impacting on traffic safety and flows). It does appear however that the bus bay is generous in length and if extended in one or both directions there would be sufficient space to accommodate the 5 parking bays required. There are utilities and other services in this area of the road reserve, and if Council was to allow for the parking shortfall to be provided in the verge, it would be up to the proponent to identify these services and the impact and/or mitigation measures that would be needed to cater for an expansion of the on-street parking areas.
24. Council also has the option to waive the parking shortage on the basis that there is sufficient on-street car parking within the local vicinity. There are 11 parking bays situated in Marine Terrace (opposite the building) and several on-street parking bays along Adelaide Crescent; a significant portion of these bays should be available between 5pm and 8:30pm when peak demand for the tavern is reached.
25. The use development table for Town Planning Scheme 1A also requires a tavern to have a minimum 10% of the site to be landscaped. As the proposal is for a change of use of an existing building and does not involve an extension of that building within the site, it is not appropriate to require additional landscaping. Accordingly it is considered appropriate by staff to relax the landscaping element.
26. The query regarding the internal facilities is a matter that is governed by the Building Code of Australia which dictates a maximum capacity of one person per square metre, which in this case would limit capacity to 52 persons. The proposed toilet provision of one disabled, one male and one female toilet would support the maximum capacity proposed. As stated previously the amended plans have repositioned the toilets internally within the building.

27. The confusion over the differing opening times is a simple misunderstanding of the information supplied by the proponent. The current bottle shop licence in the general store is limited from 8am to 10pm Monday to Saturday and 10am to 6pm on Sundays. For the proposed tavern they are requesting a closing time of 8:30pm. Given the Tourist Residential nature of the surrounding area, the limited opening hours would be appropriate and any approval can be conditioned accordingly restricting the opening hours to that proposed by the proponent.
28. The space to the rear of Bay Merchants shared with other businesses is not proposed to be used in connection with this facility. The other matters raised such as safety of glass bottles and the target age range of the clientele are not planning considerations and do not need further discussion or comment. The safety issue is likely to be considered by the Department of Racing, Gaming and Liquor as part of the liquor licence approval process.

### **PUBLIC CONSULTATION / ENGAGEMENT**

29. The application was referred to more than 250 local landowners, an advertisement appeared in the Public Notices section of the Albany Advertiser on Thursday 12 August 2010 and a sign was placed onsite. The advertising period ran until 2 September 2010 and a total of twenty-two (22) submissions were received. Of these four (4) objected, a further four (4) did not object, but three (3) of these did raise associated queries as discussed in the main report. The other fourteen (14) responses all supported the proposal.

### **GOVERNMENT CONSULTATION**

30. No government consultation was required.

### **STATUTORY IMPLICATIONS**

31. Where an application is received for a SA use, as per Clause 3.4 of Town Planning Scheme No. 1A, the use is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 7.5.
32. In accordance with Clause 4.10 of the Scheme, if a development does not comply with a standard or requirement prescribed under the Scheme, the Council may, despite that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. 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 the subject of consideration for the variation, the Council is to consult the affected parties and have regard to any expressed views prior to making its determination to grant the variation. As part of the advertising process all adjoining landowners were asked to comment on the parking shortages at the site.

33. In accordance with Clause 7.5, Staff have advertised the use in order to allow Council to review public submissions prior to determining whether to grant or refuse its planning consent, or to grant its planning consent subject to conditions.
34. In addition to reviewing the use against the objectives of the Scheme, Council under Clause 7.8A (Matters to be Considered) should also take into account whether the proposal adequately addresses, amongst other matters, the following:
- (f) *Any Town Planning Scheme Policy adopted by the Council under clause 7.21, and any other plan or guideline 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 area.*
  - (q) *The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.*
  - (y) *Any relevant submission received on the application.*
  - (zb) *Any other planning consideration the Council considers relevant.”*

## **FINANCIAL IMPLICATIONS**

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

## **POLICY IMPLICATIONS**

36. The land is affected by the Residential Design Code Policy (2007) which states the following in relation to the subject land:

*Relevant Objective:*

- *To encourage the provision of a wide range of facilities and services to serve both visitors and the local community.*

*Policy Statement*

- *Adelaide Crescent – ‘Local Mixed Use Street’: An informal street incorporating occasional small cafes and other local facility uses.*

37. The proposal is considered to be consistent with the relevant objectives and policy statements within the Residential Design Codes Policy (2007).

38. The land is also affected by the Council Policy – *Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car parking Proposals*. This Policy states that where car parking cannot be provided for on site, Council may accept a cash-in-lieu payment for the shortage in parking bays and/or the bays can be provided in Council's road verge. The use of the road verge for parking can be considered where:
- the bays do not reduce traffic safety;
  - the applicant is responsible for the design and construction of the bays at their cost;
  - the bays are directly accessible from the adjoining road (not private property);
  - the bays will be available to the general public under the care and control of Council.

#### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

39. If Council refused the application, the proponent would then be entitled to seek a Review of that decision with the State Administrative Tribunal. The proponent also has the right to seek a review of any conditions attached to an approval with the State Administrative Tribunal.
40. In relation to parking, Council has the following options:
- A. Request that a cash-in-lieu contribution for the provision of 5 car parking bays be required (this would be based on a contribution of the land value based on 1 bay per 26m<sup>2</sup> and the cost of constructing the said bays, which as a guide is likely to be in the vicinity of \$15,000 to 20,000 per bay).
  - B. Instead of, or in combination with Option A, allow the proponent through the appointment of a consultant engineer to design and construct 5 on street bays within close proximity to the development to the satisfaction of Council. There appears to be capacity within Adelaide Crescent, with an extension to the bus bay, however the proponent would need to investigate this option more thoroughly and prepare design drawings to identify the configuration of the additional on-street parking bays.
  - C. Grant a relaxation of the scheme standard and accept the parking provision as proposed (ie. one additional disabled bay).
  - D. Refuse the application for Planning Scheme Consent on the grounds that insufficient parking has been provided.

41. In relation to the extent of the licensed area within the road reserve, Council has the following options:
- A. Advise the proponent that the extent of the tavern license area should be restricted to that area within private property only, and not include alfresco areas on public land.
  - B. Advise the proponent that it would be supportive of the Tavern Licence area extending onto public land, subject to the following conditions:  
*“The sale and supply of liquor for consumption within the alfresco area situated on public land shall be limited to being ancillary to the consumption of food by a patron seated at a table within such alfresco areas, and that the area where the licence extends shall be clearly demarcated;*
  - C. Advise the proponent that it is willing to support the Tavern licence area extending onto public land without conditions, or a condition relating to the demarcation of the licence area only.

### **SUMMARY CONCLUSION**

42. The proposal is for the use of part of the site as a tavern, which is a use that can be considered within the Tourist Residential zone.
43. The parking requirements within the Scheme identify that the change of use will generate an additional parking demand of 6 bays, however there is only capacity to add one additional bay on the site (a disabled bay).
44. The proposal is within an area subject to a Council Policy where cash in lieu of onsite parking provision can be required and/or a portion of the parking shortage can be provided through the construction of new parking bays within the road reserve subject to Council’s satisfaction.
45. Twenty-two (22) submissions were received in response to the consultation on the proposal and the majority of these either supported or did not object to the proposal. The main concerns raised by those objecting were parking and the consumption of alcohol within the alfresco areas located on public land.
46. Staff are satisfied that the planning condition relating to parking provision and the restriction on the tavern licence area, as it extends onto public land, addresses both these areas of concern and therefore recommends support for the proposal.

**RECOMMENDATIONS**

ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 1

A notice of Planning Scheme Consent be ISSUED for a Change of Use of a portion of the building at 18 Adelaide Crescent, Middleton Beach from 'Shop' to 'Tavern' subject to the following conditions:

- A. The approval for the Tavern Use is limited to private property only (being the building and verandah facing Adelaide Crescent) and does not include the alfresco areas on public land.
- B. The maximum number of patrons permitted within the area approved for a Tavern shall not exceed 52 people at any one time.
- C. A disabled bay being provided on site to the satisfaction of Council.
- D. Prior to the issue of a building licence, the proponent is to provide 5 new car bays within the Adelaide Crescent Road Reserve, or where this is not possible or practical as determined by the Executive Director Works and Services, provide a cash-in-lieu contribution for the parking shortfall in accordance with the specifications of Council's Policy '*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car parking Proposals*'.
- E. The premises shall not be open to the public other than between the hours of 10am to 8:30pm 7 days a week, unless otherwise agreed in writing by or on behalf of the Council.
- F. Noise emanating from the premises shall be in accordance with the provisions of the *EPA Noise Regulations 1997*.

ADVICE NOTE:

It is advised that a building licence will need to be lodged with Council for the Change of Use, with all development to comply with the Building Code of Australia.

**ITEM 1.1: AMENDED RESPONSIBLE OFFICER RECOMMENDATION 1**

A notice of Planning Scheme Consent be **ISSUED** for a Change of Use of a portion of the building at 18 Adelaide Crescent, Middleton Beach from 'Shop' to 'Tavern' subject to the following conditions:

- A. The approval for the Tavern Use is limited to private property only (being the building and verandah facing Adelaide Crescent) and does not include the alfresco areas on public land.
- B. The maximum number of patrons permitted within the area approved for a Tavern shall not exceed 52 people at any one time.
- C. A disabled bay being provided on site to the satisfaction of Council.
- D. Prior to **occupancy of the tavern use**, the proponent is to provide 5 new car bays within the Adelaide Crescent Road Reserve, or where this is not possible or practical as determined by the Executive Director Works and Services, provide a cash-in-lieu contribution for the parking shortfall in accordance with the specifications of Council's Policy '*Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car parking Proposals*'.
- E. The premises shall not be open to the public other than between the hours of 10am to 8:30pm 7 days a week, unless otherwise agreed in writing by or on behalf of the Council.
- F. Noise emanating from the premises shall be in accordance with the provisions of the *EPA Noise Regulations 1997*.

**ADVICE NOTE:**

It is advised that a building licence will need to be lodged with Council for the Change of Use, with all development to comply with the Building Code of Australia.

**ITEM 1.1: RESOLUTION (Amended Responsible Officer Recommendation 1)**

**MOVED: COUNCILLOR MATLA**  
**SECONDED: COUNCILLOR DUFTY**

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

**CARRIED 12-0**

**ITEM 1.1: RESPONSIBLE OFFICER RECOMMENDATION 2**

The proponent be **ADVISED** that on application of a request for a Section 40 Certificate under the *Liquor Control Act 1988* Council, in addition to the above conditions of planning consent, will request the Department of Racing, Gaming and Liquor impose the following conditions:

- A. The sale and supply of liquor for consumption within alfresco areas situated on public land shall be limited to being ancillary to the consumption of food by a patron seated at a table within such alfresco areas.
- B. The areas where the restriction on the consumption of alcohol applies and the extent of the licence area as it extends within public land shall be clearly demarcated.

**ITEM 1.1: RESOLUTION (Responsible Officer Recommendation 2)**

**MOVED: COUNCILLOR HAMMOND**  
**SECONDED: COUNCILLOR MATLA**

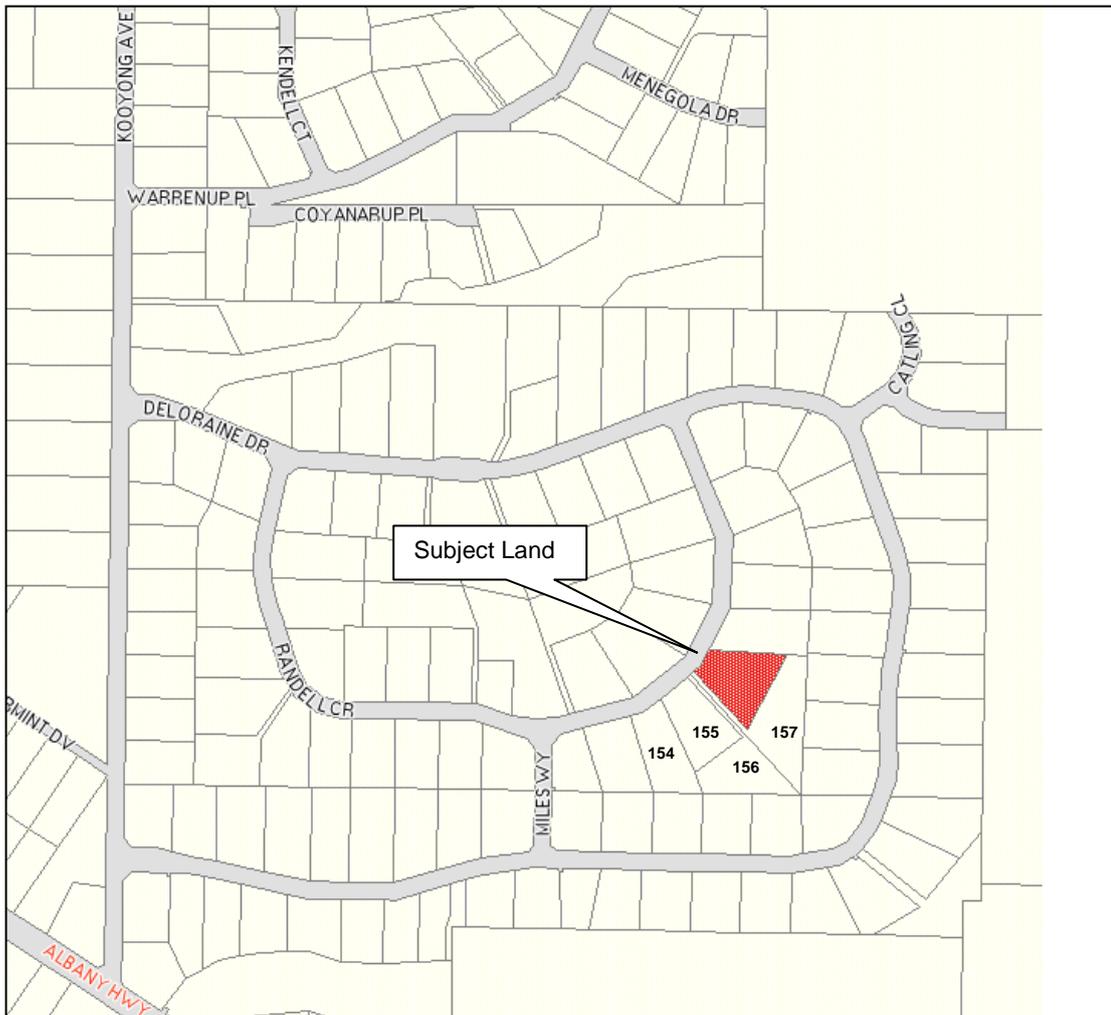
**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 12-0**

**1.2: DEVELOPMENT APPLICATION - USE NOT LISTED - WIND  
TURBINE - LOT 158 RANDELL CRESCENT, WARRENUP**

<b>File Number (Name of Ward)</b>	: A192706 (Kalgan Ward)
<b>Land Description</b>	: Lot 158 Randell Crescent, Warrenup
<b>Proponent</b>	: Concept Building Design
<b>Owner</b>	: W Dickson
<b>Appendices</b>	: Application for Planning Scheme Consent
<b>Consulted References</b>	: Refer Item 1.3 (Wind Turbine – Lot 154 Randell Crescent)
<b>Councillors Lounge</b>	: Copies of Submissions Copy of short video (on disc) of operational turbine at Kendrup
<b>Reporting Officer(s)</b>	: Senior Project Planner (A Nicoll)
<b>Responsible Officer</b>	: Executive Director Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- A proposal for a 12 metre high wind turbine for the purpose of generating power to a Special Residential zoned lot.
- Eight (8) submissions received; all objecting to the proposal.
- Support proposal subject to turbine being no higher than 9.5 metres in height to protect the amenity of the area.

**BACKGROUND**

1. An application has been received for a 12m high wind turbine to supplement the power requirements for Lot 158 Randell Crescent, Warrenup. The subject site is currently vacant, is zoned “Special Residential” under Town Planning Scheme No.3 and is 5397m<sup>2</sup> in area.
2. The application has been referred to Council in accordance with Council’s Planning Processes Guidelines as the proposal has been advertised and substantive comments have been received.

**DISCUSSION**

3. The proposed wind turbine is 12 metres in height, inclusive of a 2 metre diameter wind energy ball which rests on the top of the 10 metre high mast. The ball is predominantly translucent with the working components of the turbine spinning within this ball.
4. The wind turbine is to be positioned approximately 15 metres from the southern boundary and 30 metres from the western (front) boundary fronting Randell Crescent. Adjacent to the southern boundary there are two battle-axe legs associated with Lots 156 and 157, and therefore the setback to the closest dwelling on Lot 155, is some 40 metres.
5. The subject land slopes mildly from west to east, with the road level of Randell Crescent approximately 2.75 metres higher than the ground level applicable to the wind turbine. From road level the turbine would therefore read as a 9.25 metre high structure. However from the dwellings on Lots 156 and 157 to the east, which are around 3 metres lower in the landscape, the turbine would appear higher. When viewed from these properties however the wind turbine will be approximately 65 metres away and is unlikely to silhouette the skyline due to the positioning of higher ridgelines to the north-west (as the land rises north of Menang Drive and adjacent to Parker Brook Road).
6. A wind turbine is a ‘Use not Listed’ within Town Planning Scheme No. 3. Clause 3.2 of the Scheme identifies the process in considering use classes which are not listed in the Scheme. In broad terms where the proposed development is considered to be consistent with the objectives of the particular zone, Council has the ability to approve the development. Alternatively if Council is not satisfied that the use is consistent with the objectives of the zone it has the ability to refuse the development.

7. The land is zoned Special Residential. The general objectives for this zone are:

*“3.1.16 Special Residential*

*To permit the creation of lots between 2000m<sup>2</sup> and 1 hectare in suitable locations so as to provide for a range of residential opportunities and lot sizes within the Albany Shire.*

*To ensure that development proposals are appropriate to the physical and landscape conditions of the zone and subject to applicable standards and controls.”*

8. The more specific objectives relevant to Special Residential Area No. 12 (which this land is located within) states:

*“2.0 Objectives of Zone*

- *Create a spacious residential living environment that provides for other small scale uses where considered appropriate;*
- *Provides for a range of lot sizes so as to maximise purchaser choice;*
- *Retention of existing vegetation along with replanting within open space areas, road reserves and within allotments for site beautification, screening and general environmental benefit.”*

9. The general objectives for the Special Residential zone include the statement that development proposals are to be appropriate to the physical and landscape conditions of the zone. The Warrenup Ridge Estate is predominantly cleared and is mildly undulating. Given the topography and lack of mature vegetation, the proposed wind turbine will be relatively high in the landscape and be clearly visible from the road network and surrounding land parcels. For comparative purposes a standard wooden power pole is approximately 9.5 metres above ground level. On this basis it is difficult to ascertain that the proposal is appropriate to the physical and landscape conditions of the area as referred to in the objectives. With the exception of the street lights which stand at approximately 7.5 metres in height, there are no overhead powerlines, mature vegetation or other structures such as windmills or large rural outbuildings that are comparable in height to the proposed turbine.

10. In accordance with Clause 3.2 of the Scheme the proposal was referred to surrounding landowners inviting comment. At the end of the advertising period a total of eight (8) submissions were received, all objecting to the proposal.

11. In summary the submissions raised the following issues:
- The landscape in the area is very open and therefore concerned about visual impact;
  - The turbine is significantly higher than the proposed dwelling and existing structures in the area;
  - The turbine will create noise pollution with a droning hum at all hours of the day and night when wind conditions allow;
  - The power supply benefits are marginal and suggest a solar panel system would provide improved power generation;
  - Concerned that turbines will reduce property values;
  - The proposal would be appropriate in an area with larger landholdings;
  - The turbine would silhouette the skyline.
12. Many respondents raised the issue of power inefficiency associated with the turbine compared with readily available solar energy systems. According to the manufacturers specifications the turbine has the capacity to produce up to 1750kWh per year which represents an average of 4.7kWh per day; the equivalent to around a quarter of the daily power needs of an average family where wind conditions are favourable (18kWh per day). Whilst this point is noted, the economic viability of the turbine and it's effectiveness in terms of power output is not a material planning consideration.
13. The building height specified within the Scheme for this zone requires dwelling houses to be no higher than 7.5 metres from natural ground level. It further adds that the height of outbuildings will be at the discretion of Council in order to minimise the visual impacts of such buildings when viewed from Albany Highway and within the subdivision. Whilst the wind turbine is not an outbuilding for the purposes of Council's Outbuilding Policy, the later statement makes it clear that development should give consideration to visual amenity, and a wind turbine 12 metres in height is considerably taller than other buildings or structures in the immediate locality. The elevation submitted by the proponent identifies the height of the structure is significant in context with the proposed single storey dwelling.
14. Whilst the Scheme does not provide specific guidance on the height of ancillary structures, such as that contemplated under this proposal, it would not be unreasonable to consider some dispensation above 7.5 metres for a slimline mast with a semi-translucent turbine on the basis that such a structure is less 'bulky' than a dwelling. To this extent a mast height of 7.5 metres with an overall height of 9.5 metres (catering for the energy ball) is considered acceptable.
15. The proposed wind turbine meets the setback requirements of the Scheme which stipulates a setback of 10 metres from side and front boundaries. The development is around 15 metres from the closest side boundary and more than 30 metres from the front boundary.

16. Under Clause 5.4 of the Scheme (Matters to be Considered) Council is required, amongst other matters, to give consideration to:
- (i) *The compatibility of a use or development with it's setting;*
  - (n) *The preservation of the amenity of the locality;*
  - (o) *The relationship of the proposal to development on adjoining land or on other land in the locality including but limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*
17. In relation to noise the proponent has supplied generic acoustic testing which has identified that the turbine does not generate a noise level which is distinguishable from the background noise level; the acoustic testing was done in Holland with wind speeds of up to 9 metres per second (30km/h). No data on noise levels above these wind conditions has been provided or is available, however it is anticipated that the background noise levels and the noise level from the turbine would rise concurrently. An electric brake kicks in at wind speeds over 20 metres per second (60km/h).
18. Recent wind data from the Albany Airport has identified that Albany has experienced 26 days of wind speed in excess of 30km/h, between January and August 2010, which is equivalent to 10% of the days involved. In any event it would be a requirement that the turbine would need to meet the noise requirements stipulated within the *EPA Noise Regulations 1997*, and where a breach is observed the proponent would need to modify the turbine to ensure compliance. To ensure the turbine is operated in a quiet manner into the future the proponent will need to maintain the turbine in good working order in accordance with the manufacturer's specifications.
19. The same model turbine has been erected on a property in Kendenup. Staff on invitation of the proponent visited this site to ascertain the visual impact of the structure and to assess the impacts of noise. In a field test, noise recording equipment (the 'yellow brick') was set up to measure the noise generating from the turbine at it's base and at a distance of 40 metres (which represents the position of the nearest dwelling to this proposal). As per the acoustic information provided by the proponent, the noise recording equipment could not distinguish any noise above the background noise level. Council's Principal Environmental Health Officer observed that despite the turbine blades turning vigorously, the turbine was barely audible and he is confident that noise pollution would not be generated by the proposal.
20. From a visual impact perspective, the turbine in Kendenup was entirely appropriate given it was situated on a large rural property flanked by mature vegetation and structures typically found within a rural area (ie. windmills, powerlines and large agricultural sheds) of an equivalent height to the turbine. It should be noted that the turbine pictured in the below photos is the 15 metre model rather than the 12 metre model as proposed in this case.





21. Staff have liaised with the proponent on the possibility of reducing the height of the turbine to 9.5 metres as discussed above and the proponent is willing to meet this height restriction. The proponent has advised that the impact on power output at this reduced height would be in the order of 5 to 7%. Staff believe that if the turbine could be reduced to 9.5 metres (incorporating a mast no higher than 7.5 metres) the visual impact would be reduced significantly. It is furthermore recommended that the components of the energy ball (including the glass reinforced polyester blades and stainless steel wing) are treated with a non-reflective material/coating to reduce the incidence of sunlight glare observed from the unit at Kendenup, to further reduce any impact.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

22. At the close of advertising eight (8) submissions were received, all objecting to the proposal.

#### **GOVERNMENT CONSULTATION**

23. No government consultation was required.

## **STATUTORY IMPLICATIONS**

24. Where an application is received and that use is not contained within the Zoning Table, As per Clause 3.2 of Town Planning Scheme No. 3, the Council may determine that the proposed use:
- a) is considered to be consistent with the objectives of the zone and is therefore permitted;*
  - b) may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 5.1.2.4 in considering an application for planning approval; or*
  - c) is not consistent with the objectives of the particular zone and is therefore not permitted.*
25. In accordance with Clause 3.2(b), Staff have advertised the use in order to allow Council to review public submissions prior to determining whether the development is consistent with the objectives of the Special Residential zone.
26. In addition to reviewing the use against the objectives of the Scheme, Council under Clause 5.4 (Matters to be Considered) should also take into account whether the proposal adequately addresses, amongst other matters, the following:
- (i) The compatibility of a use or development with its setting;*
  - (n) The preservation of the amenity of the locality;*
  - (o) The relationship of the proposal to development on adjoining land or on other land in the locality including but limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

## **FINANCIAL IMPLICATIONS**

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

## **POLICY IMPLICATIONS**

28. The City of Albany does not have a specific policy on wind turbines or more generally on the renewable energy structures and how Council should process such applications. In recent months a number of Council's have prepared a policy position on this type of development (the Shire of Denmark, City of Stirling and City of Geraldton-Greenough are examples).
29. It is recommended that the Council formulate a similar policy position as part of it's draft Local Planning Policy Manual that will be presented to Council at an upcoming Council meeting for consideration. Similar to the Outbuildings Policy it is recommended that turbine heights increase based on the size and zoning of a property.

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

30. Staff are satisfied that the turbine would not cause noise pollution to surrounding residents, and it is noted that the proposal meets the setback requirements specified in the Scheme. If Council is satisfied that the structure as proposed (ie. 12 metres in height) is unlikely to impact on the visual amenity of the area, then it has the ability to approve the application subject to conditions. However as the proponent is agreeable to the reduced height it is recommended that this option not be considered.
31. The option proposed by staff is to support a smaller 9.5 metre high turbine with treatment being applied to the energy ball to reduce the visual impact through sunlight glare. If the height of the turbine was reduced to this level it is considered that the development would be in keeping with the objectives of the zone and would adequately address the matters to be considered under the Scheme as specified in Paragraph 26.
32. If Council refuses the application or the proponent is not satisfied with any of the conditions of approval, the proponent would be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City.

### **SUMMARY CONCLUSION**

33. At 12 metres the proposed turbine is 4.5 metres higher than the maximum height for dwellings in this particular special residential area. Although the turbine is predominantly a mono-pole structure, the height of the pole in addition to the diameter of the wind energy ball (at 2 metres) will ensure it is clearly visible, particularly from surrounding properties.
34. Based on the topography of the estate and the exposed/open nature of the land in this area (with little to no screening vegetation) the structure in the opinion of staff would be visually dominant, detrimentally affecting the existing amenity in the area, although it is accepted that as landowners revegetate to maintain privacy, the structures will become less prominent in the landscape.
35. The reduction in height and the use of reflective materials on the energy ball as proposed by staff will however ensure the turbine is compatible with it's setting.
36. It is also important to note that a second wind turbine application by the same proponent has been proposed on Lot 154 Randall Crescent, Warrenup (two lots to the south-east) and can be viewed under Item 1.3.

**RECOMMENDATION**

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

THAT a notice of Planning Scheme Consent be ISSUED for a 'Use Not Listed (Wind Turbine) at Lot 158 Randell Crescent, Warrenup subject to the following conditions:

- A. The maximum overall height of the wind turbine shall be reduced in height from 12 metres to 9.5 metres when measured from natural ground level.
- B. The location of the proposed structure is to be in accordance with the approved plans.
- C. The energy ball components (including the glass fibre polyester blades and wing) are to be treated with a non-reflective material to reduce the incidence of sunlight glare to the satisfaction of Council.
- D. The wind turbine is to be maintained as recommended by the supplier to ensure quiet operation is continued over its life.
- E. The turbine is not to exceed the maximum noise levels prescribed in the *EPA Noise Regulations 1997* when measured from adjacent noise sensitive premises.

ADVICE NOTE:

The proponent is advised that a Building Licence will need to be lodged for the turbine with full structural certification being provided.

**ITEM 1.2: RESOLUTION**

**MOVED: COUNCILLOR WOLFE**  
**SECONDED: COUNCILLOR LEAVESLEY**

**THAT this Item lie on the table until Council develops a Policy dealing with Wind Turbines.**

**CARRIED 11-1**

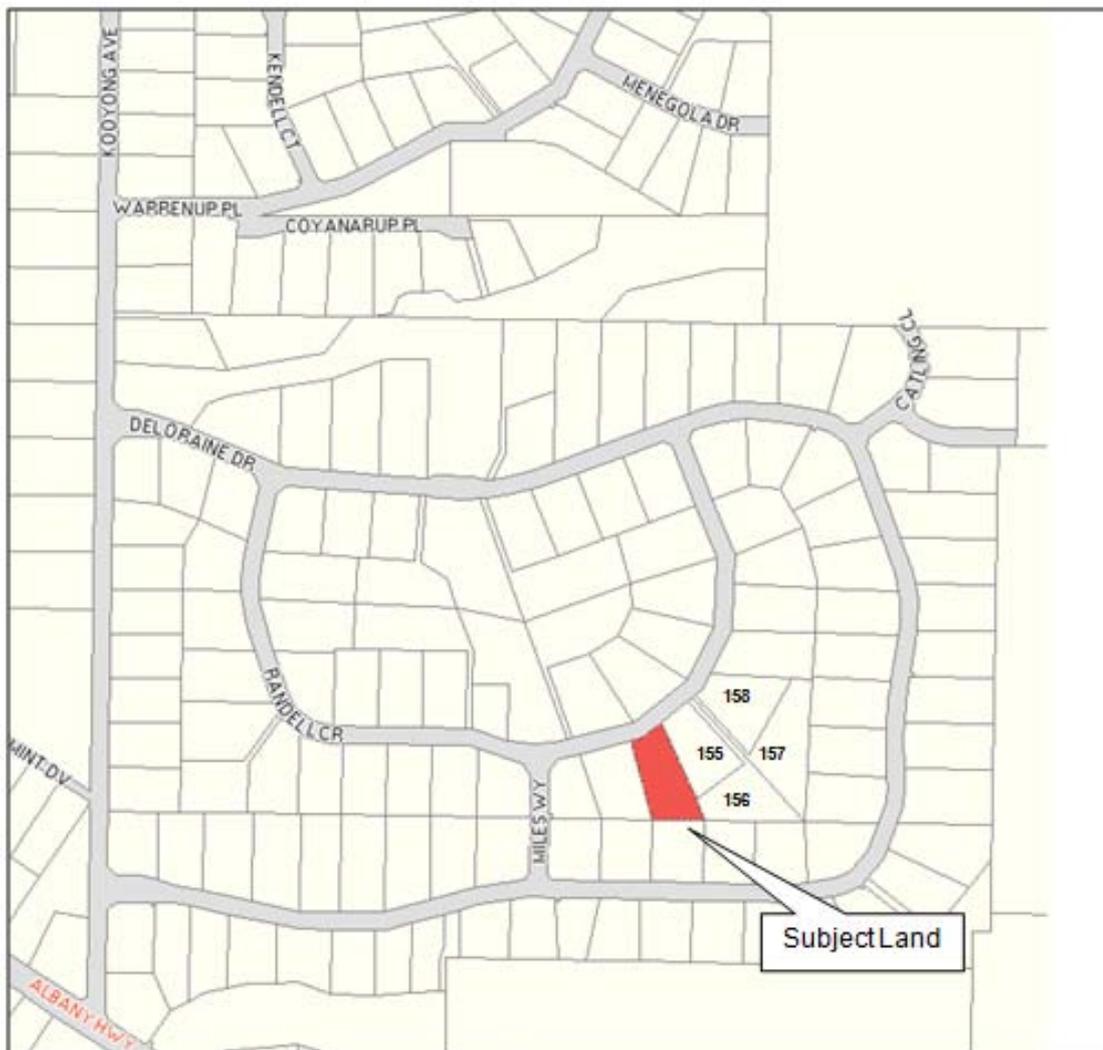
**Against the Motion:** Councillor Matla

**Councillor's Reason:** That Council develop a Policy for dealing with Wind Turbines.

**1.3: DEVELOPMENT APPLICATION - USE NOT LISTED - WIND TURBINE - LOT 154 RANDELL CRESCENT, WARRENUP**

- File Number (Name of Ward)** : A192661 (Kalgan Ward)
- Land Description** : Lot 154 Randell Crescent, Warrenup
- Proponent** : Concept Building Design
- Owner** : R & N Forgione
- Appendices** : Application for Planning Scheme Consent (refer Appendices for Item 1.2 for technical specifications)
- Consulted References** : Refer Item 1.2 (Wind Turbine – Lot 158 Randell Crescent)
- Councillors Lounge** : Copies of Submissions  
Copy of short video (on disc) of operational turbine at Kendenup
- Reporting Officer(s)** : Senior Project Planner (A Nicoll)
- Responsible Officer** : Executive Director Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- A proposal for a 12 metre high wind turbine for the purpose of generating power to a Special Residential zoned lot
- Six (6) submissions received; with five (5) objecting and one (1) supporting the proposal
- Support proposal subject to turbine being no higher than 9.5 metres in height to protect the amenity of the area.

**BACKGROUND**

1. An application has been received for a 12m high wind turbine to supplement the power requirements for Lot 154 Randell Crescent, Warrenup. The subject site is zoned “Special Residential” under Town Planning Scheme No.3 and is 4937m<sup>2</sup> in area.
2. The application has been referred to Council in accordance with Council's Planning Processes Guidelines as the proposal has been advertised and substantive comments have been received.

**DISCUSSION**

3. The proposed wind turbine is 12 metres in height, inclusive of a 2 metre diameter wind energy ball which rests on the top of the 10 metre high mast. The ball is predominantly translucent with the working components of the turbine spinning within this ball.
4. The wind turbine is to be positioned approximately 10 metres from the eastern boundary and 39 metres from the northern (front) boundary fronting Randell Crescent. The proposed turbine will be positioned approximately 20 metres from the closest dwelling on Lot 155.
5. The subject land slopes mildly from west to east, with the road level of Randell Crescent approximately 2.5 metres higher than the ground level applicable to the wind turbine. From road level the turbine would therefore read as a 9.75 metre high structure. However from the dwelling on Lot 156 to the south east, which is around 4 metres lower in the landscape, the turbine would appear higher. When viewed from this property however the wind turbine will be approximately 65 metres away and is unlikely to silhouette the skyline due to the positioning of higher ground to the west adjacent to Rocky Crossing Road.
6. A wind turbine is a ‘Use not Listed’ within Town Planning Scheme No. 3. Clause 3.2 of the Scheme identifies the process in considering use classes which are not listed in the Scheme. In broad terms where the proposed development is considered to be consistent with the objectives of the particular zone, Council has the ability to approve the development. Alternatively if Council is not satisfied that the use is consistent with the objectives of the zone it has the ability to refuse the development.

7. The land is zoned Special Residential. The general objectives for this zone are:

*“3.1.16 Special Residential*

*To permit the creation of lots between 2000m<sup>2</sup> and 1 hectare in suitable locations so as to provide for a range of residential opportunities and lot sizes within the Albany Shire.*

*To ensure that development proposals are appropriate to the physical and landscape conditions of the zone and subject to applicable standards and controls.”*

8. The more specific objectives relevant to Special Residential Area No. 12 (which this land is located within) states:

*“2.0 Objectives of Zone*

- *Create a spacious residential living environment that provides for other small scale uses where considered appropriate;*
- *Provides for a range of lot sizes so as to maximise purchaser choice;*
- *Retention of existing vegetation along with replanting within open space areas, road reserves and within allotments for site beautification, screening and general environmental benefit.”*

9. The general objectives for the Special Residential zone include the statement that development proposals are to be appropriate to the physical and landscape conditions of the zone. The Warrenup Ridge Estate is predominantly cleared and is mildly undulating. Given the topography and lack of mature vegetation, the proposed wind turbine will be relatively high in the landscape and be clearly visible from the road network and surrounding land parcels. For comparative purposes a standard wooden power pole is approximately 9.5 metres above ground level. On this basis it is difficult to ascertain that the proposal is appropriate to the physical and landscape conditions of the area as referred to in the objectives. With the exception of the street lights which stand at approximately 7.5 metres in height, there are no overhead powerlines, mature vegetation or other structures such as windmills or large rural outbuildings that are comparable in height to the proposed turbine.

10. In accordance with Clause 3.2 of the Scheme the proposal was referred to surrounding landowners inviting comment. At the end of the advertising period a total of six (6) submissions were received, with all but one objecting to the proposal.

11. In summary the submissions raised the following issues:
- The landscape in the area is very open and therefore concerned about visual impact;
  - The turbine is significantly higher than the proposed dwelling and existing structures in the area;
  - The turbine will create noise pollution with a droning hum at all hours of the day and night when wind conditions allow;
  - The power supply benefits are marginal and suggest a solar panel system would provide improved power generation;
  - Concerned that turbines will reduce property values;
  - The proposal would be appropriate in an area with larger landholdings;
  - The turbine would silhouette the skyline.
12. Many respondents raised the issue of power inefficiency associated with the turbine compared with readily available solar energy systems. According to the manufacturers specifications the turbine has the capacity to produce up to 1750kWh per year which represents an average of 4.7kWh per day; the equivalent to around a quarter of the daily power needs of an average family where wind conditions are favourable (18kWh per day). Whilst this point is noted, the economic viability of the turbine and it's effectiveness in terms of power output is not a material planning consideration.
13. The building height specified within the Scheme for this zone requires dwelling houses to be no higher than 7.5 metres from natural ground level. It further adds that the height of outbuildings will be at the discretion of Council in order to minimise the visual impacts of such buildings when viewed from Albany Highway and within the subdivision. Whilst the wind turbine is not an outbuilding for the purposes of Council's Outbuilding Policy, the later statement makes it clear that development should give consideration to visual amenity, and a wind turbine 12 metres in height is considerably taller than other buildings or structures in the immediate locality. The elevation submitted by the proponent identifies the height of the structure is significant in context with the existing single storey dwelling.
14. Whilst the Scheme does not provide specific guidance on the height of ancillary structures, such as that contemplated under this proposal, it would not be unreasonable to consider some dispensation above 7.5 metres for a slimline mast with a semi-translucent turbine on the basis that such a structure is less 'bulky' than a dwelling. To this extent a mast height of 7.5 metres with an overall height of 9.5 metres (catering for the energy ball) is considered acceptable.
15. The proposed wind turbine meets the setback requirements of the Scheme which stipulates a setback of 10 metres from side and front boundaries. The development is 10 metres from the closest side boundary and around 40 metres from the front boundary.

16. Under Clause 5.4 of the Scheme (Matters to be Considered) Council is required, amongst other matters, to give consideration to:
- (i) *The compatibility of a use or development with it's setting;*
  - (n) *The preservation of the amenity of the locality;*
  - (o) *The relationship of the proposal to development on adjoining land or on other land in the locality including but limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*
17. In relation to noise the proponent has supplied generic acoustic testing which has identified that the turbine does not generate a noise level which is distinguishable from the background noise level; the acoustic testing was done in Holland with wind speeds of up to 9 metres per second (30km/h). No data on noise levels above these wind conditions has been provided or is available, however it is anticipated that the background noise levels and the noise level from the turbine would rise concurrently. An electric brake kicks in at wind speeds over 20 metres per second (60km/h).
18. Recent wind data from the Albany Airport has identified that Albany has experienced 26 days of wind speed in excess of 30km/h, between January and August 2010, which is equivalent to 10% of the days involved. In any event it would be a requirement that the turbine would need to meet the noise requirements stipulated within the *EPA Noise Regulations 1997*, and where a breach is observed the proponent would need to modify the turbine to ensure compliance. To ensure the turbine is operated in a quiet manner into the future the proponent will need to maintain the turbine in good working order in accordance with the manufacturer's specifications.
19. The same model turbine has been erected on a property in Kendenup. Staff on invitation of the proponent visited this site to ascertain the visual impact of the structure and to assess the impacts of noise. In a field test, noise recording equipment (the 'yellow brick') was set up to measure the noise generating from the turbine at it's base and at a distance of 20 and 40 metres (which represents the position of the nearest dwellings to the proposal). As per the acoustic information provided by the proponent, the noise recording equipment could not distinguish any noise above the background noise level. Council's Principal Environmental Health Officer observed that despite the turbine blades turning vigorously, the turbine was barely audible and he is confident that noise pollution would not be generated by the proposal.
20. From a visual impact perspective, the turbine in Kendenup was entirely appropriate given it was situated on a large rural property flanked by mature vegetation and structures typically found within a rural area (ie. windmills, powerlines and large agricultural sheds) of an equivalent height to the turbine. It should be noted that the turbine pictured in the below photos is the 15 metre model rather than the 12 metre model as proposed in this case.





21. Staff have liaised with the proponent on the possibility of reducing the height of the turbine to 9.5 metres as discussed above and the proponent is willing to meet this height restriction. The proponent has advised that the impact on power output at this reduced height would be in the order of 5 to 7%. Staff believe that if the turbine could be reduced to 9.5 metres (incorporating a mast no higher than 7.5 metres) the visual impact would be reduced significantly. It is furthermore recommended that the components of the energy ball (including the glass reinforced polyester blades and stainless steel wing) are treated with a non-reflective material/coating to reduce the incidence of sunlight glare observed from the unit at Kendenup, to further reduce any impact.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

22. At the close of advertising six (6) submissions were received, with all but one submission objecting to the proposal.

#### **GOVERNMENT CONSULTATION**

23. No government consultation was required.

### **STATUTORY IMPLICATIONS**

24. Where an application is received and that use is not contained within the Zoning Table, As per Clause 3.2 of Town Planning Scheme No. 3, the Council may determine that the proposed use:
- a) is considered to be consistent with the objectives of the zone and is therefore permitted;*
  - b) may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 5.1.2.4 in considering an application for planning approval; or*
  - c) is not consistent with the objectives of the particular zone and is therefore not permitted.*
25. In accordance with Clause 3.2(b), Staff have advertised the use in order to allow Council to review public submissions prior to determining whether the development is consistent with the objectives of the Special Residential zone.
26. In addition to reviewing the use against the objectives of the Scheme, Council under Clause 5.4 (Matters to be Considered) should also take into account whether the proposal adequately addresses, amongst other matters, the following:
- (i) The compatibility of a use or development with it's setting;*
  - (n) The preservation of the amenity of the locality;*
  - (o) The relationship of the proposal to development on adjoining land or on other land in the locality including but limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

### **FINANCIAL IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

28. The City of Albany does not have a specific policy on wind turbines or more generally on the renewable energy structures and how Council should process such applications. In recent months a number of Council's have prepared a policy position on this type of development (the Shire of Denmark, City of Stirling and City of Geraldton-Greenough are examples).
29. It is recommended that the Council formulate a similar policy position as part of it's draft Local Planning Policy Manual that will be presented to Council at an upcoming Council meeting for consideration. Similar to the Outbuildings Policy it is recommended that turbine heights increase based on the size and zoning of a property.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

30. Staff are satisfied that the turbine would not cause noise pollution to surrounding residents, and it is noted that the proposal meets the setback requirements specified in the Scheme. If Council is satisfied that the structure as proposed (ie. 12 metres in height) is unlikely to impact on the visual amenity of the area, then it has the ability to approve the application subject to conditions. However as the proponent is agreeable to the reduced height it is recommended that this option not be considered.
31. The option proposed by staff is to support a smaller 9.5 metre high turbine with treatment being applied to the energy ball to reduce the visual impact through sunlight glare. If the height of the turbine was reduced to this level it is considered that the development would be in keeping with the objectives of the zone and would adequately address the matters to be considered under the Scheme as specified in Paragraph 26.
32. If Council refuses the application or the proponent is not satisfied with any of the conditions of approval, the proponent would be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City.

**SUMMARY CONCLUSION**

33. At 12 metres the proposed turbine is 4.5 metres higher than the maximum height for dwellings in this particular special residential area. Although the turbine is predominantly a mono-pole structure, the height of the pole in addition to the diameter of the wind energy ball (at 2 metres) will ensure it is clearly visible, particularly from surrounding properties.
34. Based on the topography of the estate and the exposed/open nature of the land in this area (with little to no screening vegetation) the structure at the height initially proposed in the opinion of staff would be visually dominant, detrimentally affecting the existing amenity in the area, although it is accepted that as landowners revegetate to maintain privacy, the structures will become less prominent in the landscape.
35. The reduction in height and the use of reflective materials on the energy ball as proposed by staff will however ensure the turbine is compatible with it's setting.
36. It is also important to note that a second wind turbine application by the same proponent has been proposed on Lot 158 Randall Crescent, Warrenup (two lots to the north-west) and can be viewed under Item 1.2.

**RECOMMENDATION**

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT a notice of Planning Scheme Consent be ISSUED for a 'Use Not Listed (Wind Turbine) at Lot 154 Randell Crescent, Warrenup subject to the following conditions:

- A. The maximum overall height of the wind turbine shall be reduced in height from 12 metres to 9.5 metres when measured from natural ground level.
- B. The location of the proposed structure is to be in accordance with the approved plans.
- C. The energy ball components (including the glass fibre polyester blades and wing) are to be treated with a non-reflective material to reduce the incidence of sunlight glare to the satisfaction of Council.
- D. The wind turbine is to be maintained as recommended by the supplier to ensure quiet operation is continued over its life.
- E. The turbine is not to exceed the maximum noise levels prescribed in the *EPA Noise Regulations 1997* when measured from adjacent noise sensitive premises.

ADVICE NOTE:

The proponent is advised that a Building Licence will need to be lodged for the turbine with full structural certification being provided.

**ITEM 1.3: RESOLUTION**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR DUFTY**

**THAT this item lay on the table until Council develops a Policy dealing with wind turbines.**

**CARRIED 11-0**

**Against the Motion:** Councillor Matla

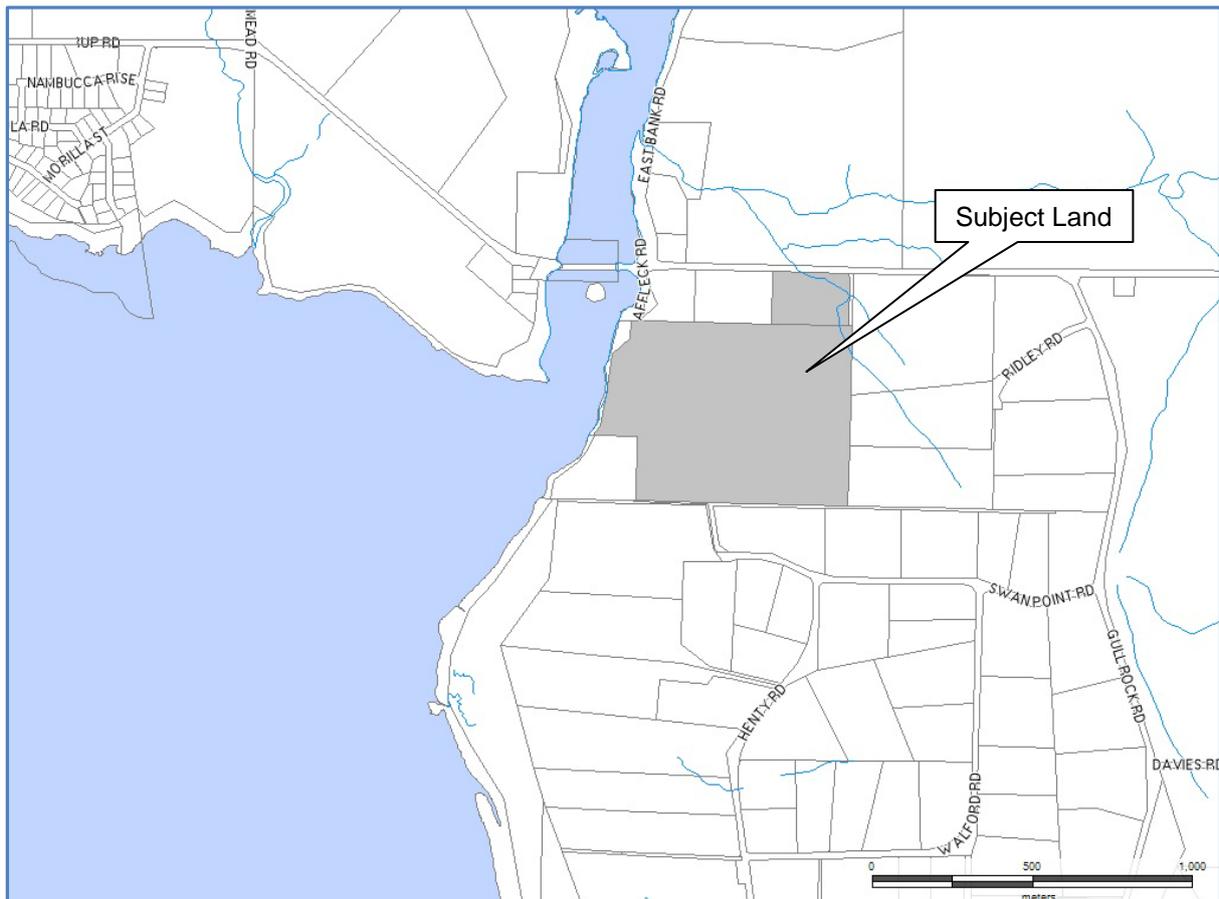
**Councillor's Reason:**

That Council develop a Policy dealing with Wind Turbines.

**1.4: SCHEME AMENDMENT REQUEST - LOT 422 AFFLECK ROAD  
AND LOT 183 NANARUP ROAD, KALGAN**

<b>File Number (Name of Ward)</b>	: SAR147 (Kalgan Ward)
<b>Land Description</b>	: Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan
<b>Proponent</b>	: Dykstra Planning
<b>Owner</b>	: Golden Eight (WA) Pty Ltd and Mr & Mrs B Carman
<b>Previous Reference</b>	: OCM 16/06/09 – Item 11.2.1 OCM 15/09/09 – Item 15.5.2 OCM 15/06/10 – Item 13.2.8
<b>Consulted References</b>	: Albany Local Planning Strategy
<b>Appendices</b>	: SAR 147 document
<b>Councillor Lounge</b>	: Copies of Submissions
<b>Reporting Officer(s)</b>	: Planning Officer (C McMurtrie)
<b>Responsible Officer(s)</b>	: Executive Director Development Services (G Bride)

**Maps and Diagrams:**

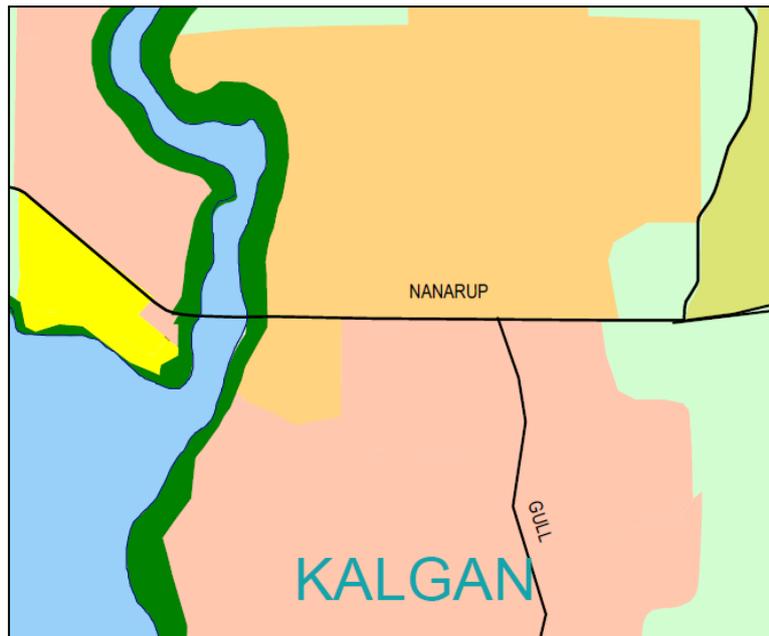


**IN BRIEF**

- Consider the submissions received from consultation with State Government agencies and determine whether to support the formal submission of a Scheme Amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' and 'Special Rural' zones to the 'Special Rural' and 'Special Residential' zones.
- It is recommended that Council advise the proponent that it is prepared to entertain the formal submission of a Scheme Amendment.

**BACKGROUND**

1. Scheme Amendment Request (SAR) 147 has been submitted for Council to assess the potential to rezone Lot 422 Swan Point Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' and 'Special Rural' zones to the 'Special Residential' and 'Special Rural' zones.
2. A previous SAR proposal (SAR140) over the subject land was lodged with Council in 2008 requesting that the land be rezoned from 'Rural' to 'Special Rural' with the designation as a Special Control Area be considered. The designation as a Special Control Area related to an overlay plan that was intended to secure future development potential to a full urban standard, to meet the objectives of the draft ALPS which had earmarked the subject land as being suitable for future urban purposes.
3. Council considered SAR 140 at its Ordinary Meeting on 16 June 2009 and while there were concerns raised over the likely environmental impacts of the proposed overlay plan, there were also questions raised through the government consultation process as to the most appropriate future use for the subject land. Ultimately Council resolved not to support the formal submission of a Scheme Amendment and to review the designation of the subject land in the draft ALPS.
4. Following further discussion at the Planning and Environment Strategy and Policy Committee on 23 July 2009 and its Ordinary Meeting on 15 September 2009, Council resolved that the subject land should retain its 'Future Urban' designation in the draft ALPS.
5. At its meeting dated 15 June 2010 Council considered the final adoption of the Albany Local Planning Strategy (ALPS). As part of the adoption of the Strategy the City formally resolved the following in relation to the subject land:  
  
*"THAT Council for land at Lower Kalgan agrees to MODIFY the 'Future Urban designation to 'Special Residential' on the north side of Nanarup Road and Lots 181, 184 and Pt Lots 183 and 422 on the south side of Nanarup Road (as per attached plan), and "Rural Residential" on the remainder of land on the south side of Nanarup Road and to the west of the Kalgan River."*
6. The excerpt from the ALPS (Map 9B) is attached below:



7. Council is now required to determine its support, or otherwise, for the current SAR proposal.

#### DISCUSSION

8. The subject land has an area of 44.64ha, with Lot 422 abutting the foreshore reserve along the eastern bank of Oyster Harbour and the mouth of the Kalgan River. Lot 183 lies to the north, between Lot 422 and Nanarup Road. The land rises gently from the north and west, towards the centre of Lot 422, where it levels out to form a broad ridge continuing to the south-east.
9. Much of the subject land has been cleared of vegetation in the past and is now under pasture. However, there are still substantial stands of remnant native vegetation, with the largest of these extending along the southern boundary of Lot 422, before reaching north in a reverse L-shape, in the eastern half of the lot. Another substantial area of remnant vegetation stands adjacent to the northern boundary of Lot 422 at its mid-point.
10. A dwelling and associated outbuildings stand in a loose cluster between the western boundary and the centre of Lot 422, with access to Nanarup Road via Affleck Road, which reaches the lot at its north-west corner. There is also a 10m wide Right of Way connecting the north-east corner of the lot back to Nanarup Road, whilst the southern boundary abuts the Swan Point Road Reserve. However, the constructed road ends approximately 180m from the lot boundary.
11. A dwelling and large outbuilding stand at the south-western corner of Lot 183 and a dam lies at the south-eastern corner. The northern boundary of Lot 183 fronts Nanarup Road and an access track runs from near the north-western corner of the lot to the house.
12. The land to the west of Lot 183, Lot 183 itself, the land to the east of Lots 183 and 422 and the land to the south of Lot 422 form part of 'Special Rural' Zone No. 6, which is comprised of lots of 2ha and above. Lot 14 Swan Point road, which lies at the south-west corner of Lot 422, is zoned 'Rural'.

13. The area has been identified as being suitable for 'Special Residential' development in the Albany Local Planning Strategy (ALPS) and the SAR proposal is considered to be consistent with this for the reasons outlined in Paragraph 20 (below).
14. Furthermore, the advice received from the Government consultation process is positive, particularly that from the Department of Environment and Conservation (DEC), who in the past raised concerns with the SAR140 proposal due to that proposal's impact on remnant vegetation.
15. Given that the proposal is consistent with the objectives of the ALPS and would 'round-off' an established rural residential area, staff would recommend that Council advise the proponent that it would be prepared to entertain the submission of a formal Scheme Amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' and 'Special Rural' zones to the 'Special Residential' and 'Special Rural' zones.

### GOVERNMENT CONSULTATION

16. The SAR was referred to the Department of Planning, WA Gas Networks Pty Ltd, Telstra, Water Corporation, Western Power, the Department of Agriculture and Food, the Department of Health, the Department of Water (DoW), the Department of Environment and Conservation (DEC) and the Fire and Emergency Services Authority (FESA). Responses were received from Telstra, Water Corporation, DoW and DEC, who commented as follows:

**Telstra:**

Telstra has no objection to the proposal.

**Water Corporation:**

The subject land is within the Water Corporation's Water Operating License Area and as such, the Western Australian Planning Commission requires that reticulated water be supplied to all proposed lots that 4ha or less in area. The Water Corporation advises that reticulated water can be supplied to this development. However, this will require extension of the reticulated main that terminates on the western side of the Kalgan River Bridge. The existing water supply main that abuts this land in Nanarup Road is not available to service developments in this locality.

**Department of Water:**

The subject site is located adjacent to the nationally significant Oyster Harbour. Due to the potential risk from the proposed development to the receiving environment, the DoW considers that a Local Water Management Strategy (LWMS) should be prepared and presented in conjunction with a formal application to amend the City of Albany Town Planning Scheme.

LWMS should be consistent with the policy measures outlined in *State Planning Policy 2.9 – Water Resources*:

*"Planning to guide water resources management should be integrated with land use planning decisions to achieve more sustainable development and protection of our water resources".*

and

*“...the implementation of water sensitive urban design principles for proposed or new development, including residential, industrial, commercial, and special rural development, that is consistent with best practices in sustainable total water cycle management with particular regard to the functioning of stormwater management as well as the need to maximise control of stormwater at the source”.*

The LWMS should contain a level of information that reflects the site constraints and risk to water resources and a commitment to prepare an Urban Water Management Plan at subdivision. The principles identified in the LWMS should be consistent with *Liveable Neighbourhoods (WAPC, 2007)* and the *Stormwater Management Manual for Western Australia (DoW 2004-2007)* and include, but not be limited to:

- Proposed development
- Pre-development environment
- Design Criteria
- Water Sustainability Initiatives
- Stormwater and groundwater management strategy
- Monitoring
- Implementation at subdivision through an Urban Water Management Plan.

**Department of Environment and Conservation:**

Within the context of environmental impacts and vegetation protection, this revised proposal for the subject land is a marked improvement upon the proposal previously submitted in late 2008. In particular, steps have been taken to protect the better quality native vegetation through provision of two public conservation reserves and the foreshore reserve has been retained with the intent of conservation according to the legend of Figure 2.

Naturally some further refinements will inevitably be required at the subdivision proposal stage, including greater attention to building envelope setbacks/hazard separation zones required, depending on the bushfire hazard identified to this area.

You are also referred to our earlier comments of 12 January 2009 on the previous SAR, in particular regarding the location of the subject land adjacent to a nationally listed and regionally significant wetland and the general occurrence of a number of threatened fauna species in the locality.

**STATUTORY IMPLICATIONS**

17. A SAR is not a statutory process under the *Planning and Development Act 2005*. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
18. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

20. Council's decision on the SAR proposal should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.

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

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

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

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 4, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

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

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

22. The proposal is considered to be consistent with Section 8.3.5 of the ALPS, as it would:

- discourage the creation of additional rural town sites for living purposes;
- avoid the development of a Rural Living area on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity;
- avoid the development of a Rural Living area on future and potential long-term urban areas, as the land has been identified in the ALPS as suitable for Special Rural purposes; and
- create lot sizes similar to those to the east and south of the subject land, which are being used for similar rural residential living purposes, thereby minimising the potential for generating land-use conflicts.

**POLICY IMPLICATIONS**

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

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

24. Council has the following options in relation to this item, which are:
- To support the SAR proposal without modifications;
  - To support the SAR proposal with modifications; or
  - To reject the SAR proposal.
25. Should Council support the SAR proposal, it will progress to a formal Scheme Amendment; the Amendment undergoes a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. All Scheme Amendments require the endorsement of the WA Planning Commission and approval from the Minister for Planning.
26. If Council were to reject the SAR proposal, the proponent would have the following options:
- To not proceed with the SAR proposal;
  - To lodge a formal Scheme Amendment and request consideration by Council, irrespective of the outcome of the SAR.

### **SUMMARY CONCLUSION**

27. Staff would recommend that Council advise the proponent that it would be prepared to entertain the submission of a formal Scheme Amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' and 'Special Rural' zones to the 'Special Residential' and 'Special Rural' zones, on the basis that rezoning of the land would create a logical extension of an established rural residential area, in keeping with the objectives of Section 8.3.5 of the ALPS.

**RECOMMENDATION**

**ITEM 1.4: RESPONSIBLE OFFICER RECOMMENDATION**

The proponent be **ADVISED** that Council is prepared to entertain the submission of a formal scheme amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' and 'Special Rural' zones to the 'Special Rural' and 'Special Residential' zones subject to the following matters being addressed:

- A. A detailed land capability and environmental report being prepared;
- B. The capacity of the land to be connected to reticulated water to be resolved;
- C. A fire management plan being prepared;
- D. The preparation of a Local Water Management Strategy in accordance with *State Planning Policy 2.9 – Water Resources, Liveable Neighbourhoods (WAPC, 2007)* and the *Stormwater Management Manual for Western Australia (DOW 2004-2007)*; and
- E. The boundary of the foreshore reserve being mapped in consultation with Council and the Department of Water.

**ITEM 1.4: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR MATLA**  
**SECONDED: COUNCILLOR DUFTY**

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

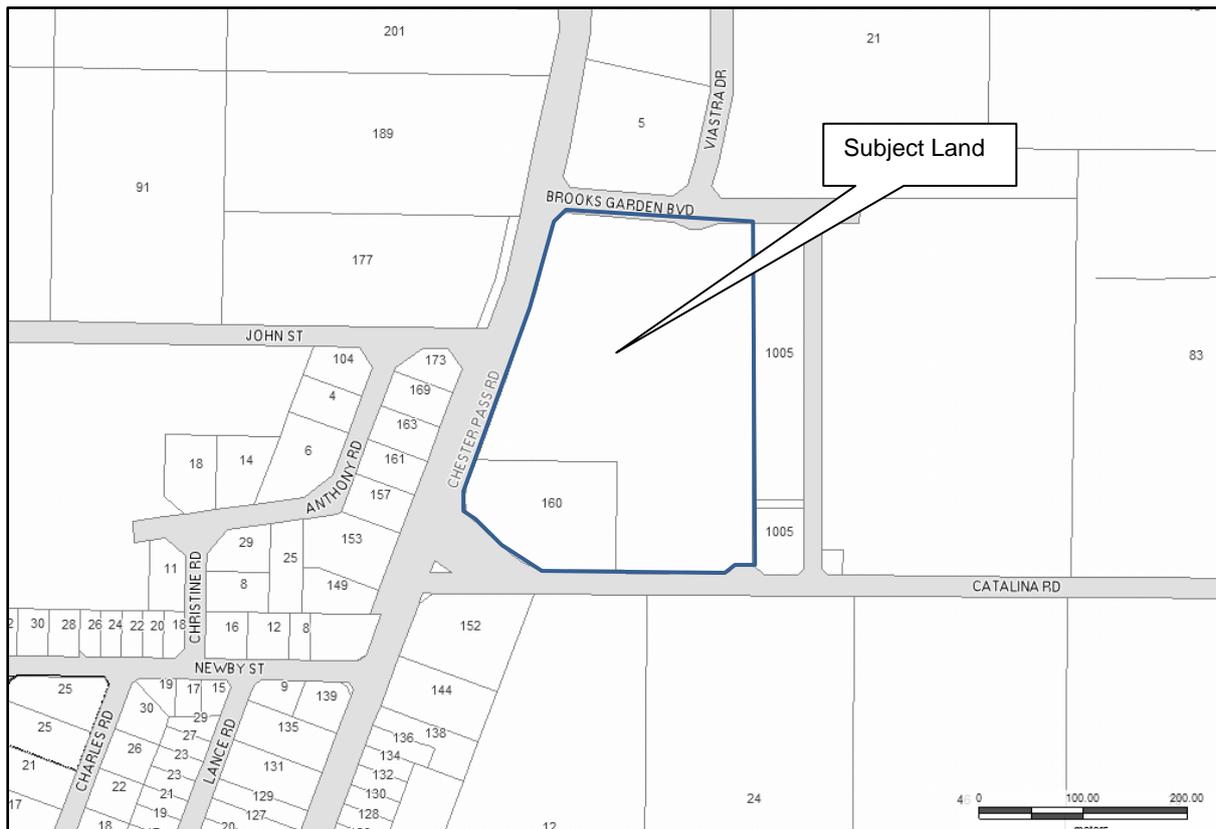
**CARRIED 9-3**

**Against the Motion:** Councillors J Bostock, D Bostock and R Paver

**1.5: SCHEME AMENDMENT REQUEST – LOT 1001 CATALINA ROAD AND LOT 1007 CHESTER PASS ROAD, LANGE**

- File Number (Name of Ward)** : SAR148 (Yakamia Ward)
- Land Description** : Lot 1001 (35) Catalina Road and Lot 1007 (160) Chester Pass Road, Lange
- Disclosure of Interest** : Nil
- Proponent** : TPG Town Planning and Urban Design (TPG)
- Owner** : CPT Custodian Pty Ltd
- Business Entity Name** : CPT Custodian Pty Ltd
- Appendices** : SAR 148  
: Submission letter Dept of Planning
- Consulted References** : ALPS and Activity Centres Planning Strategy
- Councillor Lounge** : Economic Impact Assessment (Urbis)
- Reporting Officer(s)** : Senior Planning Officer (J van der Mescht)
- Responsible Officer(s)** : Executive Director Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- Council is requested to consider a Scheme Amendment Request (SAR) to rezone Lot 1001 Catalina Road and 1007 Chester Pass Road, Lange from the “Mixed Business” zone to the “Commercial” zone and thus facilitating the future development of a Discount Department Store at the Centre.
- It is recommended that the City advise the proponent that it is not prepared to entertain the submission of a formal scheme amendment to rezone the subject lot.
- It is also recommended that Council encourages the proponent to explore opportunities to locate the Discount Department store within the Albany town centre.

**BACKGROUND**

1. Scheme Amendment Request (SAR) 148 has been submitted to Council to consider the potential for rezoning Lot 1001 Catalina Road and Lot 1007 Chester Pass Road, Lange (the subject site) from the “Mixed Business” zone to the “Commercial” zone.
2. The subject site is zoned “Mixed Business” and presently contains a supermarket of approximately 3,500m<sup>2</sup> retail floor space and specialty shops of approximately 2,347m<sup>2</sup> in one building, and bulky goods outlets (a furniture store and up until recently a hardware store) in a separate building of approximately 4,343m<sup>2</sup>. A Petrol Station is also located at the northwest corner of the site, at the intersection of Chester Pass Road and Brooks Garden Boulevard. Approximately 551 car parking bays are provided to serve these current uses.
3. Immediately north of the site on the opposite side of Brooks Garden Boulevard, is an existing bulky goods outlet of approximately 3,500m<sup>2</sup> (involving Harvey Norman and two vacant tenancies) and an Aged Persons Village. The area to the west of the site fronting Chester Pass Road is currently being used for other commercial and light industrial uses. The area to the east of the site is zoned “Residential Development” and the lots to the south are zoned “Residential Development”.
4. Council is now required to determine its support, or otherwise, for the SAR proposal.

**DISCUSSION**

5. The SAR deals with a proposal to increase the retail floor space restrictions applying to the site to accommodate the development of a Discount Department Store (DDS) and additional speciality retail outlets on the site.
6. The SAR proposal includes a detailed site plan identifying the development of a DDS of approximately 6,500m<sup>2</sup> NLA and speciality retail store floor space of approximately 2,541m<sup>2</sup>. This floor space will be in addition to the existing development of approximately 5,847m<sup>2</sup>, which involves the supermarket of approximately 3,500m<sup>2</sup> and speciality stores of 2,347m<sup>2</sup>. The total NLA floor space proposed for this centre (excluding bulky goods retail stores) would be 14,888m<sup>2</sup>.

7. The total floor space proposed therefore exceeds the floor space of 5000m<sup>2</sup> identified in ALPS for Neighbourhood centres by approximately 9,888m<sup>2</sup>.
8. The proposed change in zoning from “Mixed Business” to “Commercial” will also allow the development of uses that are currently permissible in the “Commercial” zone, which include office, fast food outlet and a restaurant.
9. The proposed rezoning and development of a DDS would clearly change the intended function of the centre from a ‘Neighbourhood Shopping Centre’ as identified in ALPS to a ‘District Centre’. Whilst it acknowledged that the subject land will accommodate the next District Centre for the City, the timing of this status change and the implications of such a change is the issue that Council needs to contemplate.
10. The *Activity Centres Planning Strategy 2009 (ACPS)* outlines a key strategic objective for the subject land, as per the following (emphasis added in bold text):

*“6.5.4 Centro Albany*

*No further expansion of this existing centre is recommended within the useful life of this ACPS.*

*At the time of the next strategy review, **without any presumption that any expansion should occur**, consideration **could be** given to the possibility of further increasing the size of this centre, should demographic analysis warrant it and the developers still wish to do so.”*

11. The proponent has stated that it will take approximately 5 years to realise a DDS on the site after rezoning, development approvals (planning consent and building licences) and construction periods are taken into account, and therefore the centre would only commence operation at the time of the next ACPS review. It should be noted however, as identified in Section 6.5.4 of the ACPS, that there should be no presumption that the next ACPS review would justify an increase in the size of the centre proposed.
12. An increase in the floor space could be investigated in the future (beyond the life of the existing ALPS and ACPS), however it is not envisaged that the purpose and function of existing neighbourhood centre would change during this period.
13. The Economic Impact Assessment (EIA) that was prepared by Urbis in February 2010 on behalf of the proponent concludes that:

*“The staged development of Albany Brooks Garden (Centro Albany) can be supported by the market and is not expected to adversely impact the role and function of other activity centres in the hierarchy. Market growth provides the demand to support an expansion of retailing in Albany and would offset the assessed one-off impacts for Stage 3 and Stage 4. A significant share of the business sourced by the expansion to the Albany Brooks Garden (Centro Albany) centre would be the result of a redirection of spending currently escaping to centres outside of Albany (e.g. Perth, etc.).”*

14. The proponent has advised that the release of floorspace associated with the future specialty stores (Stage 4) could be staged. Whilst such a staging approach may marginally reduce the impact on existing centres, the author of the ACPS has advised staff that the DDS itself will still act as the 'magnet' in pulling retail activity away from the existing centres, and particularly the town centre.
15. The proponent has advised that the modelling undertaken by Urbis shows that the proposed increase in retail floor space at Brooks Garden will not adversely affect the viability of existing retail centres, and conversely that reduced 'escape of expenditure' as a result of the DDS would ultimately benefit existing centres. These statements conflict with the ACPS prepared by Council's consultant (Shrapnel Planning).
16. The proposal was referred to the Department of Planning for comment as part of the procedure for assessing a SAR.
17. The Department of Planning does not support the proposal on the basis that it is inconsistent with the recently adopted ALPS and ACPS. The Department would require a formal amendment to these strategic documents, if Council wishes to support the request.
18. It is acknowledged that there is strong community support for another DDS in Albany. It is important to note that the ACPS does not prevent the establishment of a DDS within the Albany town centre and such a store could be accommodated on an appropriately zoned site in a considerably shorter time frame. The ACPS identifies significant concerns with locating such a store prematurely at Brooks Gardens, as it is likely to detrimentally impact the viability of the town centre (these concerns are outlined in the Strategic Implications section of this report).
19. Staff recommend that the proposal not be supported as it inconsistent with the strategic intent of the land according to the ALPS and the ACPS.
20. The Development of a DDS on an alternative site that is appropriately zoned or strategically identified for this purpose is encouraged.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

21. Not applicable to this stage of the process.

#### **GOVERNMENT CONSULTATION**

22. The SAR was referred to the Department of Planning and the response received is attached to this report and summarised below:
  - The Department of Planning does not support the proposed scheme amendment request on the basis that the request is contrary to the newly endorsed Albany Local Planning Strategy (ALPS) – June 2010 and supporting Activities Centres Planning Strategy (ACPS) - June 2009.

- The Department also recommends that should Council wish to entertain supporting the request that both strategies be reviewed prior to the intended five (5) to eight (8) year time period to properly inform any decisions on the matter.

### STATUTORY IMPLICATIONS

23. A SAR is not a statutory process under the *Planning and Development Act 2005*. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
24. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.

### FINANCIAL IMPLICATIONS

25. Should Council support the SAR, it is clear that the ALPS and ACPS would need to be amended. Council would need to take ownership of the content of a revised ACPS (given the changes would be fundamentally at odds with the consultant's findings) and would need to modify a considerable portion of the document's content. Depending on the Department of Planning's requirements, technical evidence may be required to justify the change to the ACPS and external assistance from a retail planning consultant may be required to complete a revised document. It is difficult to quantify a cost to Council in this regard.

### STRATEGIC IMPLICATIONS

26. Council's decision on the Scheme Amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) and the Activity Centres Planning Strategy (ACPS) as the principal land use planning strategies for the City.
27. The most pertinent matters in ALPS are as follows:

#### **Section 8.5.2 - STRATEGIC OBJECTIVE:**

*"Promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern....."*

*The ALPS supports the growth of the Albany city centre and surrounding urban area as the main service, retail and office-employment hub for the next 20 years.....*

*The City's retail core will continue to be clustered around upper York Street, Albany Highway and the Lockyer Avenue roundabout. The central section of York Street is an ideal position for shops, offices and mixed-use development. The southern portion of York Street accommodates community and tourism activity which will be complemented by an Albany waterfront development incorporating a hotel and an entertainment centre. This is indicated as a Regional Centre on Map 9B.*

**ACTIONS**

Reinforce Albany's role as the regional centre in the Lower Great Southern (**CoA**).

Include the CBD area as a Regional Centre zone in the LPS1 and place fringe commercial areas in complementary mixed-business and highway commercial zones (**CoA**).

**STRATEGIC OBJECTIVE:** *“Retain existing and develop new staged neighbourhood and local centres incorporating retailing as a primary focus.” ...*

*Neighbourhood centres (floor space of 3500 to 5000m<sup>2</sup> maximum net lettable area [NLA]) will continue to cater for convenience shopping based on a typical setup of a small supermarket with some small offices, local services and community facilities. The ALPS supports the existing centres at Lange, Yakamia and Spencer Park and the development of the planned centres at Orana and Bayonet Head north and south. These are shown as Neighbourhood Centres in Map 9B.”*

28. The most pertinent matters according to the Activity Centres Planning Strategy objectives are as follows (emphasis added in bold text);

*“4.0 Future Floorspace Demand*

*The purpose of this section is to provide an indication of the overall future demand for retail and other commercial floorspace in Albany, together with an estimate of how it could be distributed amongst the main categories of activity centres. The quantity of retail and other commercial floorspace within a regional centre such as Albany is primarily a function of the regional economy and population....*

*....It is important to note that the floorspace projections in Table 5 are not intended to be predictions, nor targets, but general guidelines for urban planning purposes. It is highly likely that the actual physical production of new commercial floorspace, particularly Other Retail floorspace, will exceed the predictions presented in Table 5 as older, relatively poorly located floorspace is vacated and redeveloped for non-retail purposes as the current occupants relocate to more modern and convenient new premises.*

*Due to the presence (and economic desirability) of such commercial dynamism, **it is a specific objective of this ACPS not to artificially limit the overall quantity of retail or other commercial floorspace in Albany. Rather, the intention is, where possible, to guide future development into appropriate locations** and (if necessary in order to achieve wider planning objectives) timeframes. It is therefore intended that the market will, for the most part, determine the overall supply and distribution of retail and other commercial floorspace within the framework of a defined hierarchy of activity centres.”*

### 5.1 Role & Viability of the Town Centre

*The future viability of the town centre is a major issue in Albany. The historic town centre is not centrally located in relation to the expanding urban area. There has thus been a steady northwards shift in the retail centre of gravity of the town centre so that now the retail core clearly is focussed in the vicinity of the Albany Highway/York street roundabout. Anecdotal evidence strongly suggests that this shift has been occurring over time to the periodic discomfort of retailers in York Street.*

***However, one of the key objectives implied or clearly stated by all participants in the stakeholder discussions was the imperative of ensuring that the viability of the historic town centre is maintained.*** From a strategic planning perspective, in the Albany context, this is a valid and very important objective. Although practical and modern, the new shopping facilities north of the York Street roundabout are quite ordinary and are of a design that can be found in any mall-based shopping centres across the country. These facilities, while needed to serve the contemporary expectations of the population, could never be a tourism attraction in their own right.

Clearly, Albany needs tourism to help buffer its economy against the uncertainties associated with dependence on agriculture and other forms of primary production, on which its economy is so strongly based at present. Unlike many other WA towns dependent on primary industries, Albany has the potential to be highly attractive to tourists, and thus the need for a good alternative base industry is supported by the natural endowments necessary to foster one. ***A viable York Street, particularly but not exclusively its southern end, is absolutely vital to the maintenance of the attractiveness of Albany as a tourism destination.*** Further reasons why it is appropriate to maintain the viability of the main street town centre are:

- *From an urban planning and design perspective the "main street" form of development exhibited so well in York Street has become recognized in recent times as a most desirable retail commercial development form, however, this is a form that, for numerous reasons, has proven very difficult to effectively and attractively reproduce in new developments.*
- ***Even though protecting retail businesses from competition is not in itself a valid planning objective, the fact is that a main street town centre has been maintained over a long period through zoning and other planning controls,***
- *In Albany the rationale for maintaining a viable town centre extends well beyond these basic issues of equity and fairness. The economic value of a viable town centre to the future of the tourism industry in Albany cannot be overstated. **It is imperative that maintenance of the viability of the town centre remains the highest objective of strategic centres planning in the city.***

### 5.2 Centro Albany (Formerly Farm Fresh)

*The establishment of a large neighbourhood centre and several significant bulky goods outlets at this site demonstrates that in an environment of high accessibility, such as occurs in Albany, centres may establish in locations that in a more restrictive metropolitan context would not work. Centro Albany is an example of this. It exists at the periphery of urban Albany, yet seems to be quite popular and successful because it has some attractive major tenants (Woolworths and Harvey Norman) and, notwithstanding its peripheral location, is very easy for most of the town's population to access.*

*The potential for attractive alternative centres to be created in an historic coastal town, where the traditional town centre is "off-centre" to the expanding urban area, highlights the need to carefully consider the future role and viability of the town centre when considering additional major retail developments. This is particularly relevant to Centro Albany, where it is well known that the developer of the site has aspirations to create a larger (district) centre.*

*The various development proposals for Centro Albany presented to the Council over a period of years have been accompanied by studies estimating the likely impact of each proposal on existing retail centres in Albany. All of these studies have concluded that the impact of the proposals on existing retail outlets would be acceptable.*

***However, when estimates of proposed future growth of Centro Albany are related to the population forecasts for the town and region, it becomes clear that further major expansions of Centro Albany in the short term would either have a significant impact on other retail uses in the town or would not be fully tenanted. There is no prospect that the full Centro Albany development, as envisaged by the developers, could occur and be fully tenanted, without some significant impacts occurring elsewhere in Albany. Given the size and importance, yet relative vulnerability, of the town centre, it is likely that a considerable impact would be felt there.***

***In this regard, one of the key recommendations of this ACPS is, on the one hand, to acknowledge the possible future (longer term) potential of Centro Albany as a larger centre; but on the other hand to prohibit further expansion beyond current approvals for the useful life of this ACPS in order to ensure that further growth of the centre is more in line with regional population growth, thus minimising impacts on other retail centres - particularly the Albany town centre."***

### “5.3 District Centres

*The existing strategy identified a location for a "district" centre adjacent to Mercer Road in Walmsley. A first stage development as a neighbourhood centre was envisaged as early as 2006, while a fully-fledged district centre was seen as a much longer term proposition, although it was acknowledged that subsequent reviews should re-examine this issue. There are difficulties associated with maintaining this aspect of the existing commercial strategy: Walmsley was seen as the site for Albany's second DDS (the first having been recommended for - and subsequently constructed in - the town centre). It was suggested that this DDS would not be needed until 2021, however, a second town centre DDS has now been established, and proposals for a third DDS are being promoted by the owners of Centro Albany.*

*As discussed earlier there are also problems associated with the concept of a "District" centre within the context of a town like Albany. The main anchors of such a centre are a major supermarket and a DDS, both of which would serve a proportion of retail trade in the regional catchment, rather than serving the needs of a "district" in urban Albany.*

*Due to the strong intentions of the Centro Albany proponents and the apparent lack of interest by a proponent in a long term centre in Walmsley, this ACPS recommends that the Centro Albany site becomes the recognised site for any future "district" centre, **although such development should not occur during the useful life of this strategy, but (if at all) only after a review of its implications in a subsequent strategy.***

### “6.5.4 Centro Albany

*No further expansion of this existing centre is recommended within the useful life of this ACPS.*

*At the time of the next strategy review, **without any presumption that any expansion should occur**, consideration could be given to the possibility of further increasing the size of this centre, should demographic analysis warrant it and the developers still wish to do so.”*

## **POLICY IMPLICATIONS**

29. The subject land is affected by the Catalina Planning Framework which establishes controls on built form over the subject land (scale, bulk and height of future buildings) and allocates a maximum of 5,000m<sup>2</sup> NLA for retail floor space and 500m<sup>2</sup> for office space (within Precinct 1). The proposal would not be in accordance with Council Policy.

## **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

30. Council has the following options in relation to this item, which are:
- To support the SAR proposal without modifications;
  - To support the SAR proposal with modifications; or
  - To refuse to support the SAR proposal.

31. Should Council support the SAR proposal, the Department of Planning have advised that ALPS and the ACPS will need to be revised prior to the consideration of a formal scheme amendment.
32. If Council were to refuse the SAR proposal, the proponent would have the following options:
  - To not proceed with the SAR proposal;
  - To lodge a formal scheme amendment and request consideration by Council, irrespective of the outcome of the SAR.

**SUMMARY CONCLUSION**

33. The SAR is considered to be inconsistent with the strategic planning direction set by the City of Albany in ALPS and ACPS. Staff therefore recommends that Council does not support the SAR proposal.
34. The Development of a DDS on an alternative site that is appropriately zoned or strategically identified for this purpose in ALPS should be encouraged.
35. This proposal is therefore clearly in conflict with the Activity Centres Planning Strategy and the Albany Local Planning Strategy.

**RECOMMENDATION**

## ITEM 1.5: RESPONSIBLE OFFICER RECOMMENDATION

- 1) The proponent be ADVISED that Council is NOT PREPARED to entertain the submission of a formal scheme amendment to rezone Lot 1001 Catalina Road and 1007 Chester Pass Road, Lange from the Mixed Business zone to the Commercial zone, and in doing so increasing the maximum floor space allocations for the site within the Scheme, as the proposal is not in accordance with the Albany Local Planning Strategy and the Activity Centres Planning Strategy; and
- 2) That an alternative, appropriate zoned or strategically identified site be CONSIDERED for the DDS proposal should the proponent wish to proceed with such development in the short term.

## ITEM 1.5: ALTERNATE RECOMMENDATION BY MAYOR EVANS

- 1) Council CONSIDER undertaking a review of the Albany Centres Planning Strategy, which shall consider the findings of the Economic Impact Statement prepared by Urbis, as part of its budget deliberations for the 2011/12 financial year.
- 2) Council ADVISE the proponent that it would be prepared to entertain the submission of a scheme amendment to rezone Lot 1001 Catalina Road and 1007 Chester Pass Road, Lange from the Mixed Business zone to the Commercial zone, and in doing so increase the maximum floor space allocations for the site within the Scheme, subject to a revised Strategy:
  - a) designating the subject land as a 'District Centre'; and
  - b) identifying through detailed analysis that the construction of a Discount Department Store, and associated specialty stores, within 5 years would not have a detrimental impact on existing centres, particularly the Albany Town Centre.

**Councillor's Reason**

Albany is a growing regional centre and the proposal by Centro to establish a Discount Department Store will create additional shopping choices for the residents of Albany. The detailed Economic Impact Statement provided by Centro details that the inclusion of a Discount Department Store at Brooks Garden would not negatively affect the operation of other existing retailing centres in Albany.

Whilst it is recognised that the Economic Impact Statement is written on behalf of Centro, given the importance of this issue to the Albany community, it is important that the Activity Centres Planning Strategy is reviewed in light of this document, so that the timing and impact of a DDS at Brooks Garden can be properly assessed.

**ITEM 1.5: MOTION (ALTERNATE RECOMMENDATION BY MAYOR EVANS)**

- 1) Council **CONSIDER** undertaking a review of the Albany Centres Planning Strategy, which shall consider the findings of the Economic Impact Statement prepared by Urbis, as part of its budget deliberations for the 2011/12 financial year.
- 2) Council **ADVISE** the proponent that it would be prepared to entertain the submission of a scheme amendment to rezone Lot 1001 Catalina Road and 1007 Chester Pass Road, Lange from the Mixed Business zone to the Commercial zone, and in doing so increase the maximum floor space allocations for the site within the Scheme, subject to a revised Strategy:
  - a) designating the subject land as a 'District Centre'; and
  - b) identifying through detailed analysis that the construction of a Discount Department Store, and associated specialty stores, within 5 years would not have a detrimental impact on existing centres, particularly the Albany Town Centre.

**MOVED: MAYOR EVANS**

**SECONDED: COUNCILLOR HAMMOND**

**THAT the Alternate Recommendation by Mayor Evans be ADOPTED.**

**ITEM 1.5: AMENDMENT**

**MOVED: COUNCILLOR D BOSTOCK**

**SECONDED: COUNCILLOR HAMMOND**

**THAT the motion be amended by deleting 1 and 2 (b).**

**LOST 5-7**

**The MOTION was then PUT and CARRIED.**

**CARRIED 11-1**

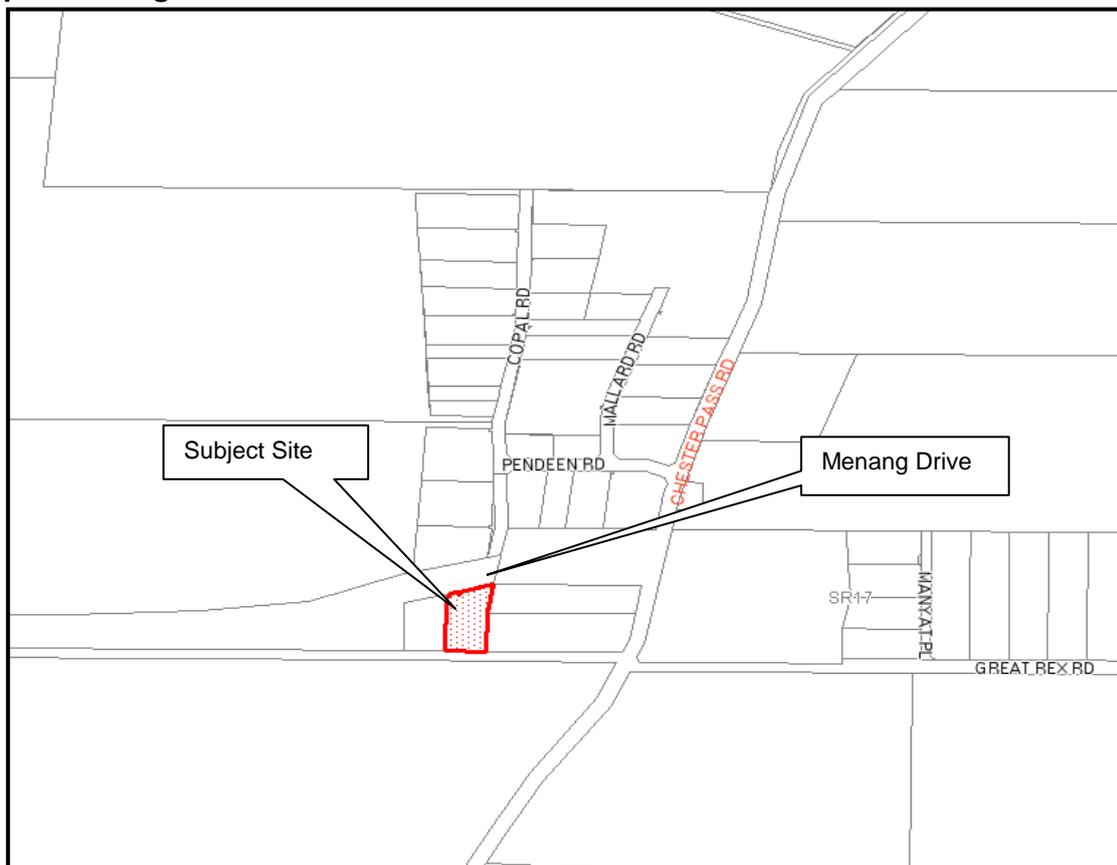
**For the Amendment:** Councillors J Bostock, D Bostock, R Hammond, C Holden and R Paver

**Against the Motion:** Councillor Dufty

**1.6: INITIATION OF SCHEME AMENDMENT - LOT 90 MENANG  
DRIVE, WILLYUNG**

The CEO declared a **FINANCIAL** interest in this item being the CEO's wife holds shares in Caltex in excess of the prescribed limit. The CEO remained in the Chamber.

<b>File Number (Name of Ward)</b>	: AMD 306 (Kalgan Ward)
<b>Land Description</b>	: Lot 90 Menang Drive, Willyung
<b>Proponent</b>	: Planning Solutions
<b>Owner</b>	: Caltex Australia Petroleum Ltd
<b>Business Entity Name</b>	: Caltex Australia Petroleum Ltd
<b>Appendices</b>	: Scheme Amendment Document
<b>Consulted References</b>	: EPA Guidance Statement No. 3
<b>Reporting Officer(s)</b>	: Senior Project Planner (A Nicoll)
<b>Responsible Officer</b>	: Executive Director Development Services (G Bride)

**Maps and Diagrams:****IN BRIEF**

- An application has been received to amend TPS3 in order to allow a petrol filling station and associated shop to be developed at Lot 90 Menang Drive, Willyung.
- It is recommended that Council initiate the amendment without modification.

**BACKGROUND**

1. Council had previously received a development application involving the sale of fuel and incidental convenience items at Lot 90 Menang Drive, Willyung. Although staff were supportive of the proposal, there was no ability under the current zoning restrictions to approve the uses proposed, and the application was refused for the following reasons:
  - *The use 'Shop', shown as Convenience Store on the submitted plans, is a prohibited use within the Service Industry zone.*
  - *The proposed use of 'Petrol Filling Station' is not incidental or subservient to any other use proposed on the site and therefore cannot be approved within the Service Industry zone.*
  - *The use 'Fuel Depot' has not been applied to the proposal on the basis that there is no bulk storage and sale of fuel from the subject land on a wholesale basis (ie. the fuel is sold via retail direct to the final consumer).*
2. On staff's advice the proponent has lodged an application to amend the Scheme to accommodate the proposed land uses of petrol filling station and shop at Lot 90 Menang Drive, Willyung. The amendment involves the following:
  1. Amend the scheme map to annotate an 'Additional Use' to Lot 90 Menang Drive, Willyung; and,
  2. Amend Schedule 2 – Additional Use Sites of the City of Albany Town Planning Scheme No. 3 as follows:

Code No	Land Particulars	Additional Uses	Special Conditions
12	Lot 90 Menang Drive, Willyung	Petrol Filling Station and Shop	The shop land use must be associated with the Petrol Filling Station.

**DISCUSSION**

3. The subject site is presently vacant and adjoins a mixture of uses including industrial land, an industrial buffer area, rural land uses and a parks and recreation reserve.
4. The proposed additional uses (petrol filling station and shop) will provide for refuelling operations, a shop associated with the refuelling operations, fuel storage and access to the subject site by predominantly large commercial vehicles and trucks.
5. The proposal is considered consistent with the general objective of the 'Special Industry (Elizabeth Street)', which is to; *provide sites for a diverse range of industries.*

6. The following is envisaged for the development of the land:
- The establishment of three heavy vehicle bays and shelter with diesel bowsers operating on a 24 hour / 7 days per week basis;
  - The construction of underground fuel tanks;
  - An administration building and shop;
  - Truck parking and maintenance depot;
  - A wash down bay;
  - Infrastructure to manage stormwater/effluent runoff;
  - Storage shed; and
  - Landscaping (trees) adjacent to Menang Drive.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

7. Should Council initiate the Amendment and the Environmental Protection Authority (EPA) decides not to assess the proposal, the Amendment will be advertised to all affected and surrounding landowners.
8. The neighbouring property to the east was given the opportunity to comment on the development application that was refused. The neighbour had no concerns with the proposed development; this owner will be given a further opportunity to comment should Council initiate the amendment.

#### **GOVERNMENT CONSULTATION**

9. Should Council initiate the Amendment and the EPA decides not to assess the proposal, the Amendment will be referred to all relevant Government agencies for comment.
10. The development application that was refused was referred to the Department of Environment and Conservation (DEC), the Department of Water (DOW) and the Main Roads WA (MRWA).
11. The DOW responded with no issues.
12. The DEC advised the following:
- The careful management of contaminated stormwater, washwater or other wastes particularly hydrocarbons will be required. In this situation, appropriate wastewater management infrastructure is to be installed (e.g. corrugated plate interceptor or chemical coagulation tank, followed by water-oil separation allowing sufficient time to break emulsions and permit effective skimmed removal of floating oil).

13. MRWA advised the following:
- a sign facing a road that falls under their jurisdiction requires their approval;
  - no stormwater being discharged from the development into Menang Drive drainage system;
  - suitable turn treatments (to the satisfaction of Main Roads) being installed on Menang Drive at the intersection.
  - Only one crossover is to be approved and the crossover is to be shared by both Lots B90 and B9.
14. As part of the amendment process these agencies will be given further opportunities to comment on the proposal, however it is clear that none of the government agencies previously consulted have an objection to the proposal.

### STATUTORY IMPLICATIONS

15. The subject site is zoned 'Special Industry (Elizabeth Street)' under the provisions of the City of Albany Town Planning Scheme No.3 (TPS3). The aim of the Special Industry zone is to provide sites for industries which;

- *are low impact and require large lots;*

The nature of the proposed development requires a large area to cater for the movements and manoeuvrability of large commercial vehicles and tankers.

- *are transport orientated, such as trucking depots and warehouses;*

The future use and development on the site will provide for the retail sale of fuel and convenience goods to large commercial vehicles and trucks. Therefore, the nature of the use is predominantly transport orientated.

- *do not have significant effluent or waste disposal requirements.*

The proposed development will generate minimal demand for effluent and waste disposal services on the subject site given the proposed uses are purely transport orientated.

- *shall be set aside for industries that, require no more than a 200 metre buffer.*

The proposal provides for fuelling facilities and combustible and flammable storage facilities on the subject site which necessitate the requirement for safety setbacks. The proposed fuel storage facilities are proposed to be setback appropriately within the subject site to avoid potential conflict with abutting properties. As defined in the Environmental Protection Authority Guidance Statement 3, the future uses do not require a buffer of more than 200 metres.

**STRATEGIC IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

19. 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 to initiate the Scheme Amendment.

20. A resolution to initiate an Amendment to a Town Planning Scheme adopted by resolution by Council must be referred to the Environmental Protection Authority (EPA) for assessment.

21. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.

**SUMMARY CONCLUSION**

22. The proposal seeks to amend the TPS3 to allow the additional uses of petrol filling station and shop (incidental to the petrol filling station) for Lot 90 Menang Drive Willyung.

23. The proposed uses are in keeping with the predominant transport orientated uses currently in operation within the locality.

24. The proposed uses are not expected to create any land-use conflict and with appropriate development controls being implemented in accordance with the requirements stipulated for the Special Industry zone, the uses and associated developments are capable of being made visually and environmentally acceptable.

25. Overall the proposal is considered to be consistent with the aims of the TPS3, and Staff recommend that the scheme amendment be initiated without modifications.

**RECOMMENDATION**

**ITEM 1.6: RESPONSIBLE OFFICER RECOMMENDATION**

THAT in pursuance of Section 75 of the *Planning and Development Act 2005* and *Regulation 25(1)*© of the *Town Planning Regulations 1967* Council **INITIATES WITHOUT MODIFICATION** Amendment No. 306 to Town Planning Scheme No. 3 for the purposes of:

- 1) Amending the scheme map to annotate an 'Additional Use' to Lot 90 Menang Drive, Willyung;
- 2) Amending Schedule 2 – Additional Use Sites of the City of Albany Town Planning Scheme No. 3 as follows:

Code No	Land Particulars	Additional Uses	Special Conditions
12	Lot 90 Menang Drive, Willyung	Petrol Filling Station and Shop	The shop land use must be associated with the Petrol Filling Station.

- 3) Amending the Scheme Maps accordingly.

**ITEM 1.6: RESOLUTION (Responsible Officer Recommendation)**

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR MATLA**

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

**CARRIED 12-0**

**ITEM 17.1: MOTION BY COUNCILLOR PAVER**

**MOVED: COUNCILLOR PAVER  
SECONDED: COUNCILLOR D BOSTOCK**

**THAT Item 17.1 be ACCEPTED as an urgent item and dealt with before Item 1.7**

**LOST 6-6  
THE MAYOR EXERCISED HIS CASTING VOTE  
LOST 7-6  
FAILED TO REACH ABSOLUTE MAJORITY**

**1.7: FINAL APPROVAL OF SCHEME AMENDMENT - PT LOT 1 AND 2  
FRENCHMAN BAY ROAD, FRENCHMAN BAY**

**AMENDED RESPONSIBLE OFFICER REPORT AND RECOMMENDATION**

**File Number (Name of Ward)** : AMD295 (Vancouver Ward)  
**Land Description** : Location 7584, Pt Lot 1 and Lot 2 Frenchmans Bay Road,  
Frenchman Bay  
**Proponent** : City of Albany  
**Owner** : Frenchmans Bay PTY LTD ATF Frenchmans Bay Unit Trust  
**Business Entity Name** : Frenchmans Bay PTY LTD ATF Frenchmans Bay Unit Trust  
**Previous Reference** : OCM 21/07/09 - Item 13.2.3  
OCM 19/05/09 - Item 11.1.1  
SCM 13/10/09 - Item 6.0  
OCM 15/06/10 - Item 13.2.3 (Item withdrawn)  
**Attachment(s)** : Surveyed Plan from Harley Global (increase in reserve)  
Response from the DOW  
Schedule of Submissions  
**Consulted References** : Albany Local Planning Strategy  
**Councillor Lounge** : Amendment Document  
Copies of submissions  
**Reporting Officer(s)** : Senior Planning Officer (J van der Mescht)  
**Responsible Officer(s)** : Executive Director Development Services (G Bride)

**Maps and Diagrams:****IN BRIEF**

- This proposal seeks to transfer portion of Pt Lots 1 and 2 Frenchmans Bay Road, Frenchman Bay from the 'Parks and Recreation' Reserve to the 'Special Site' zone.
- It is recommended that the scheme amendment be finalised subject to a modification.

**BACKGROUND**

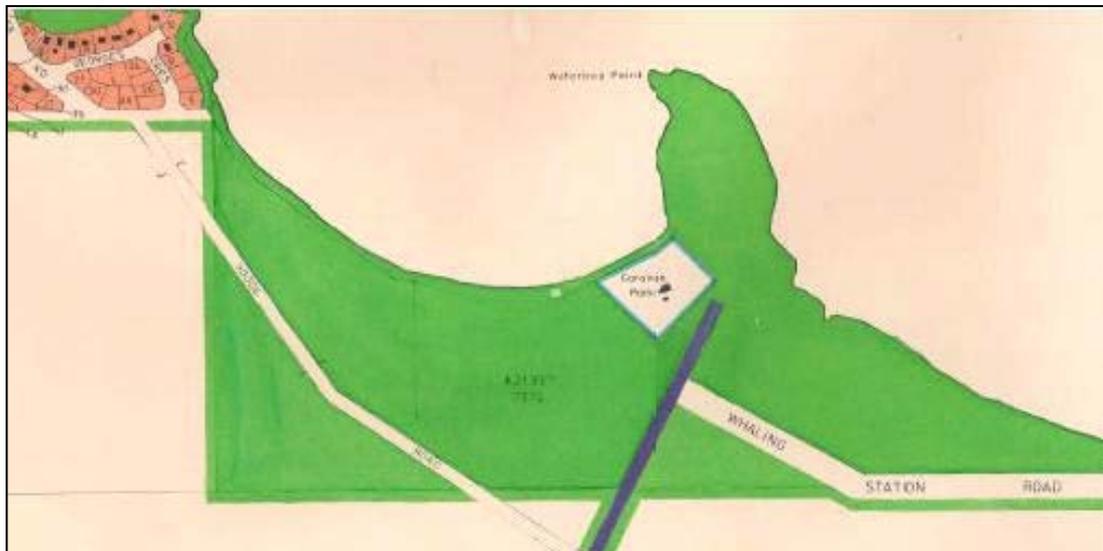
1. This proposal seeks to transfer Pt Lots 1 and 2 Frenchman Bay Road, Frenchman Bay from the 'Parks and Recreation' reserve to the 'Special Site' zone.
2. Lots 1 and 2 Frenchman Bay Road are located at the eastern end of Frenchman Bay Road, approximately 20 km from the Albany City Centre. The subject area consists of two lots with a total area of 3.2594ha.
3. The subject lots were historically developed and known as the Frenchman Bay Caravan Park.
4. Whilst the City's and the Western Australian Planning Commission's zoning maps show the entire land parcel being zoned 'Special Site' (refer Map 1 below), scheme maps from the 1980's revealed that only a portion of the site was zoned 'Special Site' (refer Map 2 below). An extensive search of Council and state government

records failed to identify a scheme amendment proposal or gazettal notice that altered the entire site to 'Special Site'.

**MAP 1: CURRENT ZONING MAP (Source: WAPC)**



**MAP 2: OLD ZONING MAP (Source: City of Albany)**



5. In accordance with the advice of Council's solicitor it was recommended that Council rectify the zoning anomaly.
6. A scheme amendment was subsequently prepared by staff and Council initiated the amendment at its Ordinary Meeting held on 21 July 2009.
7. Part v) of Council's resolution dated 13 October 2009 stated:

*v) Instructs staff to take appropriate steps to review Amendment 295 to TPS 3 once advertising is complete and make recommendations to Council regarding modifications that may be necessary to the amendment to reflect the development standards arising out of the Deed required as condition a).*

*Condition a) of the same resolution can be viewed in Item 17.1 – Notice of Motion by Councillor Paver.*

8. Council is now required to consider and determine the submissions received from the 42 day public consultation period.

## DISCUSSION

9. The proposed rezoning will rationalise the Parks and Recreation Reservation and 'Special Site' zone.
10. The proposal is consistent with the historic use of the lots and the strategic intent for the area as a Tourist Node as shown in the Albany Local Planning Strategy (ALPS).
11. Council as part of the 'Special Site' Zoning may approve the following uses:
- Caravan Park "P"
  - Caretakers House/Flat "P"
  - Holiday Accommodation "AA"
  - Petrol Filling Station "AA" (clients use only)
  - Public Recreation "AA"
  - Shop "IP"
12. The scheme amendment was assessed and is generally supported by the respective government agencies; most of the matters raised as part of the submissions can be dealt with at the time of development and or subdivision.
13. The Department of Water requested that the foreshore reserve be widened to one of either two setback lines (setback line '1' or setback line '2'). The Department of Water would prefer setback line '1', which mirrors their previous advice on the development proposal, however setback line '2' is **also supported by this Department in combination with the coastal development setback being used for private recreation purposes** (refer attachment at rear of report).
14. Setback line '2' is consistent with the widening of Reserve 21337 identified by Council as a condition of planning scheme consent for the Frenchman Bay development (refer Condition (c) as per the resolution contained within Item 17.1). **The plan referred to in that condition is attached to the rear of this report, whereby setback line 'A' (which relates to line 2) was identified as the minimum foreshore reserve and the area between line 'A' and line 'B' was the non-development area. In**

their correspondence accompanying the plan (which is also attached) the DOW state that:

*“2. That an area above the slope either, a) be included in the foreshore reserve, or b) retained in private ownership, but on the basis it is used to cater for recreational use (picnic areas, lookouts) of the adjacent development, so as to ensure increased recreational use of the existing foreshore reserve is not greatly increased.”*

15. It was considered that widening was only needed to ensure there was sufficient width for a dual use path and that areas identified as being moderate to high risk for landslip were incorporated. Land between setback line ‘2’ and the development (around 20 metres in width) which is within the 75m coastal development setback as determined by MP Rogers and Associates (Coastal Engineers) would be used for private recreation for tourists maintained by the landowner. The Department of Water state in their advice:

*“...it is recognised that the immediate foreshore in this location is already highly developed for recreational use, and as such the extension of the reserve would not appear to be justified based on public recreational needs alone.”*

16. David Caddy from TPG provided an independent report on the development application which formed the officers report for the October 2009 Council meeting, and in relation to the width of the foreshore reserve, made these comments:

*30. As reported to Council in May 2009, The DPI has suggested (not mandated), that Council may wish to consider increasing this setback to 100 metres to cater for additional recreational requirements; this is a standard response supplied by the Department to reflect the principles of SPP2.6. Should Council wish to pursue this additional setback requirement, the foreshore reserve will be widened from 50 metres to 100 metres in width with the two areas separated by a considerable escarpment. I have expressed a view which is shared by Council Staff that considerable additional maintenance responsibilities will be transferred to the City of Albany to maintain an area of land at the top of the escarpment that is unlikely to be used by the general public and will be used virtually exclusively by the residents of the proposed development. Again as reported to Council in May 2009, “officers of Tourism WA have also expressed concern with this requirement as the creation of a public space literally outside the front window of the holiday units is likely to seriously diminish the holiday experience of the visitors; the tourism operator would be powerless to remove ‘undesirables’ from this space”.*

*31. The DOW officers have advised that the foreshore reserve should only be widened marginally, to ensure the entire steep bank and those areas within a moderate or high risk for landslip are within the reserve boundary (see response in Attachment A). Should the application be supported, I have recommended a draft condition that would propose an increase in the foreshore reserve to recognise the comments made by the DOW.*

*32. The DOW officers have expressed concern that the development will generate additional recreation pressure on the existing foreshore reserve (through increased usage). They have recommended that, in order to mitigate this concern, the land between the foreshore boundary and the holiday accommodation units (around 20 metres) should be set aside for the recreational needs of the guests of the accommodation units.*

17. In order to ground truth setback line '2', to ensure that there is an adequate width for public pedestrian access, staff requested the mapping of this line by a qualified surveyor. An onsite inspection revealed that isolated widening was needed in pockets to accommodate sufficient area for the future dual use path (a copy of this surveyed plan is attached to this report).
18. It is recommended that the area of widening identified on the surveyed plan be designated as Parks and Recreation reserve on the proposed zoning map.
19. It is also recommended that given a coastal setback of 75m from the high water mark has been determined for this site (to accommodate coastal setback processes) that this minimum requirement should be included within the Scheme itself to ensure that any future development reflects this minimum development setback, or greater setback as determined by the relevant state government to the satisfaction of Council.
20. The Department of Water have also recommended no development be located within the catchment associated with Vancouver Spring. A development setback of 65 metres from the western boundary will ensure that development is located outside of this catchment; this is consistent with the development approval issue by Council on 13 October 2009.
21. Staff in the amended recommendation below have converted the development standards, that were to be placed on the subject land through a deed arrangement, into scheme provisions as per Council's resolution of 13 October 2009. The amended recommendation has been scrutinised by Council's solicitor (McLeods) with all recommended changes included.

#### **PUBLIC CONSULTATION/ENGAGEMENT**

22. The Amendment was advertised in accordance with the requirements of the Town Planning Regulations 1967 from 4 February 2010 to 18 March 2010 by placement of a sign on-site, relevant State Government agencies and advertisement in the local newspaper.
23. Two other non-governmental submissions were received; one from a member of the public and one from a planning consultant acting on behalf of the owner. These submissions are summarised in the attached Schedule of Submissions. It is recommended that no changes be made to the rezoning document as a result of these submissions.

## **GOVERNMENT CONSULTATION**

24. The Amendment documents were initially referred to the Environmental Protection Authority (EPA) as required by the Planning and Development Act 2005 for environmental assessment. The EPA has advised that the amendment does not require further formal assessment. The EPA however, re-iterates their previous advice regarding development at Lots 1 and 2, Frenchman Bay Road, Frenchman Bay.
25. The Amendment was also referred to the Department of Environment and Conservation, Department of Water, Department of Health, Department of Planning, Western Australian Tourism Commission, FESA, Heritage Council of Western Australia, Westnet Energy, Telstra, Water Corporation and Western Power.
26. Responses were received from Department of Health, Department of Water, Department of Environment and Conservation, Heritage Council of Western Australia, Great Southern Development Commission, Water Corporation and Western Power and are summarised in the attached Schedule of Submissions.
27. The amendment was also referred to the Department of Transport who are responsible for providing advice on coastal planning issues; they have responded and do not object to the proposed amendment.

## **STATUTORY IMPLICATIONS**

28. All scheme amendments undergo a statutory process in accordance with the Planning and Development Act 2005 and Town Planning Regulations 1967. Council's decision on the final approval of the amendment requires endorsement by the WA Planning Commission and approval of the Minister for Planning.

## **FINANCIAL IMPLICATIONS**

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

## **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

30. The subject land is designated Tourist Accommodation Node on Map 9B of ALPS. Part 5.4 of ALPS deals with Tourism and contains the following planning principles:

*“Albany will remain the premier tourism destination on the South Coast and will provide a complete tourism experience.”*

And further recommends the following actions:

- *Encourage the effective management and development of Albany's many iconic natural tourist attractions.*
- *Ensure that new tourism development and related land uses do not threaten the natural and cultural heritage values which make the City uniquely desirable as a tourist destination. This includes ensuring that tourism and residential coastal developments do not put adverse pressure on foreshore areas (CoA, DoW, WATC).*
- *Ensure the CPS establishes the necessary tourism zones, policies and development standards to allow the City Council to accommodate tourism development proposals, including those that will be integrated with other uses, such as residential, to aid the growth of identified tourism markets (CoA).*
- *Identify strategic and non-strategic tourist sites in the ALPS (CoA)."*

Part 8.5 ALPS Contains the following as part of the Economic Strategy;

- *"Encourage sustainable tourism uses and developments in locations that are compatible with existing uses and have the necessary supporting infrastructure.*
- *Promote economic development by supporting diversification of present economic activities to encourage investment into the City (CoA).*
- *Encourage the development of sustainable tourism uses and associated projects that integrate with the City's natural and built landscape and heritage values (Tourism WA, GSDC, CoA, WAPC).*
- *Include in the CPS mechanisms to accommodate contemporary tourism development proposals (CoA)."*

## **POLICY IMPLICATIONS**

31. Council is required to have regard to any WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) that apply to the scheme amendment. Any amendment to the planning scheme will be assessed by the WAPC to ensure consistency with the following State and regional policies.
32. SPP 2.6 - State Coastal Planning Policy

The objectives of this Policy are to:

- Protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;
- Provide for public foreshore areas and access to these on the coast;
- Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.

The amendment was referred to the EPA, Department of Environment and Conservation, the Department of Planning and Department of Transport for comment. As part of the previous development application, a detailed coastal engineers report detailing a coastal development setback of 75m was prepared and accepted.

### ALTERNATE OPTIONS & LEGAL IMPLICATIONS

33. Council has the following options in relation to this item, which are:
- To seek final approval to the scheme amendment without modification;
  - To seek final approval to the scheme amendment with modifications; or
  - To not seek final approval to the scheme amendment.
34. Council's decision on the scheme amendment is in effect a recommendation to the WA Planning Commission and Minister for Planning. The Minister for Planning is empowered under the *Planning and Development Act 2005* to make the final decision on the scheme amendment.

### SUMMARY CONCLUSION

35. It is recommended that the scheme amendment be finalised with a modification to the amending document and the scheme maps to reflect the widening of the foreshore reserve as per the attached surveyed plan, and additional development controls as they relate to the Vancouver Spring and the future built form of the eastern portion of the site.
36. In order to properly identify the eastern portion of the property referred to in Council's October 2009 resolution it is recommended that this area is identified and placed within Schedule VII of the Town Planning Scheme. A copy of this plan is attached (Appendix A).

RECOMMENDATION

**ITEM 1.7: AMENDED RESPONSIBLE OFFICER RECOMMENDATION**

1) In pursuance of Section 75 of the *Planning and Development Act 2005* and Regulation 25(1)l of the *Town Planning Regulations 1967*, Amendment No. 295 to Town Planning Scheme No. 3 be **ADOPTED WITH MODIFICATIONS** as follows:

- i) Transferring Location 7584, Part Lot 1 and Lot 2 Frenchman Bay Road from the 'Parks and Recreation' reserve to the 'Special Site (Caravan Park)' zone.
- ii) Modifying clause 3.7 Special Site zone by;
  - a) Inserting a new Clause '3.7.1' in front of the existing sub clause beginning "*Within those areas zoned as Special Sites zone...*" and
  - b) Adding the following after the Special Site Zone table:

***"3.7.2. In relation to the former Frenchman Bay Caravan Park being Location 7584, Lot 1 and Lot 2 Frenchman Bay Road, Frenchman Bay (Land) the following additional development standards shall apply:***

- a) ***All development on the Land is to be set back a minimum of 75 metres from the high water mark. A greater setback may be required if recommended by any relevant public authority or in an applicable policy;***
- b) ***All development on the Land is to be set back a minimum of 65 metres from the western boundary (which setback corresponds with the catchment associated with the Vancouver Springs) unless, having regard to technical information concerning the potential impact of development on the Vancouver Springs catchment, a lesser distance is supported by the relevant public authority and approved by the Council;***
- c) ***Development within the eastern portion of the Land having an area of approximately 3000 square metres and which is shown more particularly in the plan contained in Schedule VII, shall conform to the following requirements:***
  - i) ***The area within 75 metres of the high water mark shall not be developed otherwise than in accordance with a Foreshore Management Plan adopted by the Council, and in any case shall not be used for car parking or developed with any substantial structure (ie. No structure which requires a building licence).***
  - ii) ***In the area immediately to the south of the land***

*affected by the Foreshore Management Plan, a 15 metre deep section will only be capable of development at a single storey height above natural ground level. Any commercial facilities permissible under the Scheme must be developed in this section, and are not permitted elsewhere.*

*iii) Development to a maximum height of 2 storeys above natural ground level may be permitted behind (to the south) the section which is limited to single storey development.*

- c) Adding a new Schedule VII and incorporating the associated plan (as per Appendix A attached) within that schedule.
- d) Amending the Scheme Map accordingly.

**AND**

- i) The Schedule of Submissions be RECEIVED and the officer's recommendation to dismiss, uphold or note each individual submission as contained within the Schedule of Submissions be ADOPTED.

**ITEM 1.7: RESOLUTION (Amended Responsible Officer Recommendation)**

**MOVED: COUNCILLOR PAVER**

**SECONDED: COUNCILLOR D BOSTOCK**

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

**CARRIED 12-0**

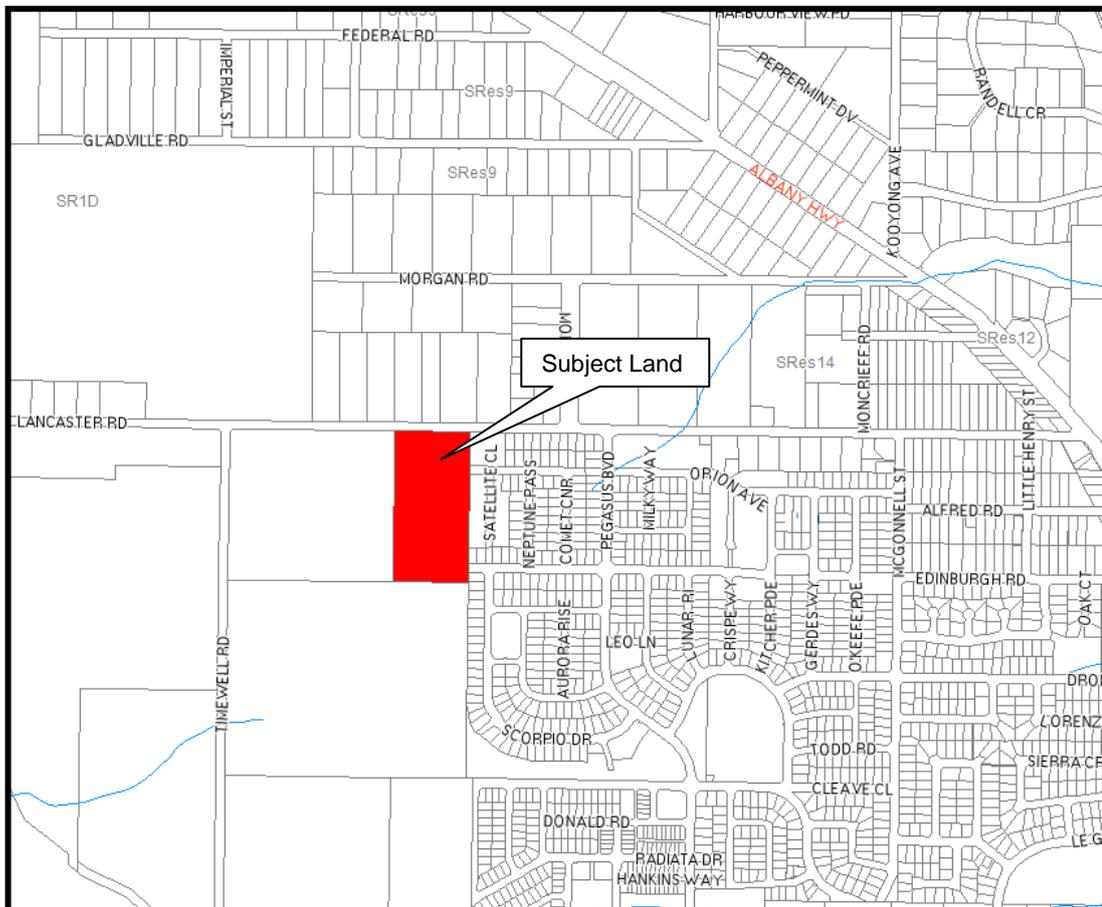
Staff Reason:

The amended recommendation incorporates those provisions associated with the deed arrangement as per the Council resolution dated 13 October 2009 (particularly part v) and reflects the position of the Department of Water that development should not encroach into the catchment area for the Vancouver Springs.

**1.8: OUTLINE DEVELOPMENT PLAN (ODP007) LOT 55 LANCASTER ROAD – FINAL APPROVAL**

- File Number (Name of Ward)** : ODP007 (West Ward)
- Land Description** : Lot 55 Lancaster Road, McKail
- Proponent** : Ayton Baesjou Planning
- Owner** : Irwin Pty Ltd
- Previous Reference** : OCM 17/3/2009 Item 11.3.3  
OCM 17/8/2010 Item 1.10
- Attachment(s)** : Outline Development Plan – with recommended changes
- Councillors Lounge** : Copies of Submissions  
ODP Report
- Reporting Officer(s)** : Senior Project Planner (A Nicoll)
- Responsible Officer** : Executive Director Development Services (G Bride)

**Maps and Diagrams:**



**IN BRIEF**

- Council previously initiated for the purpose of advertising the ODP for Lot 55 Lancaster Road, McKail.
- The ODP was advertised for a period of 28 days, with nine (9) submissions being received.
- It is recommended that the ODP is finally adopted subject to modifications.

**BACKGROUND**

1. At it's meeting 17 August 2010 Council resolved to:

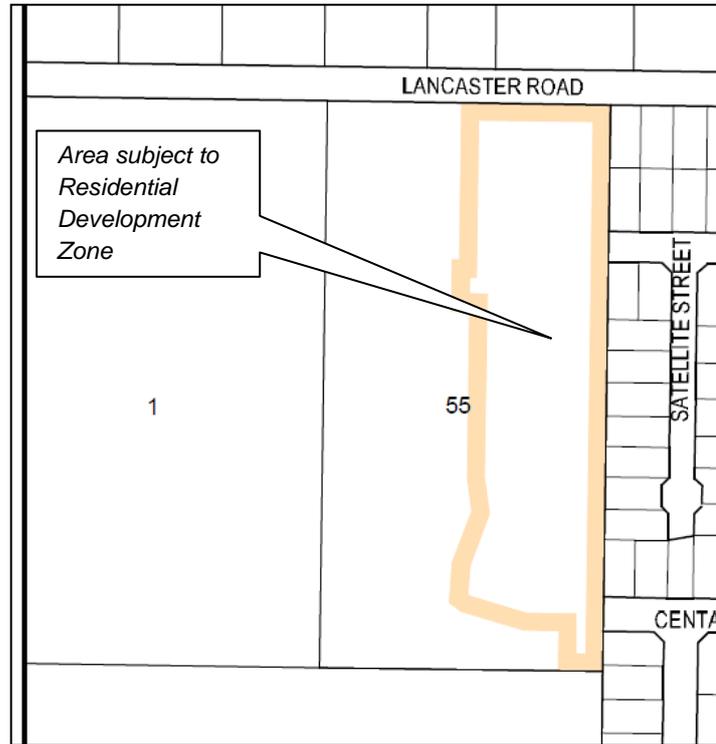
*“ADOPT the Outline Development Plan (ODP009) for Lot 55 Lancaster Road, McKail, subject to the following textual amendments being made to the document:*

*A. At the time of subdivision, appropriate design and development measures are to be implemented to deal with the overflow/outlet from the identified drainage basin.”*

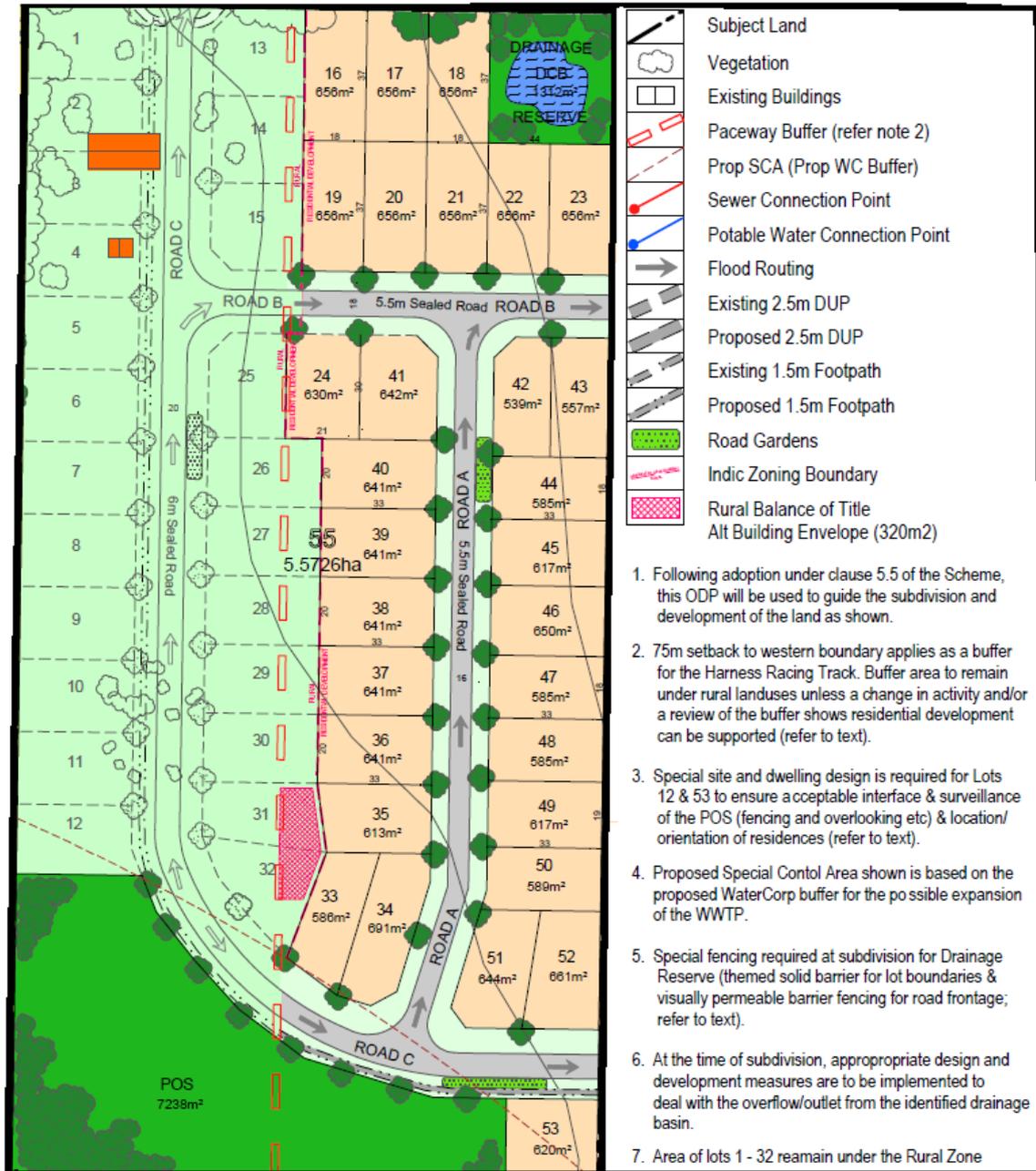
2. In accordance with the above resolution, the textual amendment was made, and the ODP (as shown below) was referred to government agencies and surrounding landowners for comment.



3. Since the time of writing the previous report, modifications have been requested by the Hon Minister for Planning in relation to Amendment No. 271 to modify the zoning boundaries applying to the land. The Minister has requested that the area affected by the 75m noise buffer and the waste water treatment odour buffer should be retained within the Rural zone, with only that portion outside of these buffers being zoned “Residential Development”. A copy of the zoning plan is shown below.



4. Whilst the ODP as advertised, outlined that no development could occur within the noise or odour buffers unless the trotting track and/or waste water treatment plant was relocated (or future studies identified a lesser distance), the final zoning solution adds further strength to the buffers, as the affected land would need to be rezoned in the future before being considered for residential development. A minor amendment to the ODP to reflect the zoning of the buffer as Rural is recommended.
5. The proponent has suggested the below revised ODP plan in line with the Ministers modifications associated with Amendment No. 271.



**DISCUSSION**

6. Lot 55 Lancaster Road is 5.5 hectares in area, the land fronts existing residential development, is cleared of vegetation and has a gentle north facing slope. The ODP indicates the following:
- 53 Lots at an average size of 620m<sup>2</sup>;
  - 7238m<sup>2</sup> of POS (>10% requirement);
  - Accessibility to a future integrator arterial road (Lancaster Road);
  - A 75m Harness Track Noise Buffer to development unless a change in the activity and/or a review of the buffer shows residential development can be supported;
  - Special site and dwelling design requirements for Lots 12 & 53 to ensure acceptable interface & surveillance of the POS (fencing and overlooking etc) & location/orientation of residences;

- A 2.5m Dual Use Path adjacent to Lancaster Road; and
  - An adequately sized drainage basin located at the lower portion of the site (northeast corner).
7. The plan was referred to all relevant government agencies, and the majority of these agencies including Main Roads WA, the Department of Environment and Conservation, Department of Education and Western Power had no issues or concerns with the ODP.
  8. The Water Corporation objected to the creation of proposed Lots 12 and 53 into the future as the odour buffer affects portions of these lots. It is recommended that these lots be designated as public open space on the ODP.
  9. The Department of Water (DOW) have suggested that a Local Water Management Strategy be prepared for the ODP which is a common requirement to inform ODP's. In this case however such a Strategy is considered unnecessary on the basis that:
    - The small scale of the structure plan given it involves a 5.5 hectare land parcel and an ultimate lot yield of 53 lots;
    - The nature of the landscape (crest of a hill with a gentle slope);
    - The nature of the soil (Dc Unit - gravely yellow duplex);
      - 'High Capability' rating for housing;
      - 'Nil' rating for flood risk;
    - There are no water-ways within the locality;
    - the ODP has strategically placed its roads, bio-filtration gardens and attenuation basin; and
    - An 'Urban Water Management Plan' will be developed at the subdivision stage.
  10. An Urban Water Management Plan, which is a more detailed water management strategy will be required to be undertaken at the time of subdivision. To reinforce this it is recommended that the ODP refers to this plan being a prerequisite of subdivision to the satisfaction of DOW.
  11. The adjoining developer, Peet and Co Limited (owner of Lot 9007) believes that the drainage reserve and associated basin adjacent to Lancaster Road will have a negative impact on their adjacent lots. They have requested the repositioning of the basin to the west. In consultation with the proponent the relocation of the reserve approximately 20 metres to the west, to buffer the basin with a residential lot can be achieved without affecting the design and function of the proposed drainage basin; the Urban Water Management Plan would need to address the location, function and size of the basin in any case.

12. The Albany Harness Racing Club (neighbouring property to Lot 55 Lancaster Road) requested that a 1.8m solid colour bond steel fence be developed to provide a screen between the proposed residential development at Lot 55 and the racing club premises. It is recommended that uniform fencing along the internal boundary (being the zoning boundary between the Rural and Residential Development zones) be identified on the ODP. This will ensure that a standard rear fence (in terms of colour and materials) for the proposed residential lots is applied.
13. One landowner (owner of Lot 150) has outlined concerns in relation to the following:
  - Lack of services (medical, school, shop) to support 'built up residential';
  - Land use conflict between 'built up residential' and 'rural residential'; and
  - Impact of 'built up residential' on characteristics of the area, 'environment/wildlife'.
14. In relation to services there is a shop located at the junction of Lancaster Road and Albany Highway 1.4km away. There is also land appropriately zoned in the locality for the purpose of accommodating services (Le Grande and Gregory Drive) and a primary school (Clydesdale Road).
15. In relation to Land Use Conflict the property to the east of the subject land is already developed as 'built up residential'. The Albany Local Planning Strategy indicates the locality as being suitable for such development.
16. From an environmental perspective, the EPA and the Department of Environment and Conservation have expressed no objections, given the proposal has catered for both the noise buffer from the trotting track and the odour buffer from the waste water treatment plant.
17. Staff recommend that subject to modifications as outlined above, that ODP be supported. To assist Councillors and the proponent in understanding the changes recommended, Staff have identified the modifications in red on the amended ODP (refer attachment at rear of report).

#### **PUBLIC CONSULTATION / ENGAGEMENT**

18. At the close of advertising three (3) public submissions were received, with the issues discussed above.

#### **GOVERNMENT CONSULTATION**

19. At the close of advertising six (6) government submissions were received. The Department of Education, the Department of Environment and Conservation, Main Roads WA and Western Power raised no issues or objections.
20. As discussed above the Water Corporation have requested the deletion of two lots that are partially affected by the odour buffer.
21. The Department of Water have requested the submission of a Local Waste Water Management Strategy.

**STATUTORY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

23. Council has previously considered the strategic implications for the subject land through the support of the rezoning proposal to convert the land to 'Residential Development'. The ALPS indicates this land for development purposes (Future Urban).

**FINANCIAL IMPLICATIONS**

24. The ODP identifies that the portion of Lancaster Road fronting the subject land would need to be upgraded, and this will be required as a condition of subdivision.

**POLICY IMPLICATIONS**

25. The WAPC Policy 4.1 (state industrial buffer policy) looks to avoid land use conflict. A buffer has been defined by the Water Corporation as per its *'Albany (Timewell Road) Waste Water Treatment Plant – Revised Buffer March 2009'* report. This buffer falls within a portion of Lot 55. The ODP has included two residential lots within this buffer area.
26. As mentioned previously in this report item, staff recommend that Lots 12 and 53, which are partially within the buffer are deleted and redefined as POS.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

27. The ODP may be supported with or without modifications, delayed until further information is provided or modifications made or refused. The final decision on the ODP rests with the Western Australian Planning Commission.

**SUMMARY CONCLUSION**

28. As identified above staff recommend the following changes to the ODP:

- A. The area outside of the Residential Development zone boundary be shaded green and identified as being affected by the Rural zone.
- B. Lots 12 and 53, which are within the odour buffer for the Waste Water Treatment Plant are deleted and redefined as POS.
- C. A requirement being added that an Urban Water Management Plan shall be submitted with the subdivision application to the satisfaction of Council and the Department of Water.
- D. The drainage reserve adjacent to Lancaster Road being repositioned 20 metres to the west.
- E. Uniform fencing being provided along the internal zoning boundary as a part of the subdivision process as per the attachment.
- F. Note 3 being deleted as it refers to site specific controls for Lots 12 and 53, which are proposed to be deleted (refer change B above).
- G. The ODP report which accompanies the plan be updated to reflect the above mentioned plan modifications.

**RECOMMENDATION**

**ITEM 1.8: RESPONSIBLE OFFICER RECOMMENDATION**

The Outline Development Plan for Lot 55 Lancaster Road, McKail be **FINALLY ADOPTED** and **FORWARDED** to the Western Australian Planning Commission for endorsement subject to the modifications identified in Paragraph 28 of the officer's report and the attachment at the rear of this report.

**ITEM 1.8: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR DUFTY**  
**SECONDED: COUNCILLOR WOLFE**

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

**CARRIED 11-1**

**Against the Motion:** Councillor D Bostock

**2.1: LIST OF ACCOUNTS FOR PAYMENT**

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

**BACKGROUND**

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

**DISCUSSION**

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

**Municipal Fund**

Trust	Totalling	\$57,367.22
Cheques	Totalling	\$67,315.75
Electronic Fund Transfer	Totalling	\$3,103,038.62
Credit Cards	Totalling	\$9,262.61
Payroll	Totalling	\$812,885.58
	<b>TOTAL</b>	<b><u>\$812,885.58</u></b>

3. As at the 28<sup>th</sup> October 2010, the total outstanding creditors, stands at \$195,125.89
4. Cancelled cheques – 26492, 26833 & 26899

**STATUTORY IMPLICATIONS**

5. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
6. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund. This delegation was last reviewed in December 2007 – Item 14.4.1.
7. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

**FINANCIAL IMPLICATIONS**

8. Expenditure for the period to 28<sup>th</sup> October 2010 has been incurred in accordance with the 2009/10 budget parameters.

**POLICY IMPLICATIONS**

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

**SUMMARY CONCLUSION**

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

**RECOMMENDATION**

**ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION**

**The list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 28<sup>th</sup> October 2010 totalling \$4,049,869.78 be RECEIVED.**

**ITEM 2.1: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR MATLA**

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

**CARRIED 12-0**

**2.10: SOUTH COAST NATURAL RESOURCE MANAGEMENT INC  
REQUEST TO DELAY INTRODUCTION OF NEW LEASE RENTAL**

<b>File Number (Name of Ward)</b>	: PRO351 (Yakamia Ward)
<b>Land Description</b>	: Lot 5 Mercer Road Walmsley on Diagram 59369
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: South Coast Natural Resource Management Inc.
<b>Owner</b>	: City of Albany
<b>Previous Reference</b>	: OCM 19.05.2009 Item 18.2.1 OCM 15.12.2009 Item 15.2.1 OCM 16.02.2010 Item 14.11.3
<b>Appendices</b>	: South Coast Natural Resource Management Inc. letter of request
<b>Consulted References</b>	: <a href="#">Council Policy – Property Management Leases</a> <a href="#">Local Government Act 1995</a>
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

**IN BRIEF**

- Consider South Coast Natural Resource Management Inc. request to delay the introduction of the new lease rent till 20 January 2013.
- It is recommended the request not be approved.

**BACKGROUND**

1. In January 2008 the City of Albany entered into a lease agreement with South Coast Natural Resource Management Inc. (South Coast NRM) over the former City of Albany Mercer Road Administration building and grounds located on Lot 5 Mercer Road, with street address being 39 Mercer Road, Walmsley.
2. The City of Albany retained an area of approximately 66 square metres in the west wing of the building for storage and the dog pound area located within Lot 5 Mercer Road. Access to these areas was protected through lease conditions.
3. The existing lease for a term of 5 years with an option for a further 5 year term commenced on 21 January 2008 and returns a rental of \$76,231.94 plus GST per annum.
4. In May 2009 South Coast NRM approached the City to advise they were proposing to seek Lottery West grant funding under the Federal Government Jobs Fund Initiative to renovate and refurbish the leased premises at 39 Mercer Road to incorporate a Natural Resource Management Community Information Network and Learning Centre.
5. The grant funding was subject to South Coast NRM securing a longer term lease over the entire building for a term of 10 years with an option for a further 5 year term.

6. In February 2010, Council resolved to surrender the existing lease and simultaneously replace with a new lease to South Coast Natural Resource Management Inc. for a term of 10 years with an option for a further 5 year term subject to:
  - The rental to be determined by current market valuation prior to commencement of the new lease;
  - Rent reviews in line with Council's Policy - Property Management – Leases for this category of lease;
  - All costs associated with the proposed renovations, refurbishment and upgrade of premises be payable by South Coast NRM;
  - All costs associated with the preparation and implementation of the surrender and new lease be payable by South Coast NRM; and
  - Should Lottery West grant funding not be approved the existing lease will remain static until expiry.
7. Following the resolution, in accordance with Council's Policy - Property Management - Leases a current market valuation was undertaken to determine the rental prior to commencement of the new lease.
8. The market valuation determined the new rent to be \$84,150 plus GST per annum (excluding the 66 square metres used by the City for storage). As South Coast NRM requires the entire building including the storage area the new rental would be \$90,090 plus GST per annum.
9. This resulted in an increase of \$13,858 plus GST per annum. Please note this amount includes the additional lease area of 66 square metres (City's storage area).
10. In consultation between the City and South Coast NRM they advised they have limited ability to absorb the rent increase as it is a not for profit organisation which receives funds from external sources to cover budgeted expenses over several years.
11. A written request has been received from South Coast NRM for Council to consider delaying the introduction of the new lease rental until 20 January 2013 instead of applying upon commencement of the new lease.

## **DISCUSSION**

12. South Coast NRM is the leading regional organisation for natural resource management on the south coast of Western Australia with funding provided by the Australian and Western Australian Governments.
13. South Coast NRM in their letter of request have detailed the following as justification for the delay in applying the new lease rent increase:
  - South Coast NRM is committed to ongoing use of the premises, and in order to make premises more usable to the Albany Community has successfully sought funding from Lottery West to improve the amenity and community use of the building;
  - The funding approved includes \$178,500 for improvements to the conference rooms, the library and reception areas;
  - The proposed building improvements under the new lease will increase the capital value to the benefit of the City of Albany;

- The proposed building improvements under the new lease will enable South Coast NRM to offer a broader range of services to the community;
  - If South Coast NRM carried on with the existing lease the rent would not have been reviewed by current market valuation until the end of the initial term on 20 January 2013;
  - South Coast NRM has previously spent money upgrading the telephone and internet communications within the building;
  - Council is effectively collecting 2 years of rent increases on top of the rent that would have been paid under the existing agreement; and
  - On 20 January 2013 South Coast NRM will pay annual rental as determined by the market valuation of \$90,090 plus GST with CPI applied.
14. The request to delay the introduction of the new lease rental until 20 January 2013 is not consistent with Council's Policy - Property Management – Leases; however Council has the authority to approve the request.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

15. No public consultation is required.

#### **STATUTORY IMPLICATIONS**

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

#### **FINANCIAL IMPLICATIONS**

17. The proposed new lease rental as determined by current market valuation will be \$90,009 plus GST per annum. Rent reviews will be market valuations every 5 years with CPI applied for intervening years.
18. The existing lease rental is \$76,231.94 plus GST per annum. Rent reviews are market valuations every 5 years with CPI applied for intervening years.
19. The lease rental is directed to COA 140530 Income – Misc Commercial.

#### **POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

22. Council has the following options in relation to this item, which are:
- a. To approve the request to delay applying the new lease rental until 20 January 2013; or
  - b. To decline the request.
23. Should Council approve the request to delay applying the new lease rental, this would have costs implications for Council. Estimating CPI at 3% it is anticipated Council would be compensating South Coast NRM approximately \$23,000 over the requested 2 year period until 20 January 2013.
24. Should Council decline the request South Coast NRM may consider their position regarding the surrender and new lease including the proposed developments and rental. Alternatively South Coast NRM may choose for the existing lease to remain static until expiry.
25. The existing lease expires on 20 January 2013 with an option for a further 5 year term.

**SUMMARY CONCLUSION**

26. Council's Policy - Property Management – Leases requires rental for new leases to be determined by current market valuation. As South Coast NRM request to delay the introduction of new lease until 20 January 2013 is not consistent with Council's Policy and resolution of OCM 16.02.2010 Item 14.11.3, the request is not supported.

**RECOMMENDATION**

**ITEM 2.10: RESPONSIBLE OFFICER RECOMMENDATION**

**South Coast Natural Resource Management Inc. request to delay the introduction of new lease rental until 20 January 2013 be DECLINED.**

**ITEM 2.10: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR MATLA**

**SECONDED: COUNCILLOR DUFTY**

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

**CARRIED 10-0**

## **2.2: FINANCIAL ACTIVITY STATEMENT – 31 OCTOBER 2010**

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

[9:06:39 PM](#) Councillor Dufty left the Chamber.

### **IN BRIEF**

- Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 October 2010

### **BACKGROUND**

1. The Statement of Financial Activity for the period ending 31 October 2010 has been prepared and is listed below.
2. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the elected group with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

### **DISCUSSION**

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

**STATEMENT OF FINANCIAL ACTIVITY – AS AT 31<sup>st</sup> OCTOBER 2010**

6. See Appendix 1 to Report Item 14.1.2

**CITY OF ALBANY – NET CURRENT ASSETS – AS AT 31<sup>st</sup> OCTOBER 2010**

7. See Appendix 2 to Report Item 14.1.2

**CITY OF ALBANY - BALANCE SHEET – AS AT 31<sup>st</sup> OCTOBER 2010**

8. See Appendix 3 to Report Item 14.1.2

**INCOME STATEMENT FOR PERIOD ENDED – AS AT 31<sup>st</sup> OCTOBER 2010**

9. See Appendix 4 to Report Item 14.1.2

**PORTFOLIO VALUATION – MARKET VALUE – AS AT 31<sup>st</sup> OCTOBER 2010**

10. See Appendix 5 to Report Item 14.1.2

**STATUTORY IMPLICATIONS**

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

## FINANCIAL IMPLICATIONS

## 12. Variances to Budget in excess of \$100,000 - as at 31 October 2010

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<b><u>DIRECTOR CORPORATE &amp; COMMUNITY</u></b>								
106640. INFORMATION TECHNOLOGY	537,833	532,333	179,184	3,089	176,095	98%	✓	Expenses are below budget, mainly due to the timing of software maintenance costs. Annual costs are expected to be in line with budget.
194140. ALAC - STAGE 2	3,620,997	3,162,788	2,261,020	1,830,675	430,345	19%	✓	Expenditure is below budget - due to a timing difference on contractor payments. Total project costs are expected to be in line with budget at the completion of the ALAC Stage 2 development.
199950 GRANT – RECREATION MASTERPLAN	(3,024,983)	(3,024,983)	(1,007,924)	(2,287,483)	1,279,559	127%	✓	Receipts are above budget due to a timing difference on grant funding claims and settlement. Total grant receipts are expected to be in line with budget upon completion of the ALAC Stage 2 development.
<b>Total DIRECTOR CORPORATE &amp; COMMUNITY</b>	<b>1,133,847</b>	<b>670,138</b>	<b>1,432,280</b>	<b>(453,719)</b>	<b>1,885,999</b>			

**FINANCIAL IMPLICATIONS**

**12. Variances to Budget in excess of \$100,000 - as at 31 October 2010 continued**

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<b><u>DIRECTOR WORKS &amp; SERVICES</u></b>								
100040. ROAD SAFETY	589,000	589,000	355,667	13,389	342,278	96%	✓	Year to date expenditure is below budget. Work was scheduled from September to December, but was dependent on funding approval. Approvals are yet to be notified. Total costs for the year are expected to be in line with budget.
102470. CHARGE TO OPERATIONS	(340,000)	(340,000)	(113,288)	0	(113,288)	-100%	×	Year to date charges are below budget. This is only a timing difference, and annual charges are expected to be in line with budget.
103360. DEVELOPED RESERVES MAINTENANCE	1,619,191	1,098,961	539,512	292,577	246,935	46%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
103430. MAJOR PLANT-P/LOSS SALE OF ASSETS	529,277	529,277	317,565	0	317,565	100%	✓	No sales have occurred yet. Sales are now expected to be completed by approximately March 2011, dependent upon the availability of new roadworking equipment.
131140. ROADS - CONSTRUCTION	501,000	501,000	470,988	5,032	465,956	99%	✓	Expenses are currently below budget. Design work is still being completed, but the expenditure for the full year is expected to be in line with budget.
132220. ROAD MAINTENANCE	3,692,000	3,692,000	1,230,168	1,058,974	171,194	14%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<b><u>DIRECTOR WORKS &amp; SERVICES</u></b>								
134830. ROAD FUNDS	(694,000)	(694,000)	(231,240)	0	(231,240)	-100%	×	Funding is currently below budget. The budget assumed an even monthly spread of funding throughout the year. Funding applications have been lodged, and we are now awaiting notification of approvals.
134850. ASSET FUNDING - REGIONAL ROAD GROUP	(759,167)	(759,167)	(303,667)	(1,034,067)	730,400	241%	✓	Funding receipts are currently higher than budget. This is simply a timing difference and the funding total for the year is expected to be in line with budget.
138070. WASTE MINIMISATION CONTRACT	2,070,000	2,070,000	639,740	488,935	150,805	24%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
140150. CAPITAL GRANTS - EDWS OTHER	(2,000,000)	(199,000)	(199,000)	0	(199,000)	-100%	×	Grant income is below budget. Funding was anticipated in September, but approval has not yet been received.
147920. PLANT - ALLOCATE TO W/SERV.	(3,135,832)	(3,135,832)	(1,044,856)	(883,405)	(161,451)	-15%	×	Any under-recoveries in relation to Plant Charge-out and Works Labour Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered. Plant cost recoveries for the year to date are lower than budgeted due to some Council plant being unavailable for use due to machine breakdowns.
149120. WO - LESS ALLOC.W/SERVICES	(2,735,417)	(2,735,417)	(911,440)	(766,393)	(145,047)	-16%	×	
149840 ASSET UPGRADE – REGIONAL ROAD	1,936,497	1,914,347	625,254	87,443	537,811	86%	✓	Expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD % Variance	Variance Ticks	Comments
<b><u>DIRECTOR WORKS &amp; SERVICES</u></b>								
149940. ASSET PRESERVATION	3,344,638	5,436,174	556,272	386,044	170,228	31%	✓	Costs are below budget. Limited work done so far this year, mainly due to adverse weather conditions. Annual costs are expected to be in line with budget.
150140. DRAINAGE CONSTRUCTION	1,834,247	1,764,247	518,936	139,512	379,424	73%	✓	Expenses are below budget. Design work for various drainage projects is incomplete, and there have been some weather delays. Other work is awaiting tender finalisation.
151640. PATHWAY CONSTRUCTION	344,680	294,680	274,674	153,312	121,362	44%	✓	Year to date expenses are below budget. This is only a timing difference, and annual costs are expected to be in line with budget.
155850. DRAINAGE MASTERPLAN INCOME	(750,000)	(750,000)	(249,900)	0	(249,900)	-100%	×	Budget income relates to the water harvesting project. Budgeted funding was evenly spread throughout the year, but funding approval has not yet been received.
168340. EDWS - OTHER CAPITAL	2,733,944	864,347	380,632	126,289	254,343	67%	✓	Expenses are below budget mainly due to deferred work pending Federal Funding approval.
174420. ROADS – DEPRECIATION	8,301,762	8,301,762	2,766,144	2,463,365	302,779	11%	✓	Year to date depreciation is below budget. This is due to delays on road construction completion and capitalisation of assets.
<b>Total DIRECTOR WORKS &amp; SERVICES</b>	<b>17,081,820</b>	<b>18,442,379</b>	<b>5,622,161</b>	<b>2,531,007</b>	<b>3,091,154</b>			

**POLICY IMPLICATIONS**

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

**RECOMMENDATION**

**ITEM 2.2: RESPONSIBLE OFFICER RECOMMENDATION**

**The Financial Activity Statement for the period ending 31 October 2010 be RECEIVED.**

**ITEM 2.2: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR MATLA  
SECONDED: COUNCILLOR SWANN**

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

**CARRIED 10-1**

**Against the Motion:** Councillor Leavesley

**APPENDIX 1**  
**STATEMENT OF FINANCIAL ACTIVITY YEART TO DATE – 31<sup>st</sup> OCTOBER 2010**

	<b>Actual Year to Date 31-Oct-10</b>	<b>Current Budget Year to Date 31-Oct-10</b>	<b>Current Budget vs Actual Variance</b>	
<b>REVENUE</b>				
Operating Grants, Subsidies and Cont	682,080	1,001,329	-319,249	X
Fees and Charges	2,561,077	2,659,671	-98,594	X
Service Charges	3,711,523	3,678,20	33,203	√
Interest Earnings	219,157	286,588	-67,431	X
Other Revenue	369,057	290,215	78,842	√
	<b>7,542,894</b>	<b>7,916,123</b>	<b>-373,228</b>	
<b>EXPENDITURE</b>				
Employee Costs	4,880,429	5,246,586	-366,157	√
Materials and Contracts	2,880,474	4,157,905	-1,278,321	√
Utility Charges	403,602	468,155	-64,553	√
Interest Expenses	220	447	-227	√
Insurance Expenses	536,567	511,098	25,469	X
Other Expenditure	292,800	45,179	247,621	X
Depreciation	3,772,504	4,109,648	-337,144	√
	<b>12,766,596</b>	<b>14,539,018</b>	<b>-1,773,312</b>	
<b>Adjustment for Non-cash Revenue and Expenditure:</b>				
Depreciation	<b>-3,772,504</b>	<b>-4,109,648</b>	<b>337,144</b>	
<b>CAPITAL REVENUE</b>				
Non-Operating Grants, Subsidies and Cont	4,334,313	2,679,667	1,654,646	√
Proceeds from asset disposals	268,191	316,222	-48,031	X
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	0	0	0	
Transfers from Reserves (Restricted Assets)	5,413,778	5,409,492	4,286	
	<b>10,016,281</b>	<b>8,405,381</b>	<b>1,610,900</b>	
<b>CAPITAL EXPENDITURE</b>				
Capital Expenditure	3,795,757	6,711,349	-2,915,592	√
Repayment of Loans	96,947	96,947	0	√
Transfers to Reserves (Restricted Assets)	3,144,101	3,154,087	-9,986	
	<b>7,036,806</b>	<b>9,962,383</b>	<b>-2,925,578</b>	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	<b>1,578,986</b>	<b>n/a</b>	<b>n/a</b>	
LESS Net Current Assets Year to Date	<b>27,110,828</b>	<b>n/a</b>	<b>n/a</b>	
Amount Raised from Rates	<b>-24,003,739</b>	<b>-24,075,595</b>	<b>71,856</b>	

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

\* x Is lower than expected revenue and higher than expected expenditure

## APPENDIX 2 – NET CURRENT ASSETS AS AT 31 OCTOBER 2010

	Actual 31-Oct-10	Actual 30-Jun-10
<b>NET CURRENT ASSETS</b>		
Composition of Net Current Asset Position		
<b>CURRENT ASSETS</b>		
Cash - Unrestricted	16,038,614	1,941,086
Cash - Restricted	5,863,845	8,268,976
Receivables	11,214,610	3,428,043
Inventories	4,553,408	4,607,191
<b>Total Current Assets</b>	<b>37,670,477</b>	<b>18,245,296</b>
<b>LESS: CURRENT LIABILITIES</b>		
Payables and Provisions	4,695,803	8,397,333
	<b>32,970,584</b>	<b>9,847,963</b>
Less: Cash - Restricted - Trust	(1,353,233)	(1,488,688)
Less: Cash - Restricted - Reserves	(4,510,612)	(6,780,288)
<b>NET CURRENT ASSET POSITION</b>	<b>27,110,829</b>	<b>1,578,987</b>

## APPENDIX 3 – BALANCE SHEET AS AT 31 OCTOBER 2010

	Actual 31-Oct-10	Budget 30-Jun-11	Actual 30-Jun-10	Actual 30-Jun-09
<b>CURRENT ASSETS</b>				
Cash - Municipal	16,543,263	1,800,755	1,941,086	477,330
Restricted cash (Trust)	1,353,233	1,483,498	1,488,688	1,987,438
Reserve Funds - Financial Assets	1,054,480	800,755	1,054,480	1,170,755
Reserve Funds - Other	3,456,132	7,197,963	5,725,809	7,360,046
Receivables & Other	11,214,610	1,600,000	3,428,043	2,912,825
Investment Land	3,523,483	0	3,523,483	0
Stock on hand	1,029,925	800,000	1,083,708	1,033,538
	<b>38,175,125</b>	<b>13,682,971</b>	<b>18,245,295</b>	<b>14,941,932</b>
<b>CURRENT LIABILITIES</b>				
Borrowings	2,435,159	5,638,175	2,532,106	5,887,897
Creditors prov - Annual leave & LSL	2,553,159	2,286,053	2,245,816	2,023,128
Trust Liabilities	1,282,092	1,546,383	1,417,307	1,930,516
Creditors prov & accruals	2,647,293	3,101,240	6,151,517	4,190,792
	<b>8,917,703</b>	<b>12,571,851</b>	<b>12,346,746</b>	<b>14,032,333</b>
<b>NET CURRENT ASSETS</b>	<b>29,257,423</b>	<b>1,111,120</b>	<b>5,898,549</b>	<b>909,599</b>
<b>NON CURRENT ASSETS</b>				
Receivables	77,272	150,000	77,272	106,322
Pensioners Deferred Rates	320,922	280,000	320,922	292,616
Investment Land	2,220,758	2,150,000	2,220,758	2,150,000
Property, Plant & Equip	70,745,201	72,666,174	68,034,400	67,901,036
Infrastructure Assets	186,194,246	196,047,672	188,881,619	186,048,239
Local Govt House Shares	19,501	19,501	19,501	19,501
	<b>259,577,900</b>	<b>271,313,347</b>	<b>259,554,473</b>	<b>256,517,714</b>
<b>NON CURRENT LIABILITIES</b>				
Borrowings	18,264,569	12,626,394	18,264,569	15,996,675
Creditors & Provisions	364,845	260,000	364,845	259,838
	<b>18,629,414</b>	<b>12,886,394</b>	<b>18,629,414</b>	<b>16,256,513</b>
<b>NET ASSETS</b>	<b>270,205,909</b>	<b>259,538,073</b>	<b>246,823,608</b>	<b>241,170,800</b>
<b>EQUITY</b>				
Accumulated Surplus	246,924,170	232,764,720	221,268,686	212,131,561
Reserves	4,507,995	7,998,719	6,780,289	10,264,605
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634	18,774,634
	<b>270,206,909</b>	<b>259,538,073</b>	<b>246,823,608</b>	<b>241,170,800</b>

## APPENDIX 4 - INCOME STATEMENT FOR THE PERIOD ENDED – 31 OCTOBER 2010

Nature / Type	YTD Actual 2010/11	Budget-Total 2010/11	Actual 2009/10
<b>INCOME</b>			
Rates	24,003,739	25,574,053	21,575,584
Grants & Subsidies	635,532	3,196,680	3,424,202
Contributions. Reimb & Donations	46,548	349,738	395,475
Fees & Charges	2,561,077	7,280,601	7,091,836
Service Charges	3,711,523	3,735,000	3,011,136
Interest Earned	219,157	680,000	904,653
Other Revenue / Income	369,057	520,615	399,264
	<b>31,546,633</b>	<b>41,336,687</b>	<b>36,802,149</b>
<b>EXPENDITURE</b>			
Employee Costs	4,880,429	15,240,526	14,308,136
Utilities	403,602	1,362,613	1,335,373
Interest Expenses	220	1,101,799	1,180,372
Depreciation on non current assets	3,772,504	12,334,000	11,226,465
Contracts & materials	2,879,584	13,274,398	10,516,730
Insurance expenses	536,567	511,098	476,810
Other Expenses	293,040	(273,177)	1,251,142
	<b>12,765,946</b>	<b>43,551,257</b>	<b>40,295,028</b>
<b>Change in net assets from operations</b>	<b>18,780,687</b>	<b>(2,214,570)</b>	<b>(3,492,878)</b>
Grants and Subsidies - non-operating	4,089,011	9,156,877	5,876,907
Contributions Reimbursements and Donations - non-operating	245,302	2,689,416	3,408,787
Profit/Loss on Asset Disposals	268,191	1,541,004	(23,732)
Fair value - Investments adjustment	0	0	1,651,060
	<b>23,383,190</b>	<b>11,172,727</b>	<b>7,420,144</b>

**APPENDIX 5 - PORTFOLIO VALUATION - MARKET VALUE – 31 OCTOBER 2010**

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value	Market Value	Market Value	Latest Monthly Variation
				Aug-10	Sep-10	Oct-10	
<b>MUNICIPAL ACCOUNT</b>							
NAB	23/11/2010	1,000,000	5.60%	1,000,000	1,000,000	1,000,000	
Bankwest	23/11/2010	1,500,000	5.75%	1,500,000	1,500,000	1,500,000	
ANZ	24/11/2010	1,500,000	5.85%	1,500,000	1,500,000	1,500,000	
ANZ	27/01/2011	1,000,000	6.00%	1,000,000	1,000,000	1,000,000	
Bankwest	27/01/2011	1,000,000	6.00%	1,000,000	1,000,000	1,000,000	
Bendigo	25/02/2011	1,000,000	6.05%	1,000,000	1,000,000	1,000,000	
NAB	25/02/2011	1,500,000	6.07%	1,500,000	1,500,000	1,500,000	
Bendigo	3/11/2010	1,000,000	5.60%		1,000,000	1,000,000	
Bankwest	3/11/2010	1,500,000	5.60%		1,500,000	1,500,000	
ANZ	2/12/2010	1,500,000	5.85%		1,500,000	1,500,000	
Bankwest	17/01/2011	1,000,000	5.85%		1,000,000	1,000,000	
NAB	16/03/2011	1,000,000	6.07%		1,000,000	1,000,000	
ANZ	20/04/2011	1,000,000	6.20%			1,000,000	
				<b>8,500,000</b>	<b>14,500,000</b>	<b>15,500,000</b>	n/a
<b>RESERVES ACCOUNT</b>							
Bendigo	23/11/2010	1,500,000	5.85%	1,500,000	1,500,000	1,500,000	
Bendigo	16/12/2010	1,000,000	5.70%		1,000,000	1,000,000	
				<b>1,500,000</b>	<b>2,500,000</b>	<b>2,500,000</b>	n/a

## APPENDIX 5 - PORTFOLIO VALUATION - MARKET VALUE Continued

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

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

On 4th October 2010, the City of Albany was advised by CPG Advisory of revised CDO valuations for 30th June 2010. The revision arose due to the identification of a CPG Advisory system error at 30th June.

**APPENDIX 6 – FINANCIAL RATIOS**

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

1. This ratio focuses on the liquidity position of a local government.
2. This ratio provides an indication of whether a local government has sufficient unrestricted cash to pay its trade creditors.
3. The ratio is a measure of total liabilities to total assets or alternatively the number of times total liabilities are covered by the total assets of a local government. The lower the ratio of total liabilities to total assets, the stronger is the financial position of the local government.
4. This ratio measures a local government's ability to service debt (principal and interest) out of its available operating revenue.
5. This ratio measures a local government's ability to service debt in any given year out of total revenue.
6. This ratio provides a measure of whether a local government has sufficient realisable assets to cover its total borrowings.
7. The Coverage Ratio measures the local governments dependence on rate revenue to fund its operations. The higher the ratio, the less dependent a local government is on grants and external sources to fund its operations.
8. The Effectiveness Ratio measures the effectiveness of a local governments with the collection of its rates. It would be expected to be above 5% at this time of the year but reduce to below the benchmark at 30 June 2011

**(Intentionally Left Blank)**

**2.3: NEW LEASE TO THE FEDERATION OF WESTERN AUSTRALIA POLICE AND COMMUNITY YOUTH CENTRES INC. (PCYC) IN PARTNERSHIP WITH NEIGHBOURHOOD WATCH AT LOTTERIES HOUSE**

<b>File Number (Name of Ward)</b>	: CP.USG.3 (Frederickstown Ward)
<b>Land Description</b>	: Lot 211 on Diagram 94113 being land in Certificate of Title Volume 2172 Folio 740
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) in partnership with Neighbourhood Watch
<b>Previous Reference</b>	: Nil
<b>Attachment(s)</b>	: Nil
<b>Appendices</b>	: Nil
<b>Consulted References</b>	: <a href="#">Council Policy – Property Management Leases</a> <a href="#">Local Government Act 1995</a>
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

**IN BRIEF**

- Consider new lease to the Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) in partnership with Neighbourhood Watch at Lotteries House.
- Lease term to be 3 years.

**BACKGROUND**

1. In September 1996 a Deed of Trust was entered into between the former Town of Albany and the Lotteries Commission for the management of Lotteries House, located at Lot 211 on Diagram 94113, with the street address being 211-217 North Road, Albany.
2. The Deed required a Management Committee to be formed to oversee the management of the premises.
3. The City of Albany ('the Trustee'), through the administration of the Management Committee is to make and keep available the property for eligible organisations defined in section 19 of the Lotteries Commission Act 1990 to use exclusively for accommodation for benevolent or charitable purposes.
4. In September 2010, Great Southern Family Violence Intervention Council Inc. vacated their leased area of 20 square metres at Lotteries House.

5. The City advertised the lease vacancy seeking submissions from interested parties that are eligible organisations as defined in section 19 of the Lotteries Commission Act to lease the 20 square metre vacant area at Lotteries House.
6. A written submission was received from Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) in partnership with Neighbourhood to occupy the area available at Lotteries House.
7. As the Albany Neighbourhood Watch Committee is not an incorporated body the Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) has agreed to allow the Neighbourhood Watch to use its incorporated status to facilitate the occupancy at Lotteries House.
8. This arrangement will be supported by a Memorandum of Understanding between the Federation of Western Australia Police and Community Youth Centres Inc and Neighbourhood Watch.
9. The lease submission has been considered and approved by the Lotteries House Management Committee at meeting on 12 October 2010.
10. The 20 square metres lease area will return a rental of \$2,269.19 plus GST per annum. This is based on a rate of \$124.81 per square metre as determined by the Lotteries House Management Committee.
11. The Lotteries House Management Committee determines the rents by projecting operating expenses required for the financial year. These expenses are levied as rental to each tenant, based on a per square metre of leased area. New rates are applied annually from 1 July.

## **DISCUSSION**

12. Neighbourhood Watch is not for profit community based program which aims to improve the quality of life within a neighbourhood by minimising preventable crime and promoting closer community ties.
13. Run by volunteers with support of Police, the program provides a valuable resource to the community.
14. The Albany Neighbourhood Watch volunteers group are very active in distributing crime prevention and personal safety advice across the Albany community. The Albany group is the strongest Neighbourhood Watch Program in Regional WA.
15. Neighbourhood Watch in Albany has been operating the well known Police branded community safety program for 25 years.
16. The Federation of Western Australia Police and Community Youth Centres Inc. (PCYC) is a not for profit organisation established in Western Australia in 1941. In partnership with the Western Australia Police operates centres that aim to create opportunities for young people in the community through delivery of recreational and educational activities and programs.
17. The Albany Neighbourhood Watch and Albany Police and Community Youth Centre are key partners in the City of Albany's Community Safety and Crime Prevention Plan adopted by Council in January 2010.

18. The proposed new lease term will be for a term of 3 years with rental to be \$2,269.19 plus GST per annum.
19. Any costs associated with the preparation, execution and completion of the licence documentation will be borne by the proponent, Federation of Western Australia Police and Community Youth Centres Inc. (PCYC).

#### **PUBLIC CONSULTATION / ENGAGEMENT**

20. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including Leased land and buildings.
21. 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.
22. Section 30 of the Local Government (Functions & General) Regulations 1996 deals with dispositions to which the advertising requirements of section 3.58 of the Act does not apply. Section 30(2)(b & c) states that Section 3.58 of the Act is exempt if:
  - (b) *The land is disposed of to a body, whether incorporated or not –*
    - (i) *the object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
    - (ii) *the members of which are not entitled or permitted to receive any pecuniary from the body's transactions;*
  - (c) (ii) *a department, agency, or instrumentality of the Crown in right of State or the Commonwealth; or*
23. The Federation of Western Australia Police and Community Youth Centres Inc. is a not for profit organisation in partnership with the Western Australian Police and therefore exempt from the advertising requirements of Section 3.58 of the Local Government Act 1995.

#### **STATUTORY IMPLICATIONS**

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

#### **FINANCIAL IMPLICATIONS**

25. Any costs associated with the preparation and implementation of the new licence documentation will be borne by the proponent, Federation of Western Australia Police and Community Youth Centres Inc in partnership with Neighbourhood Watch.
26. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to Council to cover the City's Officers time for managing the property on behalf of the Lotteries House Management Committee.

27. The new lease rental income of \$2,269.19 plus GST per annum will be directed to COA 120930 – Lotteries House Income.

### **POLICY IMPLICATIONS**

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

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

30. 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.
31. Should Council decline the request, the City will be required to re advertise the vacancy and risks a further loss in rental during this process that may impact negatively on the operations of Lotteries House.

### **SUMMARY CONCLUSION**

32. In view of the community service provided by the Albany Neighbourhood Watch and Federation of Western Australia Police and Community Youth Centres Inc at no cost to Council, the request for a new lease for 3 years at Lotteries House is recommended.

**RECOMMENDATION**

**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION**

The request for a new lease to the Federation of Western Australia Police and Community Youth Centres Inc. in partnership with the Neighbourhood Watch at Lot 211 on Diagram 94113 Lotteries House be APPROVED subject to:

1. Lease term being 3 years.
2. Lease area of 20 square metres.
3. Lease rental being \$2,269.19 plus GST per annum as determined by the Lotteries House Management Committee.
4. Lease rent reviews being carried out annually on 1 July by the Lotteries House Management Committee.
5. Any costs associated with the preparation and implementation of the lease to be payable by the proponent, Federation of Western Australia Police and Community Youth Centres Inc in partnership with Neighbourhood Watch.

**ITEM 2.3: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR SUTTON**

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

**CARRIED 11-0**

## **2.4: ALBANY REGIONAL AIRPORT FOCUS GROUP**

<b>File Number (Name of Ward)</b>	: All Wards/CE.MEE.3
<b>Land Description</b>	: Albany Regional Airport
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: City of Albany
<b>Previous Reference</b>	: SCM 10/11/09 – Item 6.1.4
<b>Attachment(s)</b>	: Nil
<b>Reporting Officer(s)</b>	: Executive Manager Community Services (D Schober)
<b>Responsible Officer</b>	: Executive Director, Corporate and Community Services (WP Madigan)

### **IN BRIEF**

- Make the Albany Regional Airport Focus Group a Committee of Council
- Appoint members to the Committee

### **BACKGROUND**

1. The Albany Regional Airport Focus Group was re-established in 2009/10 in response to feedback obtained from the Civil Aviation Safety Authority during their annual audit of the Albany Aerodrome in 2009. The group, previously known as Airport Users Group Advisory Committee, disbanded in 2007 due to a relationship breakdown between staff and stakeholders.
2. The purpose of the group is to share information across the aviation community. This group also assists Airport staff in the management of the airport by providing feedback and assistance across a range of operational matters.
3. The 2007 Albany Regional Airport Business Plan will undergo review early in 2011 and it envisaged that the Focus Group will provide input and assistance into this process.
4. Currently the Albany Regional Airport Focus Group is a committee with no direct relationship to Council. It has a membership of between 12 and 15 persons and is currently chaired by Cllr Wolfe. (This is not a Council appointment, but was endorsed by the Focus Group).
5. Given the nature of the business unit and its strategic and financial importance to the City, the group have requested to become a formal committee of Council.

### **DISCUSSION**

6. Staff support the group's request to become a formal committee of Council for the following reasons:
  - a. It provides a direct conduit to Council for information delivery.
  - b. The elected members would have an opportunity to be involved with key stakeholders and staff of the Airport. (This is significant with the move towards deregulating the Albany-Perth route and possible introduction of Qantas, Virgin and/or other similar airlines).

- c. If accepted by Council, the group would have defined terms of reference matching the business objectives of Council and the Airport business unit.
7. The disadvantages of the request to become a formal committee of Council include:
    - a. Increase in administration to manage the committee.
    - b. Loss of flexibility due the formal processes of Council.
    - c. Increase in time commitments for Elected Members.

#### **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

8. This item directly relates to objective

##### ***Economic Development***

- 2.7. *“Albany will be a City where we are recognised as a true University City and vocational development is supported by quality educational and training services”.*

##### ***Corporate Governance***

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

#### **STATUTORY IMPLICATIONS**

9. **Local Government Act 1995, section 5.8 (Establishment of committees).** A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees. \*Absolute Majority Required.
10. **Local Government Act 1995, section 5.10 (Appointment of committee members).** \*Absolute Majority Required.
11. **Local Government Act 1995, section 5.9(2)(d) (Types of committees):** council members and other persons.

#### **POLICY IMPLICATIONS**

9. Nil

#### **OPTIONS**

##### **Option A**

10. Council accepts the Albany Regional Airport Focus Group’s request to become a committee of Council with defined terms of reference.

##### **Option B**

11. Council does not accept the Albany Regional Airport Focus Group’s request to become a formal committee of Council.

**SUMMARY CONCLUSION**

12. City of Albany staff endorse the Albany Regional Airport Focus Group's request to become a formal committee of Council with the following details:
- Executive Officers: Senior Reporting Officer (D Walker), EM Community Services (D Schober)
  - Terms of reference: To review, monitor and provide strategic feedback on the Airport Business Plan
  - Meeting frequency: Once per quarter
  - Number of Elected Members: 1 to 2

**RECOMMENDATION**

**ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION**

1. The Albany Regional Airport Focus Group request to become a formal committee of Council with the following terms of reference:

*“To review, monitor and provide strategic feedback on the Airport Business Plan”*

be ENDORSED and APPROVED.

2. That the following elected member be APPOINTED to the Albany Regional Airport Focus Group:

- a. MAYOR EVANS; and
- b. COUNCILLOR WOLFE.

3. That the following community representatives are appointed to the Albany Regional Airport Focus Group:

- Mr Steve Johnson - Albany Airport Services (Skywest)
- Mr Mike Crawshaw, Avis, Albany
- Mr Ian Williams, Albany Aviation
- Mr Ralph Burnett, Flying Schools
- Mr Lindsay Joyce, Commercial Operator Kevin Watkins
- Wing Commander John Wood, RAAF
- Ms Jacqui Daneil-Runway Cafe,
- Mr Jason Balhorn-Bureau of Meteorology
- Mr Hamish Wight - Rainbow Aviation Maintenance
- Ms Gerry Van der Ros-Budget Rental
- Mr Peter Aspinall - Albany Aero Club
- Mr Joe Lacerenca - SAAA Club
- Ms Julie Biser - Rainbow Coast Flying School

**ITEM 2.4: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR DUFTY**

**SECONDED: COUNCILLOR MATLA**

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

**CARRIED 11-0  
ABSOLUTE MAJORITY**

Mayor Evans nominated himself to the Committee, and Councillor Wolfe was the only other nomination.

**2.5: ALBANY PUBLIC LIBRARY – UNIVERSITY WESTERN  
AUSTRALIA AGREEMENT**

9:09:05PM: Councillor Dufty returned to Chamber.

**File Number (Name of Ward)** : CS.LIB.4 (All Wards)  
**Land Description** : Albany Public Library – York Street, Albany  
**Disclosure of Interest** : Nil  
**Business Entity Name** : City of Albany  
**Previous Reference** : OCM 12/10/2010 Item 2.5  
**Attachment(s)** : Nil  
**Reporting Officer(s)** : Manager, Library Services (B Wellstead)  
Executive Manager Community Services (D Schober)  
**Responsible Officer** : Executive Director, Corporate and Community Services  
(WP Madigan)

**IN BRIEF**

- Recover service costs from the University of Western Australia – Albany Centre

**BACKGROUND**

1. At the October 2010 OCM Council considered the Agreement between the Albany Public Library (APL) and the University of Western Australia (UWA) Albany Centre for the provision of Library services to UWA.
2. Following presentations from UWA staff, Council resolved “*To lay this item on the table for one month to facilitate further negotiation with UWA*”.
3. City of Albany and UWA Staff subsequently met on Tuesday 26<sup>th</sup> October 2010 at UWA to further discuss the issues. In response, the UWA executive (through an email from Pro-Vice Chancellor Jane E Long) have provided the following information for Council's consideration:

*“I wish to confirm the University's offer in relation to payments for Library Services through the Albany Public Library since the expiration of our agreement in December 2007.*

*We propose that the renewed agreement would cover the period 1 January 2008 to 31st December 2012 with a commencing annual payment of \$30,000 for the three year period 2008- 2010, increasing to \$35,000 per annum for 2011 and 2012 in consideration of CPI, i.e:*

2008	\$30,000
2009	\$30,000
2010	\$30,000
2011	\$35,000
2012	\$35,000

**\*\*REFER DISCLAIMER\*\***

*UWA has based this offer on an estimated 0.5FTE staff cost plus \$5,000 towards operating costs for the 56sqm of floor space the UWA collection occupies.”*

*"We would also like to reiterate that the University's original contribution of \$700,000 (excl GST) to the Library Extension project in 2002, included payment for 160sqm of floor space for the UWA collection and services. Having reviewed the service with City staff, we have agreed that our current space requirements are now only 56sqm, and that the excess space of 104sqm is freely available for the City's use.*

*This area is now surplus to our requirements, and whilst we are very happy to contribute this to the partnership with the City for the community's benefit, we seek Council's acknowledgement of the value of this space in relation to our library service partnership."*

- Note: The quote is an excerpt from an email sent to David Schober, Executive Manager, Community Services, from Pro-Vice Chancellor Jane E. Long received on Thursday 28<sup>th</sup> October 2010.
4. The City of Albany currently employs a Library Officer on Level 6.2 at 0.7 FTE to manage the UWA/APL agreement. This equates to a cost of \$41,860 (inclusive of 15.5% for Superannuation, leave loading and workers compensation). The 0.7FTE allocation is also representative of the academic year, not the full calendar year.
  5. UWA state that it values the service at 0.5FTE only and that position does not require Level 6 qualifications. Whilst the City staff do not concur, if this position is to be accepted, the following scenario would represent the true cost of the service.
    - Level 3.1 (Base level) 0.5FTE value is \$28,224 (inclusive of 15.5% for Superannuation, leave loading and workers compensation)
    - The 2011 and 2012 salary level will also need to be adjusted according to the Collective Agreement which covers conditions of employment for City staff.
  6. At level 3 a Library Officer is expected to possess limited or no experience relating to technical Library operations.
  7. Both UWA and the City have not factored in managerial overheads relating to supervision of this position.

#### **DISCUSSION**

8. Nil

#### **PUBLIC CONSULTATION / ENGAGEMENT**

9. Nil

#### **STATUTORY IMPLICATIONS**

10. Nil

## **FINANCIAL IMPLICATIONS**

11. The UWA contribution included in the 2010/11 budget is \$48,000. Any removal or reduction in this contribution will impact on the APL's financial position.

## **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

12. This item directly relates to following objectives from the Corporate Plan:

### ***Economic Development***

- 2.7. *"Albany will be a City where we are recognised as a true University City and vocational development is supported by quality educational and training services".*

### ***Corporate Governance***

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

## **POLICY IMPLICATIONS**

13. Nil

## **OPTIONS**

### **Option A**

14. UWA pays outstanding balance in full.

### **Option B**

15. UWA pays \$28,244 plus \$5,000 (totalling \$33,224) for 2008, 2009, 2010 and then \$33,224 plus Consumer Price Index (CPI) plus wage increases resulting from the new Collective Agreement for 2011 and 2012.

### **Option C**

16. UWA pays \$25,000 plus \$5,000 (totalling \$30,000) for 2008, 2009, 2010 and then \$35,000 for 2011 and 2012, with Council to provide a direct subsidy for the balance of the costs to the APL.

## **SUMMARY CONCLUSION**

17. Both UWA and APL/City of Albany recognise an agreement is mutually beneficial.
18. Both UWA and APL/City of Albany recognise that protracted negotiations are not beneficial to either party and both seek a swift conclusion.
19. Should either Option A or B be accepted the APL will provide the UWA service with predominately a Level 3 officer, currently Level 6, in line with the feedback provided by UWA.

**RECOMMENDATIONS**

**ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council seek to recover service costs from the University of Western Australia – Albany Centre valued at; either:**

- A. \$33,224 for 2008, 2009, 2010 and then \$33,224 plus Consumer Price Index (CPI) plus wage increases resulting from the new Collective Agreement for 2011 and 2012, or
- B. **\$30,000 for 2008, 2009, 2010 and then \$35,000 for 2011 and 2012 plus wage increases resulting from the new Collective Agreement for 2011 and 2012.**

**ITEM 2.5: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR D BOSTOCK  
SECONDED: COUNCILLOR LEAVESLEY**

**THAT Part B of the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 12-0**

## **2.6: SURRENDER LEASE OVER HANGAR SITE 2 AT ALBANY AIRPORT**

<b>File Number (Name of Ward)</b>	: PRO154 / PRO195 (Kalgan Ward)
<b>Land Description</b>	: Portion of Lot 213 on Diagram 94445 being land in Certificate of Title Volume 2158 Folio 588
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins
<b>Previous Reference</b>	: OCM 19.08.2010 Item 13.3.1 OCM 15.06.2010 Item 14.11.5
<b>Appendices</b>	: <ul style="list-style-type: none"><li>• Proponent letter of request</li><li>• Airport User Group Committee minutes 4 October 2010</li></ul>
<b>Consulted References</b>	: <a href="#">Council Policy – Property Management Leases</a> <a href="#">Local Government Act 1995</a>
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

### **IN BRIEF**

- Consider request to surrender existing lease over hangar site 2.
- Consider request for a new lease over hangar sites 2 and 3 for purpose of developing and operating a multi user facility for activities associated with aviation.
- Consider request for lease term to be for 10 years with an option for a further term of 10 years.

### **BACKGROUND**

1. In April 1994 the former Shire of Albany granted a new lease for hangar site 2 at the Albany Regional Airport on portion of Lot 213 on Diagram 94445 to Kevin Ronald Watkins for the purpose of airport hangarage.
2. Hangar site 2 lease term of 20 years commenced on 1 April 1996 and expires on 31 March 2016 and occupies a 408 square metre area.
3. In June 2010 Council resolved to enter into a new lease for hangar site 3 at the Albany Regional Airport on portion of Lot 213 on Diagram 94445 to Ticon Pty Ltd as trustee for the Williams Superannuation Fund for the purpose of airport hangarage for a term of 10 years with an option for a further 10 year term.
4. Due to the extensive corrosion of the existing hangar 3 structural elements and run down condition this lease would be subject to a redevelopment special condition requiring the existing hangar 3 structure to be removed and replaced with a new hangar within 12 months of the commencement date of the lease.
5. Since June 2010, Ian Williams, Director of Ticon Pty Ltd, verbally advised staff of his intention to submit a joint proposal with Kevin Watkins to redevelop hangar sites 2 and 3.

6. Subsequently a new lease for hangar site 3 has not been prepared and the tenant has been allowed to remain as occupant of this site on a monthly tenancy pending Council decision on the proposed development.
7. Hangar site 3 occupies an area of 473 square metres.
8. Lot 213 is City of Albany land adjacent the Airport Terminal.
9. A written request has been received from Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins as joint proponents to amalgamate hangar sites 2 and 3 and lease the amalgamated area.
10. The proponent seeks a lease term for 10 years with the option for 3 further 10 year terms for the purpose of developing and operating a multi user facility for activities associated with aviation.
11. The existing hangars on sites 2 and 3 would be demolished and replaced with the proposed new facility.
12. The facility includes aircraft hangarage, office space, meeting and briefing rooms, kitchen, and public and staff toilet facilities.
13. The proponent also seeks to sub-lease and/or rent and/or hire portions of the facility to aviation connected entities.
14. The development does not provide for any car parking on site. It is envisaged users of the facility will use Airport Terminal public parking.

#### **DISCUSSION**

15. The proponent seeks to retain the existing hangar site 2 area in total of 408 square metres but re configure the site dimensions from the current 27.2 x 15 square metres to 22 x 18.55 square metres.
16. Hangar site 2 lease area of 408 square metres and hangar site 3 area of 473 square metres would then be amalgamated forming a total area 881 square metres.
17. The proponent has requested Council approve a lease over the amalgamated area of 881 square metres for 10 years with the option for 3 further 10 year terms, effectively a 40 year lease.
18. Council's Policy – Property Management – Leases for Airport Hangar sites provides for lease terms of 10 years with an option for a further 10 year term.
19. Staff can only recommend leases over hangar sites in accordance with the Policy provisions; however Council may decide to approve a lease for 10 years with the option for 3 further 10 year terms. Such a term will be subject to Western Australian Planning Commission approval.
20. Under the Planning and Development Act 2005, Western Australian Planning Commission approval is required for any lease on Airport land where the term exceeds 20 years.
21. Staff believe the proposed development costs could be amortized over the recommended 10 plus 10 year term which is consistent with Council's Policy – Property Management – Leases.

22. As there had been a degree of uncertainty regarding hangar site lease terms in August 2008 Council resolved to limit these leases to a maximum term of 20 years. Staff are concerned approving a 40 year lease may set precedent for future leases on Airport land.
23. The proposed development will be subject to the City's building and planning approvals as local authority.
24. In assessing the proposal and lease request and given the significance of development staff forwarded the proposal to the Airport User Group Committee for review and comments.
25. The Airport User Group Committee meets quarterly to discuss matters of interest and concern at the Albany Regional Airport. User Group Committee members include representatives from the City of Albany, SkyWest, car hire companies, cafe operator, Sports Aircraft Australian Assoc. (SAAA), hangar owners and RAAF.
26. The following is a summary of the responses in support and objections received from the Airport User Group:

**Support**

- The proposal in general terms is accepted.
- Great to have such a facility but understands it must be commercially viable between developing parties and Council.

**Objections**

- Concerns were raised regarding the development impact on the adjacent hangar site 40 currently occupied by Great Southern Aviation.
  - The proposed building would be within 1.5 meters of Great Southern Aviation.
  - Facility will block off 1 gateway requiring Great Southern Aviation to use BP fuel bowser gates which are further from where aircraft is parked.
  - Great Southern Aviation in the future will be proposing expansion of the existing building on Hangar site 40 for flying school activities.
  - Concerns that the new facility may be used as a flying school which would be incompatible with Great Southern Aviation location.
  - A general loss of amenity for Great Southern Aviation.
27. A copy of the Airport User Group Committee minutes of 4 October 2010 is attached in the Appendices Booklet.
  28. Council's Albany Airport Business Plan 2007 outlines the strategic direction and operational functions of the airport for a 5 year period. Although the Business Plan does not specifically provide for commercial development at the Airport, staff are of the opinion the multi user facility for activities associated with aviation is appropriate.
  29. The proposed new lease will be categorised as commercial with lease rental to be determined by 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 agreement.
  30. All costs associated with the preparation, execution and completion of the lease documentation will be borne by the proponent, Ian Williams, Director Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins.

### **PUBLIC CONSULTATION / ENGAGEMENT**

31. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including Leased land and buildings.
32. 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.
33. The proposed new lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

35. All costs associated with the preparation and implementation of the new licence documentation will be borne by the proponent, Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins.
36. The new lease rental will be determined by current market valuation provided by an independent Certified Practising Valuer.
37. The lease income will be directed to COA 138130 Airport Lease Rents.

### **POLICY IMPLICATIONS**

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

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

40. Council has the following options in relation to this item, which are:
  - a. Approve the request to surrender lease over hangar site 2 and approve a new lease over hangar sites 2 and 3 for the purpose of developing and operating a multi user facility for activities associated with aviation for a term of 10 years with an option for a further 10 year term; or
  - b. Approve the request to surrender lease over hangar site 2 and approve a new lease over hangar sites 2 and 3 for the purpose of multi user for activities associated with aviation for a term of 10 years with an option for 3 further 10 year terms, or
  - c. Decline the request.
41. Should Council approve the lease request for a term of 10 years with an option for a further 10 year term the proponent will be required to obtain building and planning approvals prior to commencing development.

42. Should Council approve the lease request for a term of 10 years with an option for 3 further 10 year terms the proponent will be required to obtain building, planning and WAPC approvals prior to commencing development.
43. Should Council decline the request hangar site 2 will remain static until expiry until 2016.
44. Should Council decline the request hangar site 3 preparation of lease documentation will be commenced and include a redevelopment clause to demolish the existing hangar structure and replace with a new structure. The lease for a term of 10 years with an option for a further 10 year term will remain static until expiry of initial 10 year term in 2020.

### **SUMMARY CONCLUSION**

45. The proposed development of hangar sites 2 and 3 for the purpose of developing and operating a multi user facility for activities associated with aviation for a term of 10 years with an option for a further 10 year term is supported. This lease term is consistent with Council's Policy – Property Management – Leases and recommended.
46. Council Staff consider the requested lease term of 10 years with an option for 3 further 10 year terms is not appropriate as this is not consistent with Council's Policy – Property Management – Leases and may set precedence for future leases on Airport land.

### **RECOMMENDATION**

#### **ITEM 2.6: RESPONSIBLE OFFICER RECOMMENDATION**

The request from joint proponents Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins to surrender lease over hangar site 2 and simultaneously replace with a new lease over the amalgamated hangar sites 2 and 3 lease area of 881 square metres on portion of Lot 213 on Diagram 94445 situated at 35615 Albany Highway, Drome be APPROVED subject to:

1. Lease term being 10 years with an option for a further 10 year term.
2. Lease purpose being for development and operation of multi user facility for activities associated with aviation.
3. Lease to be categorised as commercial.
4. Lease rental fee to be determined by current market valuation provided by an independent Certified Practising Valuer.
5. Rent to be reviewed by current market valuation every 5 years with CPI applied for intervening years.
6. All relevant approvals to be received prior to commencement of development.
7. The development must not cause interference to other users of the Airport.
8. Section 3.58 of the Local Government Act 1995 advertising requirements.
9. All costs associated with the development to be payable by the proponent.
10. All costs associated with the preparation and implementation of the surrender and new lease to be payable by the proponent.

ITEM 2.6: ALTERNATE RECOMMENDATION BY COUNCILLOR DUFTY

The request from joint proponents Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins to surrender lease over hangar site 2 and simultaneously replace with a new lease over the amalgamated hangar sites 2 and 3 lease area of 881 square metres on portion of Lot 213 on Diagram 94445 situated at 35615 Albany Highway, Drome be APPROVED subject to the following conditions:

11. Lease term being 10 years, with the option for 2 further 10 year terms.
12. Lease purpose being for development and operation of multi user facility for activities associated with aviation.
13. Lease to be categorised as commercial.
14. Lease rental fee to be determined by current market valuation provided by an independent Certified Practising Valuer, with the following subsidy:
  - (a) Hangar Site 3 - 473 square metres lease rental calculated at current market valuation; and
  - (b) Hangar Site 2 - 408 square metres calculated at \$1.50 per m<sup>2</sup> for the next 6 years (subsidy expiring on 31/3/2016) at which time lease rental will be calculated at current market valuation.
15. Rent to be reviewed by current market valuation every 5 years with CPI applied for intervening years for Hangar Site 3.
16. All relevant approvals to be received prior to commencement of development.
17. The development must not cause interference to other users of the Airport.
18. Section 3.58 of the *Local Government Act 1995* advertising requirements.
19. All costs associated with the development to be payable by the proponent.
20. All costs associated with the preparation and implementation of the surrender and new lease to be payable by the proponent.

**Councillor's Reason:** This amendment supports local people investing in Albany's future. The current recommendation penalises a local initiative, whilst outside applicants such as Woolworths are given allowances worth millions.

**Officer's Comment (S Jamieson):** This alternate recommendation is outside the parameters specified in *Property Management – Leases for Airport Hangar Sites Policy/Guideline*, which provides for lease terms of 10 years with an option for a further 10 year term.

If Council approve a lease for 10 years with the option for 3 further 10 year terms, under the *Planning and Development Act 2005*, approval is required for any lease on Airport land where the term exceeds 20 years by the Western Australian Planning Commission (WAPC).

The applicants proposal was presented to the Airport User Group meeting on 04/10/2010 and comments are detailed in the appendices. [\(Corrections made in blue\)](#)

ITEM 2.6: ALTERNATE RECOMMENDATION BY COUNCILLOR PAVER

The request from joint proponents Ian Williams, Director of Ticon Pty Ltd, as trustee for the Williams Superannuation Fund and Kevin Watkins to surrender lease over hangar site 2 and simultaneously replace with a new lease over the amalgamated hangar sites 2 and 3 lease area of 881 square metres on portion of Lot 213 on Diagram 94445 situated at 35615 Albany Highway, Drome be APPROVED subject to the following conditions:

21. Lease term being 10 years, with the option for 1 further 10 year terms.
22. Lease purpose being for development and operation of multi user facility for activities associated with aviation.
23. Lease to be categorised as commercial.
24. Lease rental fee to be determined by current market valuation provided by an independent Certified Practising Valuer, with the following subsidy:
  - (c) Hangar Site 3 - 473 square metres lease rental calculated at current market valuation; and
  - (d) Hangar Site 2 - 408 square metres calculated at \$1.50 per m2 for the next 6 years (subsidy expiring on 31/3/2016) at which time lease rental will be calculated at current market valuation.
25. Rent to be reviewed by current market valuation every 5 years with CPI applied for intervening years for Hangar Site 3.
26. All relevant approvals to be received prior to commencement of development.
27. The development must not cause interference to other users of the Airport.
28. Section 3.58 of the *Local Government Act 1995* advertising requirements.
29. All costs associated with the development to be payable by the proponent.
30. All costs associated with the preparation and implementation of the surrender and new lease to be payable by the proponent.

**Councillor's Reason:**

This motion ensures that the applicants application for a new lease complies with current policy and supports this business initiative.

**Officer's Comment (S Jamieson):**

This recommendation is within Council's current policy & guideline.

The current rent for Hangar Site 2 - 408 square metres calculated at \$1.50 per m2 has been confirmed.

**ITEM 2.6: MOTION 1 (Alternate Recommendation by Councillor Dufty)**

**That the Alternate Recommendation by Councillor Dufty be ADOPTED**

**NOT VOTED ON**

**ITEM 2.6: RESOLUTION**

**MOVED: COUNCILLOR J BOSTOCK**

**SECONDED: COUNCILLOR SWANN**

**THAT this item lie on the table for further consideration.**

**CARRIED 9-3**

**Against the Motion:** Councillors Dufty, Wolfe and Paver

**Councillor's Reason:**

This is a complex issue. We apparently have an airport plan coming forward which will give us a better idea of what the future holds for us. We need to look to the future and to take our time and make an appropriate decision.

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

Cr Hammond declared a FINANCIAL interest in this item, the nature of the interest being that Cr Hammond is the owner of a tourism business which has regularly transacted business with the business in question. Cr Hammond remained in the Chamber for the legal brief; however left the Chamber prior to the vote.

<b>File Number (Name of Ward)</b>	: PRO085 (Breaksea Ward)
<b>Land Description</b>	: Lot 1461 on Plan 219777 being land in Certificate of Title Volume 3110 Folio 170 portion of Reserve 22698
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: Redwood Pty Ltd trading as Rose Gardens Caravan Park , Directors Iykeratherra Jacob Chacko and Anna Rebecca Chacko
<b>Previous Reference</b>	: Nil
<b>Appendices</b>	: <ul style="list-style-type: none"><li>• Notice of Exercise of Option</li><li>• Kott Gunning Lawyers letter</li></ul>
<b>Consulted References</b>	: <a href="#">Council Policy – Property Management Leases</a> <a href="#">Local Government Act 1995</a> Land Administration Act 1997
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

**IN BRIEF**

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

**BACKGROUND**

1. Reserve 22698 is under a Management Order H224437 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation and Associated Business Purposes” for any term not exceeding 50 years and subject to the consent of the Minister for Lands.
2. Rose Gardens Caravan Park is located at 45 Mermaid Avenue, Emu Point on portion of Reserve 22698.
3. In February 1961 the former Emu Point (Albany) Reserve Board granted a new lease to John Rose and Frederick Sexton for purpose of Caravan Park.
4. Since this date the lease has been assigned and varied many times. In July 1992 the former Town of Albany approved an assignment and variation of lease from Wayne Robins and Judith Robins to Jadekara Pty Ltd with Lionel Youens and Desmond Cunningham as Guarantors.

5. Variation clause 10 of the lease allowed for the following provisions:
- 10.1 Rent reviews every 5 years by 25% of gross rental value of \$12,000 whichever is the greater with CPI for intervening years;
  - 10.2 Improvements to the Leased Premises – The Assignee shall, as soon as practicable and at its own cost and expense, effect the following improvements and renovation to the leased premises if not already effected so that each improvement or renovation is of a standard not less than a 4 star rating in accordance with the national classification guidelines on Caravan Parks and on site accommodation (or its equivalent from time to time) and assessed by the Royal Automobile Club of Western Australia (Inc.):
    - 10.2(a) The installation of concrete or equivalent stands to at least twenty five per cent (25%) of powered tourist sites;
    - 10.2(b) Connection of electrical power points to all caravan tourist sites;
    - 10.2(c) Preserve and maintain a reception office;
    - 10.2(d) Construct a modern recreation room and outdoor recreation area;
    - 10.2(e) Arrange the installation of a public telephone within the Leased Premises;
    - 10.2(f) Erect a sheltered barbecue with bench space and sink with hot and cold water;
    - 10.2(g) To install properly drained hard surface access roads with concrete edging or spoon drains within the Leased Premises at any time during the term or any extension or renewal thereof if the Lessor's Director of works and Technical Services is of the opinion that it is practicable, affordable, reasonable and gives notice in writing to the Assignee;
  - 10.3 Lessor to be satisfied – If any dispute should arise between the Lessor and the Assignee concerning the work to be undertaken by the Assignee pursuant to paragraph 10.2 then that dispute shall be referred to the President of the Royal Automobile Club of Western Australia (Inc.) who shall appoint a person competent in the area of assessment of classification guidelines for Caravan Parks and on site accommodation to determine the dispute;

The person so appointed by the President shall be acting as an expert and any costs associated with the appointment of this expert shall be borne equally by the parties;
  - 10.3 Additional works – To make at the Assignee's expense any modifications alterations to improvements which any government local municipal or other competent authority requires to be made to the Leased Premises by reason of the nature of the business conducted thereon or by the number or sex of the persons employed in or working from the Leased Premises and to comply with all conditions as that authority may impose.

Any other capital works required to the Leased Premises because of statutory modification or implementation, and in particular any future sewerage connection, shall be effected by the Assignee at his cost and expense and will indemnify and keep indemnified the Lessor in respect of any claims, demands, actions or other proceedings which may be made against the Lessor pursuant to this sub paragraph;

- 10.5 Option to Renew – The Assignee not being in default under the lease or this Deed and the payment of the rent reserved or in the performance or observation of the covenants, conditions and stipulations contained or implied on the Assignee's part to be performed and observed in the Lease or this Deed, will have the option to be exercised by giving the Lessor at its address appearing (or at any other address as the Lessor notifies the Assignee in writing for that purpose) not less than three (3) calendar months notice in writing prior to the expiration of the term of renewing the term from the expiration of the term for a further term of thirty (30) years on the same covenants conditions and stipulations as are contained or implied in the Lease and this Deed (save and except this option of renewal which will be deemed expressly excluded) and at an annual rental to be determined in accordance with paragraph 10.1 of this Deed the first review date to be 25 August 2011;
- 10.6 Effective Date of Amendments to Lease – The amendments to the Lease contained in clause 10.1, 10.2 and 10.3 will be effective as from the date of Assignment;
- 10.7 Lease to remain in Full Force and Effect – Except as amended in clauses 10.1, 10.2 and 10.3 the Lease remains in full force and effect.
6. The date of assignment being 25 August 1992.
7. In February 1996 the lease was further varied allowing for small boundary changes.
8. On 30 January 2001 the lease was assigned from Jadekara Pty Ltd to Redwood Corporate Pty Ltd.
9. The current tenant, Redwood Corporate Pty Ltd has given written notice on 5 October 2010 to exercise its option for a further term of 30 years commencing 8 February 2011. A copy of this Notice is attached in the Appendices Booklet.
10. The Notice of Exercise of Option was received within the manner and timeframe of not less than 3 calendar months prior to the expiration of the term on 7 February 2011 as required by the lease.
11. The current lease rental based on 25 % of gross rental value is \$50,684.77 plus GST per annum and paid in quarterly instalments.

## **DISCUSSION**

12. Kott Gunning Lawyers acting on behalf of current tenant Redwood Corporate Pty Ltd, has written to Council stating that:
- “There is no requirement pursuant to clause 10.2 or otherwise in the lease of the deed of assignment of 1992 that Rose Gardens Caravan Park has to be rated no less than a four star rating by the Royal Automobile Club Western Australia (Inc).”
13. Kott Gunning also set out improvements effected by their client since purchasing the Park on 30 January 2001 in that correspondence. A copy of this correspondence is attached in the Appendices Booklet.

14. The STARS  are registered Certification Trade Marks of AAA Tourism Pty Ltd. AAA Tourism is owned by Australia's 7 Automobile Clubs being NRMA, RACV, RAA, RACQ, RAC, RACT and AANT. AAA Tourism manages all the day to day running of the Australian STAR Rating Scheme.
15. AAA Tourism advises the Park currently shows a status "Rating Under Review".
16. This status will only be applied in the following circumstances:
- Where AAA Tourism has received one or more Consumer Complaints classified as "Major" and, after an Unannounced Assessment, the Assessor, at his or her discretion, considers that the Property's STAR Rating should be removed and the Property given a "Rating Under Review" status: [Note: If the Assessor considers that the issues arising from the Major Complaint(s) do not merit this action the Assessor may allow the STAR Rating to remain and give the Operator some feedback and request that certain matters are addressed before the next scheduled Assessment Cycle]; or
  - Where the Assessor cannot undertake a scheduled Assessment the National Operations Manager STAR Ratings Australia may, at his or her discretion, apply the "Rating Under Review" status [Note: alternatively the National Manager may elect to allow the Property to retain its STAR Rating until the next scheduled Assessment Cycle]; or
  - Where the National Operations Manager considers it appropriate a Property that has completed its refurbishments may be permitted to use "Rating Under Review (with a 'Recently Refurbished – Awaiting Rating Review' Notation).
17. AAA Tourism advises the Property has been placed "Rating Under Review" due to reason b, whereby the assessment was avoided in April 2010. There is no record of any communication to the contrary regards the application of this STAR Rating classification.
18. Rose Gardens Caravan Park was last fully assessed on 6 February 2007 at a 4 star rating.
19. Park assessment for 2008 was not undertaken as the tenant advised the Park was undergoing a major upgrade.
20. The Parks assessment for April 2010 was not undertaken as the Assessor was unable to contact the tenant.
21. The next scheduled date for assessment of Albany properties has not been set, however will be between 20 April and 20 October 2011. Assessments are undertaken on a 12-18 month cycle.
22. An "Out of Cycle" assessment can be applied for by the Property, however is subject to Assessor availability and costs. This can be applied for by the tenant, but not the City which is not the licence holder/member of AAA Tourism.

23. The City's Environmental Health Officer undertook a scheduled inspection of the Park on 26 October 2010 and reported:
- An inspection was carried out which found Rose Garden Caravan Park to be in a satisfactory condition.
  - The current caretakers have previously managed the Park on a number of occasions. They were asked to return to the Park to resolve a number of issues and bring it back to a suitable standard.
  - The new toilet block at the southern end of the Park is almost ready to be commissioned and the old ablution block will hopefully be demolished in the next few months.
  - There are plans to re clad a number of the old units and ablution facilities.
  - Both the management and owners are aware of the requirements for ongoing maintenance of the aging facilities and the periodical replacement of various infrastructure items.
  - Overall the maintenance and cleanliness of the Park is the best seen in the last few years.
24. The Park is inspected by City staff annually.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

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

#### **STATUTORY IMPLICATIONS**

26. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.
27. 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.
28. As this is Crown Reserve 22698, under a Management Order issued to the City of Albany for the purpose "Recreation and Associated Business Purposes", Minister for Lands approval of the option for a further 30 year term will be required.

#### **FINANCIAL IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

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

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

### **SUMMARY CONCLUSION**

34. The current lease agreement provides that improvements to the Leased Premises are to be assessed at a standard not less than a 4 Star Rating in accordance with the national classification guidelines on Caravan Parks and on site accommodation (or its equivalent from time to time) and assessed by the Royal Automobile Club of Western Australia (Inc.).
35. As there has been no assessment of Rose Gardens Caravan Park in 2008 and 2010 and the tenant has not produced evidence complying with lease obligation requiring the improvements be rated at a standard not less than a 4 Star Rating, the request to exercise option to renew lease for a further 30 year term commencing 8 February 2011 is not recommended.

### **RECOMMENDATION**

#### **ITEM 2.7: RESPONSIBLE OFFICER RECOMMENDATION**

The request from Redwood Corporate Pty Ltd to exercise option to renew lease for a further 30 year term commencing 8 February 2011 for Rose Gardens Caravan Park **NOT BE APPROVED**, unless the tenant provides evidence complying with the lease obligation requiring the improvements be rated at a standard not less than a 4 Star Rating prior to the expiration of the current lease agreement.

[9:31:43 PM](#)

**ITEM 2.7: RESOLUTION 1**

**MOVED: MAYOR EVANS  
SECONDED: COUNCILLOR WOLFE**

**THAT Council go behind closed doors.**

**CARRIED 12-0**

Members of the media and public vacated the chamber.

[9:33:32 PM](#)

**ITEM 2.7: RESOLUTION 2**

**MOVED: COUNCILLOR DUFTY  
SECONDED: COUNCILLOR MATLA**

**THAT Standing Order 5.7-Order of Debate be SUSPENDED to allow discussion.**

**CARRIED 12-0**

**ITEM 2.7: RESOLUTION 3**

**MOVED: COUNCILLOR LEAVESLEY  
SECONDED: COUNCILLOR PAVER**

**THAT Standing Order 5.7 – Order Of Debate- be RESUMED.**

**CARRIED 12-0**

**ITEM 2.7: RESOLUTION 4**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR J BOSTOCK**

**THAT Council come out from behind closed doors.**

**CARRIED 12-0**

[10:18:57 PM](#) Councillor Hammond left the Chamber.

**ITEM 2.7: RESOLUTION 5**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR PAVER**

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

**CARRIED 11-0**

## **2.8: VARIATION OF LEASE FOR RAINBOW COAST NEIGHBOURHOOD CENTRE INC. AT LOTTERIES HOUSE**

<b>File Number (Name of Ward)</b>	: CP.USG.3 (Frederickstown Ward)
<b>Land Description</b>	: Lot 211 on Diagram 94113 being land in Certificate of Title Volume 2172 Folio 740
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: Rainbow Coast Neighbourhood Centre Inc.
<b>Previous Reference</b>	: OCM 16.06.09 Item 12.11.2
<b>Attachment(s)</b>	: Nil
<b>Appendices</b>	: Nil
<b>Consulted References</b>	: <a href="#">Council Policy – Property Management Leases</a> <a href="#">Local Government Act 1995</a>
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

[10:20:06 PM](#) Councillor Paver retired from the meeting.

[10:20:25 PM](#) Mayor Evans adjourned the meeting for a five minute break

[10:24:57 PM](#) The meeting resumed and all Councillors except Councillor Paver and Councillor Swann returned to the Chamber.

### **IN BRIEF**

- Consider variation of lease for Rainbow Coast Neighbourhood Centre Inc. at Lotteries House.
- Lease area varied from 73 to 59 square metres.
- Lease term varied from 3 years to 1 year with an option for a further 1 year term.

### **BACKGROUND**

1. In September 1996 a Deed of Trust was entered into between the former Town of Albany and the Lotteries Commission for the management of Lotteries House, located at Lot 211 on Diagram 94113, with the street address being 211-217 North Road, Albany.
2. The Deed required a Management Committee to be formed to oversee the management of the premises.
3. The City of Albany ('the Trustee'), through the administration of the Management Committee is to make and keep available the property for eligible organisations defined in section 19 of the Lotteries Commission Act 1990 to use exclusively for accommodation for benevolent or charitable purposes.
4. In September 2010, Lower Great Southern Family Support Association Inc. vacated their leased area of 59 square metres at Lotteries House.
5. The City advertised the lease vacancy seeking submissions from interested parties that are eligible organisations as defined in section 19 of the Lotteries Commission Act to lease the vacant area at Lotteries House.

6. A written submission was received from existing Lotteries House tenant Rainbow Coast Neighbourhood Centre Inc. to occupy the 59 square metre area available at Lotteries House for a term of 1 year with an option for a further 1 year term.
7. The lease submission has been considered and approved by the Lotteries House Management Committee at meeting on 12 October 2010.
8. The 59 square metres lease area will return a rental of \$6,694.10 plus GST per annum. This is based on a rate of \$124.81 per square metre as determined by the Lotteries House Management Committee.
9. The Lotteries House Management Committee determines the rents by projecting operating expenses required for the financial year. These expenses are levied as rental to each tenant, based on a per square metre of leased area. New rates are applied annually from 1 July.

## **DISCUSSION**

10. In June 2009 Council resolved to enter into a new lease with Rainbow Coast Neighbourhood Centre Inc. for a term of 3 years commencing 17 August 2009 over the 73 square metre area previously occupied at Lotteries House.
11. Since this date the Rainbow Coast Neighbourhood Centre Inc. has advised the City of severe cut to anticipated funding from the Commonwealth.
12. As a consequence, the Centre has to reduce costs whilst still endeavouring to provide the service within Albany.
13. The Centre has requested to vacate their existing 3 year term lease over 73 square metre lease area and relocate to the smaller vacant lease area of 59 square metres for a 1 year term with an option for a further 1 year term.
14. The Rainbow Coast Neighbourhood Centre Inc. is a not for profit organisation that provides support to local families, individuals and community groups by offering activities such as educational courses, workshops, support groups and playgroups.
15. The Centre links local families, individuals and community groups with other community resources and support networks in the Albany. The support provided enables people to develop knowledge and skills and confidence to effectively manage their lives.
16. An extension of the Centre is the Albany Migrant Resource Centre that also offers support to families and individuals, in particular socially isolated, new to the area and culturally and linguistically diverse groups. Provide practical assistance, informal counselling, programs, activities and linking to other community networks.
17. The proposed new lease term will be for 1 year with an option for a further 1 year term with rental to be \$6,694.10 plus GST per annum.
18. Any costs associated with the preparation, execution and completion of the licence documentation will be borne by the proponent, Rainbow Coast Neighbourhood Centre Inc.

## **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. Section 30 of the Local Government (Functions & General) Regulations 1996 deals with dispositions to which the advertising requirements of section 3.58 of the Act does not apply. Section 30(2)(b & c) states that Section 3.58 of the Act is exempt if:
- (b) *The land is disposed of to a body, whether incorporated or not –*
    - (i) *the object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
    - (ii) *the members of which are not entitled or permitted to receive any pecuniary from the body's transactions;*
  - (c) (ii) *a department, agency, or instrumentality of the Crown in right of State or the Commonwealth; or*
22. The Rainbow Coast Neighbourhood Centre Inc. is a not for profit like natured organisation and therefore exempt from the advertising requirements of Section 3.58 of the Local Government Act 1995.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

24. Any costs associated with the preparation and implementation of the new licence documentation will be borne by the proponent, Rainbow Coast Neighbourhood Centre Inc.
25. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to Council to cover the City's Officers time for managing the property on behalf of the Lotteries House Management Committee.
26. The new lease rental income of \$6,694.10 plus GST will be directed to COA 120930 – Lotteries House Income.

### **POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

29. Council has the following options in relation to this item, which are:
- a. Approve the request for variation of lease; or
  - b. Decline the request.
30. Should Council decline the request, the City will be required to re advertise the vacancy and risks a further loss in rental during this process that may impact negatively on the operations of Lotteries House.
31. Rainbow Coast Neighbourhood Centre Inc. will be unable to continue their current tenancy given their funding restraints and will have to find alternate accommodation should they wish to continue to provide this vital service to the Albany community.

**SUMMARY CONCLUSION**

32. In view of the community service provided by Rainbow Coast Neighbourhood Centre Inc at no cost to Council, the request for a variation of lease to occupy the 59 square metre vacant area for 1 year term with an option for a further 1 year term at Lotteries House is recommended.

**RECOMMENDATION**

**ITEM 2.8: RESPONSIBLE OFFICER RECOMMENDATION**

The request for a variation of lease for Rainbow Coast Neighbourhood Centre Inc. at Lot 211 on Diagram 94113 Lotteries House be **APPROVED** subject to:

1. Lease term being 1 year with an option for a further 1 year term.
2. Lease area of 59 square metres.
3. Lease rental being \$6,694.10 plus GST per annum as determined by the Lotteries House Management Committee.
4. Lease rent reviews being carried out annually on 1 July by the Lotteries House Management Committee.
5. Any costs associated with the relocation to lease area to be payable by the proponent, Rainbow Coast Neighbourhood Centre Inc.
6. Any costs associated with the preparation and implementation of the lease to be payable by the proponent, Rainbow Coast Neighbourhood Centre Inc.

**ITEM 2.8: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR SUTTON**

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

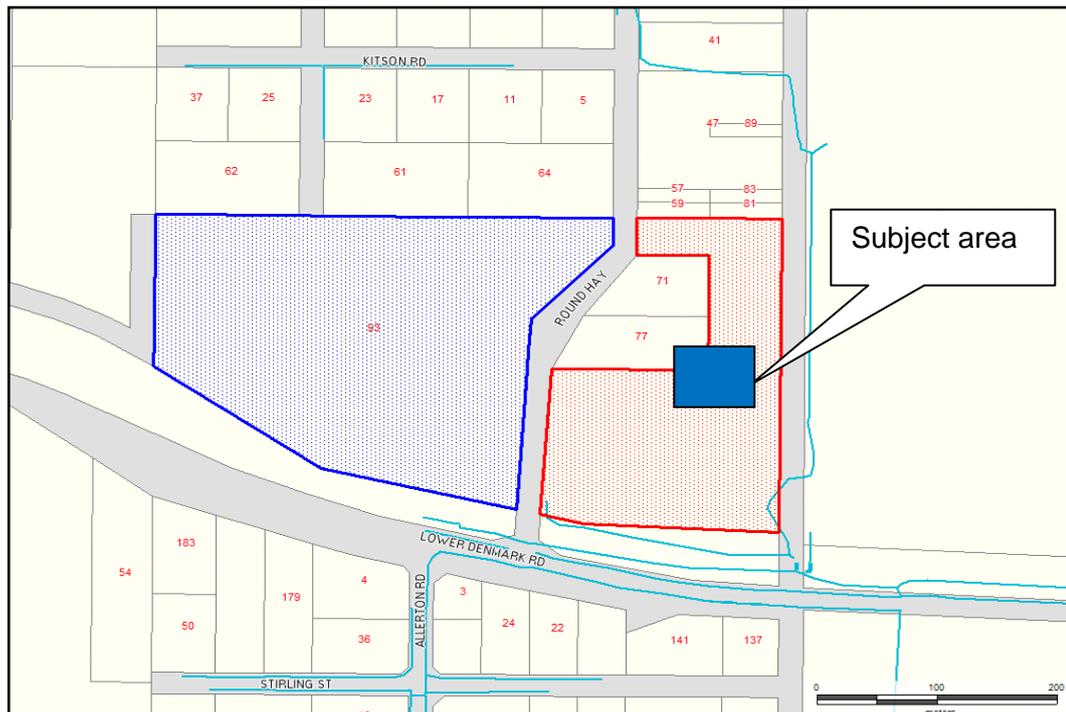
**CARRIED 10-0**

**2.9: NEW LEASE FOR RAINBOW COAST WRECKERS ON PORTION OF  
RESERVE 30599 GLEDHOW**

<b>File Number (Name of Ward)</b>	: PRO378 (West Ward)
<b>Land Description</b>	: Lot 127 on Plan 218176 being land in Certificate of Title Volume LR3116 Folio 179 on portion of Reserve 30599 Gledhow
<b>Disclosure of Interest</b>	: Nil
<b>Proponent</b>	: Robert James Wolfenden and Christine Wolfenden, Owners of Rainbow Coast Wreckers
<b>Owner</b>	: Crown
<b>Previous Reference</b>	: Nil
<b>Attachment(s)</b>	: Nil
<b>Appendices</b>	: Nil
<b>Consulted References</b>	: <ul style="list-style-type: none"><li>• Council's Policy – Property Management – Leases</li><li>• Local Government Act 1995</li><li>• Land Administration Act 1997</li></ul>
<b>Reporting Officer(s)</b>	: Property Officer (T Catherall)
<b>Responsible Officer</b>	: Executive Director Corporate & Community Services (WP Madigan)

**IN BRIEF**

- Consider new lease for Rainbow Coast Wreckers on portion of Reserve 30599 for purpose of storing wrecked vehicles.
- Lease term to be 5 years with an option for a further 5 year term.

**Maps & Diagrams:****BACKGROUND**

1. Reserve 30599 is under a Management Order L408411 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Council Depot and General Industrial Activities” for any term not exceeding 10 years and subject to the consent of the Minister for Lands.
2. Reserve 30599 is located at 93 Roundhay Road, Gledhow.
3. Previously a portion of the Reserve (opposite Rainbow Coast Wreckers existing property) was utilised by the former Shire of Albany for regional sale yards.
4. In 2000, the sale of livestock upon this reserve came to a conclusion and the activity was transferred to a new regional sale yard facility developed on the outskirts of Mount Barker. The sale yards infrastructure upon Reserve 30599 has since been removed.
5. As part of its strategic planning function, the City identified this reserve has the potential to be developed as a Council Works Depot. In July 2006 the Management Order was varied from “Regional Sale Yards” to “Council Depot”.
6. The City of Albany intends relocating the Mercer Road Works Depot to the site in the long term.
7. In July 2010 it was identified by City staff that Rainbow Coast Wreckers, owners of land adjacent to Reserve 30599 were using this Reserve for the storage of wrecked vehicles.

8. The owner advised the City they had been storing vehicles temporarily whilst waiting for the crushing company to arrive from Perth to crush the vehicles, as they had limited land for this purpose.
9. Subsequent discussions further identified that members of the public also dump vehicles, old motors and various metals on this Reserve and on Rainbow Coast Wreckers property.
10. After reviewing Reserve 30599 to maximise the land usage, there is the potential for Council to accommodate its proposed Council Depot and other ancillary activities on the same site.
11. To assist with the current storage issues for vehicles it was agreed the owner would lodge a formal request to lease an area approximately 3000 square metres at the rear of Rainbow Coast Wreckers property on portion of Reserve 30599 for the purpose of storing wrecked vehicles.
12. As the designated purpose of Management Order for Reserve 30599 only allowed for “Council Depot” with no power to lease, City staff requested the purpose be varied from “Council Depot” to “Council Depot and General Industrial Activities” with the power to lease.
13. The Department of Regional Development and Lands, State Land Services team advised in August 2010 the purpose of Reserve 30599 was varied to “Council Depot and General Industrial Activities” with power to lease, sub-lease or licence for any term not exceeding 10 years.

#### **DISCUSSION**

14. In the interim, Rainbow Coast Wreckers have been granted permission to store wrecked vehicles on portion of Reserve 30599 adjacent their property on a temporarily bases until the lease request has been considered by Council.
15. In the past Rainbow Coast Wreckers have assisted the City by removing totally wrecked vehicles abandoned on Reserves and road verges at no cost to Council.
16. The proposed lease term to be for 5 years with an option for a further 5 year term.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

17. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
18. This Section requires there to be local 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.
19. Any proposed new lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

### **STATUTORY IMPLICATIONS**

20. 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.
21. As this is Crown land, under a Management Order L408411 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Council Depot and General Industrial Activities”, Minister for Lands consent will be required.
22. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.
23. Under the City’s Town Planning Scheme 3, the area is zoned “General Industrial”. The proposed use for storage of wrecked vehicles is in accordance with the Scheme.

### **FINANCIAL IMPLICATIONS**

24. All costs associated with the development, execution and completion of the new lease documentation including but not limited to legal, advertising, survey and valuation will be borne by the proponent.
25. The new lease rental will be determined by current market valuation provided by an independent Certified Practising Valuer.
26. The new lease rental will be directed to COA 140530 Income – Misc Commercial.

### **POLICY IMPLICATIONS**

27. 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.
28. The recommendation is consistent with Council’s Policy.

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

29. 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.
30. Should Council decline the request for lease, Rainbow Coast Wreckers will be required to find an alternate location for storage of wrecked vehicles.

**SUMMARY CONCLUSION**

31. Given the opportunity to lease portion of Reserve 30599 not required by Council and rectify the current wrecked vehicle storage issues at no cost to Council, the request for a new lease for a term of 5 years with an option for a further 5 year term is recommended.

**RECOMMENDATION**

**ITEM 2.9: RESPONSIBLE OFFICER RECOMMENDATION**

The request from Robert James Wolfenden and Christine Wolfenden as owners of Rainbow Coast Wreckers to lease approximately 3000 square metre area at the rear of existing Rainbow Coast Wreckers property at Lot 127 on Plan 218176 on portion of Reserve 30599, Gledhow be APPROVED subject to:

1. Lease term being 5 years with an option for a further 5 year term.
2. Lease purpose being for storage of wrecked vehicles.
3. Lease rental fee to be determined by current market valuation provided by an independent Certified Practising Valuer.
4. Rent to be reviewed by current market valuation every 5 years with CPI applied for intervening years.
5. Any relevant approvals to be received prior to development of portion of Reserve 30599.
6. Section 3.58 of the Local Government Act 1995 advertising requirements.
7. Section 18 of the Lands Administration Act 1997, Minister for Lands consent.
8. All costs associated with the preparation and implementation of the new lease to be payable by the proponent.

**ITEM 2.9: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR DUFTY**

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

**CARRIED 10-0**

**3.1: SUPPLY AND DELIVERY OF ASPHALT – CONTRACT C10025**

<b>File Number or Name of Ward</b>	: C10025 (All Wards)
<b>Proponent</b>	: City of Albany
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Names</b>	: Various, detailed at Paragraph 5.
<b>Previous Reference</b>	: Nil
<b>Attachment(s)</b>	: Nil
<b>Consulted References</b>	: Nil
<b>Reporting Officer</b>	: Works Engineer (M Bracknell)
<b>Responsible Officer</b>	: Manager City Works (M Richardson)

**IN BRIEF**

- Tender C10025 – Supply of Asphalt- be AWARDED to Gordon Walmsley

**BACKGROUND**

1. Tenders were called for the supply of asphalt for Council's requirements for road and pathway construction proposed for the 2010/2011 capital works program. Council's current contract for the supply of asphalt expired August 2010.

**DISCUSSION**

2. Tenders were called for the supply of asphalt for Councils requirements for road and pathway construction proposed for the 2010/2011 capital works program.
3. The prices submitted are based on the supply of 18,600m<sup>2</sup> of asphalt, 1,000 tonnes of corrector as well as mobilisation/demobilisation charges.
4. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for these tenders is documented below

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

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

TENDERER	TOTAL PRICE (Inc. GST)	WEIGHTING
<b>GORDON WALMSLEY PTY LTD</b>	<b>\$469,740.00</b>	<b>568.5</b>
FULTON HOGAN INDUSTRIES PTY LTD	\$528,195.00	549
BGC ASPHALT	\$454,572.00	427.5
TRIPLE A ASPHALT	\$532,800.00	359.5
R & L BITUMEN REPAIR SERVICE	\$612,750.00	337.5
DOWNER EDI WORKS	\$653,790.00	208

6. All of the contract submissions were deemed acceptable to Council, however the level of documentation provided by some contractors was poor. Council has no working knowledge of three of the companies that provided tender submissions, however referees were listed should Council require them.
7. Council's Regional Price Preference Policy was applied to all tenders. The tenderers were either local suppliers or intending to use local suppliers for some sections of the works. This has provided the local suppliers with a higher evaluation score for cost weightings only.
8. The tender from Gordon Walmsley improves Council's ability to be more reactive, provide greater flexibility and reduced mobilisation costs for these works.
9. Mobilisation/Demobilisation costs varied greatly between the contractors – pricing for this service ranged from Nil cost to \$19,700.

#### **PUBLIC CONSULTATION/ENGAGEMENT**

10. A request for tenders was published in the West Australian on 29<sup>th</sup> September 2010, the Albany Weekender on 30<sup>th</sup> September.

#### **GOVERNMENT CONSULTATION**

11. Nil

#### **STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

15. Given the funding timelines that Council are required to adhere to, the use of a local supplier is a much more cost effective solution for Council. If staff were to utilize a Perth based supplier, the mobilisation/demobilisation costs of each project would increase projected costs significantly.
16. The asphalt component of each capital works project has been budgeted in the overall costs for these projects.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“Community Vision: Nil*

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

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

*City of Albany Mission Statement: At the City of Albany we are results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.”*

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

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

**RECOMMENDATION****ITEM 3.1: RESPONSIBLE OFFICER RECOMMENDATION**

Tender C10025 – Supply of Asphalt- be AWARDED to Gordon Walmsley Pty Ltd for \$469,740.00 (inc. GST)

**ITEM 3.1: AMENDED RESPONSIBLE OFFICER RECOMMENDATION**

**Tender C10025 – Supply of Asphalt- be AWARDED to Gordon Walmsley Pty Ltd for the acceptance of the tendered rates estimated to the amount of \$469,740.00 (inc. GST)**

**ITEM 3.1: RESOLUTION (Amended Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR WOLFE**

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

**CARRIED 10-0**

**Staff Reason (M Richardson):**

The supply of asphalt is normally based on a calculated rate of meterage but in this case an estimated specification has been provided to contractors to give an indicative cost of the annual works.

This methodology provides Council with more flexibility in actual costing.

### **3.2: IN-KIND FINANCIAL ASSISTANCE FOR NAB AFL REGIONAL CHALLENGE MATCH**

<b>File Number (Name of Ward)</b>	: (Breaksea Ward)
<b>Land Description</b>	: Crown Reserve, (R32341) vested in City of Albany, Leased by North Albany Football Club
<b>Business Entity Name</b>	: North Albany Football Club Inc.
<b>Previous Reference</b>	: OCM 18/12/2007, Item 18.1
<b>Reporting Officer(s)</b>	: Parks and Trades Coordinator (David Hatelie)
<b>Responsible Officer</b>	: Manager Works (Mike Richardson)

[10:29:46 PM](#) Councillor Swann returned to Chamber.

#### **IN BRIEF**

- That Council provide support this financial year up to the value of \$10,000 in-kind horticultural assistance for the purpose of bringing Collingwood Oval up to AFL standard.
- That Council also enter into a Memorandum of Understanding to provide ongoing assistance to the club and allocate \$20,000 in year 2011/2012, \$10,000 in year 2012/2013 and \$5,000 in year 2013/2014

#### **BACKGROUND**

1. In December 2007 an item was tabled before Council requesting in-kind financial support for an AFL Regional Challenge match.
2. That motion was supported by Council. Council staff assisted in providing financial, technical and physical expertise to North Albany Football Club to bring the surface condition of Collingwood Park up to AFL standard.
3. It was stated in the Council item that the AFL and WAFC proposed that two games occur within five years and those profits from both games would go towards upgrading facilities at Collingwood Park.
4. The second of those games is in the process of being reviewed for a possible match to be held in Albany in late February/March 2011.
5. The North Albany Football Club has undertaken a feasibility study by Richard Ball of Keston Technologies (completed in June 2010) to upgrade their facilities and have schedule staged works as funding becomes available.
6. Profits from the 2008 AFL match will be used to implement Stage 1 - reticulation of Collingwood Park oval in 2011.

7. Profits from the second match will be used to establish a second oval adjacent to the existing field as part of Stage 2 of the upgrade to Collingwood Park.
8. In order to complete the upgrade, additional funding would need to be obtained from sources such as the Department of Sport and Recreation, Community Sport and Recreation Facilities Fund and Commonwealth Regional Partnerships Fund.
9. The main aims for holding the first NAB Challenge match were to:
  - Provide an opportunity for the community to witness an AFL game without travelling a long distance.
  - To lift the profile of local football in the community.
  - To raise funds to be invested in local football infrastructure.
10. The main aims of holding the first AFL match were met and these remain the focus for this forth coming event.

#### **DISCUSSION**

11. The North Albany Football Club's proposal attracts events of this kind to Albany and subsequently any profits are invested back into the local football infrastructure.
12. However the past two years has seen a significant deteriorating of the playing surface due to overuse and poor management techniques.
13. The North Albany Football Club are now seeking assistance from the City of Albany to rectify these problems so they will be considered to hold a pre-season AFL match in 2011.
14. Remedial work is required in the short term to improve the surface condition followed by a sustained maintenance program to allow the turf to fully recover.
15. The proposed Memorandum of Understanding with North Albany Football Club will provide the foundation to sustainable management practices that will enable the Club to maintain the ground to a high standard into the future.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

16. North Albany Football Club has sought the help of turf specialists from Perth but are unable to engage their services due to cost restraints.

## **FINANCIAL IMPLICATIONS**

17. Funding for these in-kind works can be allocated from the Parks Maintenance Budget (103360) this current financial year with Parks and Reserves staff carrying out a renovation and maintenance program.
18. Council will need to commit a further \$35,000 in successive financial years to provide scheduled maintenance that will bring the surface condition of Collingwood Park up to AFL standard.

## **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“The Vision for Albany: By 2025 Albany will be... “Historic Albany – Home to a vibrant, resourceful and culturally diverse community driven by a spirit of generosity and opportunity, nestled around a spectacular natural harbour in a region of unique beauty”.*

**1. Lifestyle & Environment.** Albany will be a City where ...

- 1.3 Recreation facilities provide a diverse range of sporting and exercise opportunities
- 1.5. Development...incorporates healthy lifestyle activities and access to green space.

**4. Governance.** The City of Albany will...

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

## **SUMMARY CONCLUSION**

20. The North Albany Football Club is seeking assistance from the City of Albany to rectify the surface condition of their oval in order to attract an AFL NAB Regional Challenge match.

**RECOMMENDATION**

ITEM 3.2: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- A. APPROVE the allocation of up to \$10,000 from the Parks maintenance Budget in in-kind horticultural assistance for the purpose of assisting in restoring Collingwood Oval to AFL standard for the proposed NAB Regional Challenge Match in late February/March.
- B. That Council consider entering into a Memorandum of Understanding (MOU) to provide ongoing assistance to the North Albany Football Club and allocate \$20,000 in year 2011/2012, \$10,000 in year 2012/2013 and \$5,000 in year 2013/2014.

ITEM 3.2: ALTERNATE RECOMMENDATION BY COUNCILLOR HOLDEN

That the Responsible Officer's Recommendation is broken down into two parts, as one recommendation is dealing with assistance now and the other recommendation is committing future funding.

**ITEM 3.2: ALTERNATE RECOMMENDATION 1 BY COUNCILLOR HOLDEN**

**That Council APPROVE the allocation of up to \$10,000 from the Parks maintenance Budget in in-kind horticultural assistance for the purpose of assisting in restoring Collingwood Oval to AFL standard for the proposed NAB Regional Challenge Match in late February/March.**

**ITEM 3.2: RESOLUTION (Alternate Recommendation by Councillor Holden)**

**MOVED: COUNCILLOR HOLDEN**

**SECONDED: COUNCILLOR J BOSTOCK**

**THAT Alternate Recommendation 1 by Councillor Holden be ADOPTED.**

**CARRIED 11-0**

**ITEM 3.2: ALTERNATE RECOMMENDATION 2 BY COUNCILLOR HOLDEN**

That Council **CONSIDER** entering into a Memorandum of Understanding (MOU) to provide ongoing assistance to the North Albany Football Club and allocate \$20,000 in year 2011/2012, \$10,000 in year 2012/2013 and \$5,000 in year 2013/2014.

**ITEM 3.2: MOTION 2**

**MOVED: MAYOR EVANS**

**SECONDED: COUNCILLOR DUFTY**

**THAT Alternate Recommendation 2 by Councillor Holden be ADOPTED.**

**ITEM 3.2: AMENDMENT**

**MOVED: COUNCILLOR WOLFE**

**THAT the wording of the Alternate Recommendation by Councillor Holden be amended to read as follows:**

**Council CONSIDER entering into a Memorandum of Understanding (MOU) to provide ongoing assistance to the North Albany Football Club and CONSIDER allocating \$20,000 in year 2011/2012, \$10,000 in year 2012/2013 and \$5,000 in year 2013/2014.**

**The MOTION, as amended, was PUT and CARRIED**

**CARRIED 6-5**

**Against the Motion:** Councillors Matla, J Bostock, D Bostock, Leavesley and Holden.

**Councillor's Reason:**

It is prudent to **CONSIDER** allocating funding on a year by year basis, rather than forecast a commitment now.

### 3.3: UNDERGROUND POWER PROGRAM, LOCALISED ENHANCEMENT PROJECTS – ALBANY HIGHWAY, YORK STREET TO SANFORD ROAD

<b>File Number (Name of Ward)</b>	: ET.COG.1 (Frederickstown)
<b>Land Description</b>	: Albany Highway – York Street to Sanford Road
<b>Appendices</b>	: Streetscape Advisory Committee minutes 12/10/2010
<b>Maps and Diagrams</b>	: Refer to attachment.
<b>Reporting Officer(s)</b>	: Project Coordinator – V Duncan
<b>Responsible Officer</b>	: Executive Director Works & Services – K Ketterer

#### IN BRIEF

- A proposal was presented to the Streetscape Advisory Committee to take part in the State Government's Underground Power Program (Localised Enhancement Projects, Round Five) to replace overhead power lines with underground systems on Albany Highway, from York Street to Sanford Road.
- The Streetscape Advisory Committee accepted the proposal and recommended that it be presented to Council for consideration.

#### BACKGROUND

1. The Underground Power Program is an initiative by the State Government, administered by the Office of Energy. The program was established to improve the standard of electricity supply by addressing the reliability issues in areas with existing overhead power lines. The Underground Power Steering Committee is responsible for the management of the program, and is comprised of representatives from the Office of Energy, Western Power and the Western Australian Local Government Association (WALGA). The program offers two types of projects; Major Residential Projects which involves suburban areas, and Localised Enhancement Projects which aim to beautify urban gateways, scenic routes and tourism/heritage centres.
2. The program is a partnership between State Government (including its wholly owned businesses Western Power and Horizon Power) and the local government. Local government is permanently represented on the steering committee by WALGA. The State Government will provide 50% of the cost of the project up to a maximum of \$250,000. The State's share of the funding will be provided through Western Power / Horizon Power (25% of the total cost) and the Office of Energy (25% of the total cost). This funding must be matched by the City of Albany. Should the total budget for the project exceed \$500,000, the City will be expected to fund the difference. If the City of Albany's expression of interest is shortlisted a non-refundable deposit of \$5,000 is to be paid prior to the start of the detailed proposal stage. The local governments that are shortlisted will still be required to satisfy a number of set conditions contained in the detailed proposal stage before their project can be implemented.

**DISCUSSION**

3. The Office of Energy will be calling for expressions of interest from Local Governments for round five Localised Enhancement Projects later this year. Expressions of interest will be scored on the following criteria:
  - Regional location
  - The level of heritage, tourism, scenic and geographical significance
  - Project budget
  - The demonstrated level of commitment by the local government to fund the project and the development of a funding strategy
  - Community support and commitment
  - The existing overhead power system criteria
4. Investigations have recently been completed by staff on possible locations for the City of Albany to put forth for this program. As much of the CBD is already underground, it has been determined that the most appropriate location is Albany Highway, from York Street to Sanford Road. Power lines are currently underground at the intersections of Albany Highway/York Street and Albany Highway/Sanford Road, by converting the overhead lines to underground power in this location we will close the gap between these two intersections. The approximate distance of this project is 500m consisting of around 40 property connections, including a minimal amount of residential properties
5. In conjunction with the CDB upgrade program, it is suggested that a long term plan is put in place to convert overhead power lines to underground systems across Albany. It is proposed that the City commence with areas within the CBD and entry roads leading into the CBD and tourist precinct, before expanding into the suburbs. These consist of:
  - Albany Highway, from York Street to Chester Pass roundabout
  - Lockyer Avenue, from existing underground system to North Road
  - Sanford Road, entire length
  - North Road, from Lockyer Avenue to Chester Pass roundabout
  - Collie St, entire length
  - Parade Street, entire length
  - Aberdeen Street, entire length
6. It is important to note that each stage must be limited to 1000m and it is recommended that the total budget does not exceed \$500,000 due to the funding limitations.

7. There are many benefits of converting overhead power lines to underground power, including:

There are:

- Streetscape aesthetics, increases the perceived space and allows trees to grow to their natural size
- Fewer outages caused from storms, trees, vehicle accidents, vandalism, air-borne debris, wildlife or pole-top fires affecting overhead poles and wires
- Some improvement to reliability of power supply
- Increased safety by removal of poles on road verges and overhead lines
- Improved property values
- improved streetscape -allows trees to grow to their natural size

8. Replacing overhead power lines with underground systems is a sizable exercise and there are restrictions to the Underground Power Program, these are listed below:

- The project is to be a maximum of 1000 meters of underground power supply
- The State Government will only fund 50% of project costs up to \$250,000
- The City of Albany must have funds available to meet the scheduled cash calls during the project
- The City must pay a \$5,000 non-refundable deposit if our expression of interest is shortlisted
- The project is not given final approval until the detailed proposal stage is completed and a funding agreement is finalised.

9. There are four stages involved in the program and these are explained in the table below:

Stage	Tasks involved	Responsibility	Indicative timeframe
Expression of interest	Compilation of data, including indicative community support	City of Albany	found five submissions will be later this year
Evaluation of expression of interests	Evaluated against the selection criteria by expert consultants	Steering Committee	3-4 months
Detailed proposal	Design	Western Power / Horizon Power	12 months
	Tender	Western Power / Horizon Power	
	Community liaison (community support is required)	City of Albany	
	Agreement	Office of Energy, Western Power, Horizon Power, City of Albany	
Implementation	Installation of the underground system and removal of overhead lines	Western Power / Horizon Power	3-6 months

10. It is important to note that the detailed proposal stage is conducted separately for each shortlisted proposal. This stage will take 12 months and may not commence for up to 18 months after the evaluation of the expression of interest stage.

#### **PUBLIC CONSULTATION/ENGAGEMENT**

11. Community support and commitment must be obtained prior to submitting an expression of interest. The State funding is conditional on the availability of clear evidence of substantial and continuing community support. The City must be able to adequately demonstrate that it has community support for the proposal to be short listed by the steering committee. There may be a safety requirement for some consumers to rewire their premises in order to bring them up to the current electrical standards, at their own cost. This work is not funded under the program and must be completed prior to their connection to the underground network. For this reason the State will not proceed with projects that do not have adequate support from the local community, especially the ratepayers directly affected by the project.

## FINANCIAL IMPLICATIONS

12. The indicative project value of the proposed location on Albany Highway is \$500,000. This would consist of the following:
- State Government funding: \$250,000
  - City of Albany contribution: \$250,000
13. Given the importance of community support for the acceptance of this project, the current position of ratepayers and recent increase in rates, it is proposed that for the first stage the City's contribution is raised from the general rate base. This is in recognition of the generally improved value of a prominent area to the local community
14. The \$5,000 non-refundable deposit is able to be sourced from the current budget – Minor Works.

## STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

*“3. City Centre. 3.1 Family and Pedestrian Friendly.”*

*“4. Governance. 4.2 Manage our municipal assets to endure they are capable of supporting our growing community.”*

## ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. Council may decline the proposal.

## SUMMARY CONCLUSION

17. By converting the existing overhead power lines to an underground system the value of this prominent area to the local community will be improved. The perceived space of the area will be enhanced and safety for pedestrians and drivers alike will be increased by the removal of the existing power poles on the verges.

**RECOMMENDATION**

## ITEM 3.3: RESPONSIBLE OFFICER RECOMMENDATION

- A. That Council adopt the proposal to convert existing overhead power lines to underground systems across Albany
- B. The Council accept Albany highway, from York Street to Sanford Road, as the first stage to be completed
- C. Council commit to raising the funds for this first stage from the general rate base
- D. Council advise staff to proceed with community consultation and complete an expression of interest for round five of the Localised Enhancement projects of the Underground Power Program which will be called later this year
- E. Council agree to payment of the non-refundable deposit of \$5,000 if the expression of interest is short-listed.

**ITEM 3.3: ALTERNATE RECOMMENDATION BY COUNCILLOR MATLA**

- A. That Council adopt the proposal to convert existing overhead power lines to underground systems across Albany.**
- B. The Council accept Albany highway, from York Street to Sanford Road, as the first stage to be completed**
- C. Council commit to raising the funds for this first stage from the general rate base to a minimum of 25% of the total project value to the project.**
- D. That Council include a provision for adjoining property owners to make a contribution of a maximum of 25% of the total project value to the project.**
- E. Council advise staff to proceed with community consultation and complete an expression of interest for round five of the Localised Enhancement projects of the Underground Power Program which will be called later this year**
- F. Council agree to payment of the non-refundable deposit of \$5,000 if the expression of interest is short-listed.**

**ITEM 3.3: RESOLUTION (Alternate Recommendation by Councillor Matla)****MOVED: COUNCILLOR MATLA****SECONDED: COUNCILLOR DUFTY****THAT the Alternate Recommendation by Councillor Matla be ADOPTED.****CARRIED 7-4****Against the Motion:**

Councillors Holden, D Bostock, Swann and J Bostock.

**Councillor's Reason:**

The previous costing system called for contributions from Western Power 33%, State Government 33% and the benefitting community 33%. This has now changed so that WP contributes 25%, State Government contributes 25% and the local communities and council contribute the balance of 50%.

**Officer's Comment (K Ketterer):**

This recommendation is supported as it reflects the Streetscape Committee's recommendation, and provides the opportunity to explore alternatives for property owners to contribute to improvements which will add value to their properties and businesses

### **3.4: PORTION RESERVE 30424 – LITTLE GROVE - PROPOSED DISPOSAL**

<b>File Number (Name of Ward)</b>	: CP.STD.1 (Vancouver Ward)
<b>Summary of Key Points</b>	: Request for comment on disposal of portion of Reserve 30424
<b>Land Description</b>	: Lot 7160, Reserve 30424
<b>Proponent</b>	: Department of Regional Development and Lands
<b>Owner</b>	: Crown
<b>Reporting Officer</b>	: Manager City Projects (S Pepper)
<b>Responsible Officer</b>	: Executive Director Work and Services (K Ketterer)
<b>Attachment</b>	: Map detailing proposed area for disposal

#### **IN BRIEF**

- Amalgamate Lt 7160 with the adjoining road reserve and subsequent creation of a reserve managed by the City.

#### **BACKGROUND**

1. The Department of Regional Development and Lands (DRDL) is seeking Council comment on the various options for disposal of portion of Reserve 30424, which has been deemed surplus to requirements.

#### **DISCUSSION**

2. DRDL has received advice from the Water Corporation, that lot 7160, portion of Reserve 30424 is no longer required. Reserve 30424, purpose "Water" includes lot 7160, consists of an area of 3,440m<sup>2</sup>, and is predominantly bush with some minor clearing. There is a Council owned drainage sump cover/grill on the north eastern boundary that would require an easement to protect Council interests, should the land be sold.
3. Staff have assessed the request, and based on the following comments:
  - Land density in Little Grove is increasing. Would benefit from having a pathway and green area;
  - Easement required over existing soak well. Existing informal walk track, could be formalised in future;
  - Would be beneficial to combine land parcels together rather than have a small reserve;

Responded to DRDL, advising that Council recommends the lot be amalgamated with the adjoining road reserve, and the land be vested as a reserve, managed by the City, with the purpose defined as "Recreation".

4. Subsequent to the City's response to DRDL, a letter from the owners of lot 65 (Mr and Mrs Hewer) was received requesting a review of this decision. This request was considered, and based on the previous observations; staff still supports the amalgamation of the two parcels of Crown land into a reserve.

5. Should Council wish to request the land be incorporated into the adjoining road reserve to create a new reserve, the process would require the road to be closed, in accordance with the Land Administration Act 1997, and the resultant parcels of land be amalgamated and a new reserve created.
6. The subject land is zoned “Residential Development” under Town Planning Scheme No. 3, which means subject to the adoption of a structure plan, subdivision and/or development could be permitted. The Little Grove Structure Plan was adopted by the WAPC in December 2009, and therefore if the land was converted into private ownership subdivision and/or development could be undertaken. The Little Grove Structure Plan does not provide a specific road pattern or design philosophy over the subject land, and instead recognises that individual subdivision concepts may need to be developed to identify access arrangements, and basically ensure a subdivision proposal does not detrimentally affect the subdivision potential of adjoining allotments.
7. The adjacent road reserve running between O’Connell Street and King George Street is significantly steep, especially in the centre and it is unlikely that a road pavement would be constructed the full length of the reserve, and thereby a future road connection from the south will not be accommodated.
8. It is not anticipated that the closure of the road and incorporation of the adjacent reserve into one land parcel would not have a significant impact on the subdivision and development of private land.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

9. There has been no public consultation, as the reserve is no managed by the City. Currently, DRDL is only seeking comment from the various public utilities, to assist in determining what course of action should be taken.
10. The owners of lot 65 King George St, Mr and Mrs Hewer, have been contacted by DRDL to ascertain their interest in the land. They have since written to Council advising they do not support the proposal to amalgamate the two lots, and creating a reserve.

#### **GOVERNMENT CONSULTATION**

11. DRDL have initiated this request, upon notification from Water Corporation, that the land is surplus to their requirements.

#### **STATUTORY IMPLICATIONS**

12. Under the Land Administration Act 1997:
  - Section 41, the Minister may reserve crown land to the Crown for one or more purposes in the public interest;
  - Section 58, a local authority may request the Minister to permanently close a road in its district.

### **FINANCIAL IMPLICATIONS**

13. The only financial cost, should Council decide to seek amalgamation of the lands and the management order for the resultant reserve, would be the advertising costs for the road closure process, and ongoing maintenance of the reserve. These would be deemed manageable, as annual weed maintenance and firebreak works apply to such a small area of land.

### **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 3: City Centre..... Albany's City Centre will be the most vibrant, safe, accessible and liveable in regional WA.***
- ***Objective 3.3. A unique and accessible retail experience.***

### **POLICY IMPLICATIONS**

15. Nil

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

16. Council may:
- Agree to the proposal to dispose of the land as a stand-alone lot;
  - Agree to amalgamation with the adjoining freehold lot 65; or
  - Seek to have the land amalgamated with the adjoining road reserve and subsequent creation of a reserve managed by the City.

### **SUMMARY CONCLUSION**

17. The opportunity to amalgamate the two parcels of land into a crown reserve, will provide Council with options to determine that future development will not detrimentally affect the subdivision potential of adjoining allotments.

**RECOMMENDATION**

ITEM 3.4: RESPONSIBLE OFFICER RECOMMENDATION

The Department of Regional Development and Lands (DRDL) be ADVISED that Council SEEKS to have Lot 7160 amalgamated with the adjoining road reserve and subsequent creation of a reserve managed by the City.

[10:46:30 PM](#) Councillor Hammond left the Chamber.

[10:49:01 PM](#) Councillor Hammond returned to the Chamber.

**ITEM 3.4: ALTERNATE RECOMMENDATION FROM FLOOR BY COUNCILLOR WOLFE**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR DUFTY**

**The Department of Regional Development and Lands (DRDL) be ADVISED that Council has no objection to DISPOSAL of Lot 7160.**

**CARRIED 7-4**

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

**Councillor's Reason:**

This is a lot that was held by the Water Corporation, they have decided they do not need it, it fits into the Little Grove Development Plan.

It would fit in nicely if it was sold to a land owner to sub-divide in the future and it would reduce the City's maintenance liability.

**3.5: ACCEPTANCE OF MANAGEMENT ORDER OF PORTION OF LOT  
6821, HENRY STREET (FORMER RESERVE 26057)**

<b>File Number (Name of Ward)</b>	: GR.STL.39 (Kalgan)
<b>Land Description</b>	: Lot 6821 Henry Street, Milpara
<b>Attachment(s)</b>	: Letters from Department of Regional Development and Lands requesting CoA support for acceptance of management order (ICR1019260/ICR1022875)
<b>Maps and Diagrams</b>	: Refer to attachment.
<b>Reporting Officer(s)</b>	: Reserves Officer (A Tucker): Manager City Projects (S Pepper)
<b>Responsible Officer</b>	: Executive Director Works and Services (K Ketterer)

**IN BRIEF**

- Seek the management order of portion of Lot 6821, Henry St, Milpara, as a reserve for the purpose of 'Recreation and Landscape Protection
- Seek the management order of portion of Lot 8621, Henry St, Milpara, as a reserve for the purpose of "Respite Facility"
- Seek a 40 metre road reserve be created along Henry St, be excising portion of lot 6821

**BACKGROUND**

1. Lot 6821 is vacant crown land that covers approximately 3.9 ha and is almost entirely covered in vegetation considered to be very good to excellent condition.
2. On January 22, 2010, the Department of Regional Development and Lands wrote to the City of Albany informing the City of their decision to dispose of the subject land, a former Department of Education reserve. The matter was referred to the Department of Environment and Conservation for consideration.
3. An assessment of the vegetation from Department of Environment and Conservation, reported the vegetation to be in very good to excellent condition, with excellent structure (good coverage of ground covers, under-storey shrubs and mature tree crowns). Due to the pristine nature of the lot, it is highly suspected that a priority flora species, known to be nearby, would also reside within the lot. DEC's recommendation was that the subject land be retained as a Government reserve whereby the native vegetation and associated fauna can be protected.
4. On August 18, 2010, Department of Regional Development and Lands wrote back to the City of Albany asking whether the City was prepared to accept the management order of Lot 6821, for the purpose of 'Recreation and Landscape Protection'.
5. On 13 October 2010, after preliminary discussions with COA staff, the Department of Regional development and Lands formally contacted Council to discuss an opportunity to assist the Alzheimer's Australia WA Ltd, who were seeking assistance in acquiring land for a respite facility, as their rented premises were no longer available.

6. The unallocated land, lot 6821, was identified as a potential site, with a portion being set aside as a reserve for 'Respite Facility' managed by Alzheimer's Australia, and the remainder to be managed by COA, with a purpose of 'Landscape Protection'. The area to be allocated for the respite facility is to the north-east corner of the land parcel, which is already semi cleared, and an access leg to Henry St boundary would provide legal access.
7. Should Council agree to this proposal, it is recommended a 40 metre road reserve be created along Henry St, to accommodate future road widening requirements. Henry St has been identified in future planning as a route that requires widening and this is an opportune time to obtain the required land. All future widening will be sought along the northern side of Henry St.
8. The lot is currently zoned 'Public Purposes', but a more appropriate zoning of 'Parks and Recreation' is proposed under the draft Local Planning Strategy No 1.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

10. The land parcel would be managed under the City's Asset Management Plan – Reserves (Natural) 2010. Given the excellent condition of the reserve, costs would be limited to weed and fire control and surveillance

### **POLICY IMPLICATIONS**

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

### **SUMMARY CONCLUSION**

12. As Lot 6821, Henry Street, is an area of dense bushland in very good to excellent condition it should be retained as a Government Reserve with the management order vested in the City of Albany. The excision of portion of lot 6821 for respite facility would not be detrimental, as the area is already semi cleared. The road reserve widening to 40 metres would accommodate future road widening requirements

**RECOMMENDATION**

**ITEM 3.5: RESPONSIBLE OFFICER RECOMMENDATION**

1. The management order for the portion of Lot 6821 Henry Street (as per DRDL letter dated 13/10/10), for the purpose of 'Recreation and Landscape Protection', managed by City of Albany be ACCEPTED;
2. The management order for the north eastern portion of Lot 6821 Henry Street (as per DRDL letter dated 13.10.10), for the purpose of 'Respite Facility,' managed by Alzheimer's Australia WA Ltd be SUPPORTED; and
3. The creation of a 40 metre road reserve along Henry St, excising portion of Lot 6821 be SUPPORTED.

**ITEM 3.5: AMENDED RESPONSIBLE OFFICER RECOMMENDATION**

1. The management order for the portion of Lot 6821 Henry Street (as per DRDL letter dated 13/10/10), for the purpose of 'Recreation and Landscape Protection', managed by City of Albany be **ACCEPTED**;
2. The management order for the north eastern portion of Lot 6821 Henry Street (as per DRDL letter dated 13.10.10), for the purpose of 'Respite Facility,' managed by Alzheimer's Australia WA Ltd be **SUPPORTED**;
3. The creation of a 40 metre road reserve along Henry St, excising portion of Lot 6821 be **SUPPORTED** and;
4. Subject to point 1 of the Responsible Officer Recommendation, the City **SUPPORT** the request from Alzheimer's Australia WA Ltd to enter into a Memorandum of Understanding with the City of Albany for the group to maintain the bush reserve.

**ITEM 3.5: RESOLUTION (Amended Responsible Officer Recommendation)**

**MOVED: COUNCILLOR DUFTY**

**SECONDED: COUNCILLOR SWANN**

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

**CARRIED 11-0**

**Staff Reason (S Pepper):**

Staff discussion with Alzheimer's Australia WA Ltd have highlighted an opportunity for people with dementia visiting the premises to be involved in worthwhile and useful activity in the community, by maintaining the pristine bush on the proposed Reserve for the purpose of Recreation and Landscape Protection.

This arrangement will be formalised by the Memorandum of Understanding.

**3.6: CONTRACT C10028 – TENDER FOR OVERLAY AND WIDENING OF 2.4 KM OF LOWER DENMARK ROAD (SLK 18.2 – 21.5)**

**File Number or Name of Ward** : DES028 (West Ward)  
**Summary of Key Points** : The acceptance of a tender for the reconstruction and widening of Lower Denmark Road (SLK 18.2 – 21.5).  
**Land Description** : Road reserve for Lower Denmark Road  
**Proponent** : City of Albany  
**Owner** : City of Albany  
**Reporting Officer(s)** : Manager Design & Compliance (Ben Whitfield)  
**Bulletin Attachment(s)** : 1. Tender Review and Evaluation Report

**BACKGROUND**

1. Tenders were called for the overlay and widening of approximately 2.4 km of Lower Denmark Rd
2. The request for tenders was advertised in the West Australian on 6 October 2010 and in the Weekender on 7 October 2010.
3. Opus International Consultants are acting as the design consultant and are in negotiations for the Superintendence of this contract on behalf of the City.
4. Five tenders were received. A representative of Opus and the City of Albany reviewed the tenders for compliance and accuracy and evaluated the tenders according to the City of Albany guidelines.

**DISCUSSION**

5. The five tenders received were:

<b>TENDERER</b>	<b>PRICE – EX GST</b>
Great Southern Sands	\$707,780.00
Palmer Earthmoving	\$955,373.65
AD Contractors	\$956,907.50
Griffin Civil Contractors	\$1,620,941.75
APH Contractors	\$1,634,900.00

**TENDER EVALUATION**

6. Tenders were evaluated in four (4) key areas;
  - Cost (50%)
  - Technical Compliance & Methodology (20%)
  - Reliability and Experience (20%)
  - Safety Management (10%)

7. The rating scale method used is as set out by the City of Albany's tender evaluation cost scoring formula.
8. The Tender Review and Evaluation Report is attached.
9. The tenders were evaluated and Palmer Earthmoving was assessed to be the preferred tenderer.

#### **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

10. Strategic plan relevant to the matter "Not Applicable".
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. The extent of works of the project could be reduced so that the budget allocation of \$870,000 is not exceeded. This would result in a reduction in the Regional Roads Group funding allocation for the project. It would also not achieve best value for money from the very competitive tender result.
14. The price of the preferred tender represents very good value for money. Accepting the full scope of works would almost certainly provide better value for money than reducing the scope.
15. The funding for this project could be increased by reallocating funds from the projects listed below. The justification for the reallocation from each budget item is also given.
16. There are no legal implications relating to this item.

#### **FINANCIAL IMPLICATIONS**

17. The amount of \$870,000 is budgeted in the 2010/11 capital works program for this project. This is insufficient to carry out the full scope of the project

18. It is suggested that the following funding reallocation be made:

<b>Funding Requirements</b>	
Budgeted for Lower Denmark Rd project (2825)	\$870,000
Committed - Consultants design fee	\$27,506.50
Committed - Consultants superintendence fee	\$40,000
Available for construction	\$802,493.50
Preferred tenderer sum	\$955,373.65
Contingency (8% - not included in tendered sum)	\$76,500
Consultant design and tender documentation fee – Stage 3 (SLK 13.3 – 18.2)	\$28,665
Shortfall	<b>\$258,045.15</b>
<b>Suggested Funding of Shortfall</b>	
Current budget for design of Mueller Rd (2269)	\$54,677
Funds available to complete design of Mueller Rd (2269)	\$38,897
Estimated funds required to complete design of Mueller Rd (2269)	\$4,897
Reallocation from Mueller Rd (2269) to this project ( <i>footnote a</i> )	\$34,000
Current budget for design of Marbelup/Elleker road upgrade (2819)	\$60,000
Funds available to complete design of Marbelup/Elleker road upgrade (2819)	\$60,000
Estimated funds required to complete design of Marbelup/Elleker road upgrade (2819)	\$10,000
Reallocation from Marbelup/Elleker road upgrade (2819) to this project ( <i>footnote b</i> )	\$50,000
Current budget for design of Frederick St/Stirling Tce drainage (2882)	\$250,000
Funds available to complete design of Frederick St/Stirling Tce drainage (2882)	\$248,500
Estimated funds required to complete design of Frederick St/Stirling Tce drainage (2882)	\$139,500
Reallocation from Frederick St/Stirling Tce drainage (2882) to this project ( <i>footnote c</i> )	\$109,000
Current budget to construct Flinders Parade footpath (2854)	\$65,680
Funds available to construct Flinders Parade footpath (2854)	\$65,680
Reallocation from Flinders Parade footpath (2854) to this project ( <i>footnote d</i> )	\$65,680
Reallocation (total)	<b>\$258,680</b>

*Foot Notes:*

- a* Mueller St design is very near completion and construction will not occur in 10/11
- b* Design is to be done in-house as resources are available – cost saving.
- c* Preliminary design of flood conveyance via pipework through the Stirling Club land has been presented to the owners. They have some reservations about establishment of easement on title. Alternative design is being explored, with reduced scope as Phase 1.
- d* Regional Bicycle funding was unsuccessful, project redefined for Royalties for Regions funding (100% funded); awaiting advice - so remaining funds could be reallocated

19. This project has Regional Roads Group Project funding of \$380,000, representing ~44% of the total budgeted amount of \$870,000.
20. If the full scope of the works were not undertaken this year, the Regional Roads Group would require a proportional reduction in their allocation.

**SUMMARY CONCLUSION**

21. The Palmer Earthmoving tender submission scored the highest total points (742.11) of all the required evaluation criteria for the Overlay and Widening of Lower Denmark Road. That tender should be accepted.
22. The tender amount would cause a budget shortfall of \$258,045.15 in this project. It is recommended that this short fall be met by reallocating funds from the jobs listed previously.

[10:54:37 PM](#) Councillor Swann left the Chamber.

**RECOMMENDATION**

**ITEM 3.6: RESPONSIBLE OFFICER RECOMMENDATION**

1. The tender from Palmer Earthmoving for \$955,373.65 excluding GST be **ACCEPTED**;
2. A contingency of 8% (\$76,500) of the contract value (not included in the tendered sum) be **APPROVED**;
3. The Consultant design and tender documentation fee of \$28,665 for Stage 3 Lower Denmark Road (SLK 13.3-18.5) be **APPROVED**;

**AND**

4. The following amounts be **REALLOCATED**:
  - A. \$34,000 from the Mueller Road project (2269) to the Lower Denmark Road project (2825) this financial year;
  - B. \$50,000 from the Marbelup/Elleker road upgrade (2819) to the Lower Denmark Road project (2825), this financial year; and
  - C. \$109,000 from the Frederick Street/Stirling Terrace drainage (2882) to the Lower Denmark Road project (2825) this financial year.

**ITEM 3.6: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR DUFTY**

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

**CARRIED 8-2  
ABSOLUTE MAJORITY**

**Against the Motion:** Councillors D Bostock and J Bostock

## **3.7: FINAL ADOPTION OF CLIMATE CHANGE ACTION PLAN**

<b>File Number (Name of Ward)</b>	: EM.PLA.26 (All Wards)
<b>Land Description</b>	: City of Albany Municipality
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: Nil
<b>Previous Reference</b>	: (OCM 17/8/2010 - Item 3.6)
<b>Attachment(s)</b>	: Climate Change Action Plan 2010 Schedule of Submissions
<b>Appendices</b>	: Climate Change Action Plan – Final (Appendix A)
<b>Maps and Diagrams</b>	: Refer to attachment.
<b>Reporting Officer(s)</b>	: Manager City Assets (Peter Brown)
<b>Responsible Officer</b>	: Executive Director (Kevin Ketterer)

### **IN BRIEF**

- Following a public consultation period, six (6) submissions were received on the draft Climate Change Action Plan.
- The item seeks final adoption by Council of the Final Climate Change Action Plan.

### **BACKGROUND**

1. The draft Climate Change Action Plan was received at the 17<sup>th</sup> August 2010 Ordinary Council Meeting. It was resolved “that Council:
  - ADOPT the draft Climate Change Action Plan, and
  - ADVERTISE for a period of 21 days.”
2. The document follows on from the final adoption of the Environmental Policy on 17<sup>th</sup> August 2010 Ordinary Council Meeting.

### **DISCUSSION**

3. Of the six (6) submissions received, all of them supported the draft Climate Change Policy Action Plan. The attachments include a schedule of submissions, which summarises the main comments; and a final copy of the Climate Change Action Plan, with agreed amendments.
4. Comments were received from Water Corporation, Main Roads, South Coast NRM, Department of Water, Albany Community Environment Centre and Great Southern Development Commission. All commended the City in seeking to address issues associated with Climate Change. A number of agencies supported similar requests, including the mandating of water tanks for new buildings and developments, addressing the risk of sea level rise, undertaking a number of water efficiency strategies, and improving resilience for biodiversity. A full summary of public comments is attached.

## **PUBLIC CONSULTATION / ENGAGEMENT**

5. The document was placed on the City's website and advertised in the local paper, inviting public comment. Once the public comment period had lapsed, responses were collated in the attached documents.

## **GOVERNMENT CONSULTATION**

6. In November 2009, Coffey Environments released a study of climate change implications for the south coast region. All the agencies that were listed as stakeholders in that document were invited to comment on draft Action Plan including;
  - Western Australian Local Government Association (WALGA);
  - Fire and Emergency Services Authority (FESA);
  - Department of Planning;
  - Department of Environment and Conservation (DEC);
  - Department of Agriculture and Food;
  - Great Southern Development Commission;
  - Bureau of Meteorology;
  - Department of Water;
  - Water Corporation;
  - Department of Fisheries, and
  - Main Roads.
7. Responses were received from Main Roads, Water Corporation, Department of Water, Great Southern Development Commission, South Coast Natural Resource Management and the community group, Albany Community Environment Centre.

## **STATUTORY IMPLICATIONS**

8. Section 1.3 (3) of the Local Government Act 1995 states... 'In carrying out its functions, a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity.'

## **FINANCIAL IMPLICATIONS**

9. There are no financial implications associated with the final adoption of this document.
10. The key actions identified in the document will include costs and potential to the City's budget. Each key action with cost implications will be subject to a thorough cost analysis and Council report before proceeding.

## **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“The City of Albany will be a City where...*

### ***Item 1 Lifestyle and Environment***

*1.5 “Development... embraces environmentally responsible approaches to energy and water consumption; and*

*Incorporates healthy lifestyle activities and access to green space.”*

*1.6 “The long term problems of climate change and peak oil have been recognised and responded to.”*

***Item 2 Economic Development*** *2.1 “renewable energy completely powers the region.”*

***Item 3 Albany’s City Centre*** *3.1 “Be family and pedestrian friendly;*

*3.4 “Serviced by regular and affordable public transport system.”*

***Item 4 Governance*** *4.1 “..delivering ethical and responsible government..”*

*4.2 “Manage our municipal assets to ensure they are capable of supporting our growing community.”*

*4.3 “Deliver excellent community services that meet the needs and interests..”*

## **POLICY IMPLICATIONS**

12. All policies related to climate change will need to be reviewed in consideration of the key actions within the document.

## **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

13. WALGA sought legal advice as to whether local governments should allow for climate change in their planning and processes. A summary of the advice was that “..should Local Government choose not to take into account acknowledged and peer reviewed scientific and policy information on climate change impacts and risks in relation to its planning processes in the future (both strategic and statutory) it will leave itself open to legal challenge in a broad sense. As the information is now considered both accessible and in the public domain it is considered legally prudent for Local Government to ensure it has policies and management plans in place to ensure that the available knowledge is applied appropriately.

## **SUMMARY CONCLUSION**

14. Following the public comment period, there was full support for the City of Albany adopting the Climate Change Action Plan. On legal advice obtained by the WALGA, local government is strongly advised to take precautions in response to climate change.

**RECOMMENDATION**

**ITEM 3.7: ALTERNATE RECOMMENDATION BY COUNCILLOR HOLDEN**

**THAT the title of the Climate Change Action Plan be changed to the Environmental Action Plan to be consistent with the Environmental Policy.**

**ITEM 3.7: RESOLUTION (Alternate Recommendation by Councillor Holden)**

**MOVED: COUNCILLOR HOLDEN**

**SECONDED: COUNCILLOR SUTTON**

**THAT the Alternate Recommendation by Councillor Holden be ADOPTED.**

**CARRIED 7-3**

**Against the Motion:** Councillors Matla, D Bostock and J Bostock

**Councillor's Reason:** There are a large number of residents and ratepayers who do not believe in the religion of climate change.

**Officer's Comment (P Brown):** The key actions identified in the Climate Change Action Plan are directly related to climate change mitigation.

The Climate Change Action Plan does not include environment issues outside climate change parameters.

[11:02:08 PM](#) Councillor Swann returned to the Chamber.

**ITEM 3.7: RESPONSIBLE OFFICER RECOMMENDATION**

**The final Environmental Action Plan, with the current amendments as tabled, be ADOPTED.**

**ITEM 3.7: RESOLUTION (Responsible Officer Recommendation)**

**MOVED MAYOR: EVANS**

**SECONDED: COUNCILLOR HAMMOND**

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

**CARRIED 7-4**

**Against the Motion:** Councillors Matla, Holden, D Bostock and J Bostock.

**3.8: LAKE SEPPINGS DRIVE - CONDITION AND FUTURE DIRECTION**

<b>File Number (Name of Ward)</b>	: RD.PLA.1 (Breaksea Ward)
<b>Land Description</b>	: Lake Seppings Drive Road Reserve
<b>Previous Reference</b>	: (OCM 18/11/08 Item 13.7.2)
<b>Attachment(s)</b>	: Summary of Responses
<b>Appendices</b>	: Proposed Minor Works Drawings
<b>Consulted References</b>	: Local Government Act 1995
<b>Maps and Diagrams</b>	: Refer to attachment.
<b>Reporting Officer(s)</b>	: Manager City Assets Peter Brown
<b>Responsible Officer</b>	: Executive Director Kevin Ketterer

**IN BRIEF**

- Consider options regarding the future management of Lake Seppings Drive.

**BACKGROUND**

1. The unsealed section of Lake Seppings Road reserve has long been a concern for adjacent landowners and there have been repeated requests for sealing of the road due to the poor condition of the gravel road, dust issues during summer periods and hoon drivers causing an unsafe environment.
2. In November 2008, Council resolved to seal the section of road connecting Anzac Road to ensure residents residing on Anzac Road had access to a sealed section. The resolution included an adjustment to land parcels to ensure the road reserve was placed on the correct alignment. The remaining section is unsealed from the intersection of Anzac Road to Drew Street to the north, a distance of approximately 400 metres.

**DISCUSSION**

3. Council adopted an Asset Management Plan – Roads in April 2010. The basic principles of the plan are to ensure that available funds are directed to infrastructure with the most need under agreed criteria.
4. Based on the adopted plan, a five year works programme was prepared. The programme ensures that preservation, renewal and maintenance activities are undertaken in a systematic way. Lake Seppings Drive does not meet the criteria for funding due to the fact that residents adjacent to the reserve have alternative sealed access to their properties via Drew Lane and Wakefield Crescent, with one exception being 15 Wakefield Crescent. It should also be noted that Lake Seppings Drive is not required to be a through road with interconnectivity being available via the alternative sealed network.
5. It should be acknowledged that residents using their sealed access from Wakefield Crescent and Drew Lane can have difficulties due to the steep topography and it makes access via the Lake Seppings Road Reserve an attractive option, particularly owners with boats and trailers.

**PUBLIC CONSULTATION / ENGAGEMENT**

6. In July 2010, a letter was sent out to affected landowners requesting community feedback on the future management of the Lake Seppings Road Reserve. The correspondence detailed out a proposal to restrict access to the reserve and provide limited access for residents. A summary of responses is included in Appendix A.

7. Out of twelve (12) letters issued, eleven (11) responses were received. Five (5) respondents agreed with staff recommendations and five (5) were opposed with one (1) undecided.

### **GOVERNMENT CONSULTATION**

8. There is no government consultation associated with this item.

### **STATUTORY IMPLICATIONS**

9. Section 3.50 of the Local Government Act 1995 outlines the processes for closing thoroughfares to vehicles. In this case, the closure of the thoroughfare (existing gravel track) is not a public road as defined under the Land Administration Act 1997 (section 56). The track is on Reserve 1299 which is managed by the City for the purpose of parklands.

10. However, the proposal includes the removal of 'through traffic' movements on the Lake Seppings Road Reserve and it is therefore pertinent to follow the Section 3.50 processes as follows:

*Section 350 Closing of certain thoroughfares to vehicles.*

*(1a) a local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.*

*(4) before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to:*

- (a) Give local public notice of the proposed order giving details of the proposal including the location of the thoroughfare and where, when and why it would be closed, and inviting submissions from any person who wishes to make a submission.*
- (b) Give written notice to each person who:*
  - (i) is prescribed for the purposes of this section, or;*
  - (ii) who owns land that is prescribed for the purposes of this section;**And*
- (c) Allow a reasonable time for the submissions to be made and consider any submissions made.*

### **FINANCIAL IMPLICATIONS**

11. The cost to construct and seal Lake Seppings Drive is estimated at \$ 650,000. The cost is high due to poor ground conditions requiring extensive sub base and base course works. There are no funds currently within the 2010/11 budget.

### **POLICY IMPLICATIONS**

12. The City has an adopted Asset Management Policy.

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

13. The alternate option proposed is to close the road reserve to through traffic and allow access to residents only or leave the road in its current state. The through road closure option has an estimated cost of \$ 30,000. The option includes assurance that constructed access will be maintained to 15 Wakefield Crescent.

**SUMMARY CONCLUSION**

14. Lake Seppings Drive is seen as superfluous to requirements from an asset management perspective due to the following reasons;
  - Sealed access is available to residents via Wakefield and Drew Lane, and
  - Sealed network connectivity is available via the surrounding sealed road network.
15. By preventing through traffic movements, it is anticipated that the dust and hoon driver issues will be resolved.
16. The eventual development of Lake Seppings Drive may occur with future subdivision and residential development driving its construction. At this time development approvals will require contributions towards road and drainage construction.

**RECOMMENDATION**

**ITEM 3.8: AMENDED RESPONSIBLE OFFICER RECOMMENDATION**

1. In accordance with the provisions of Section 350 of the Local Government Act 1995, Council undertake to provide local public notice.
2. Should there be any objections to the closure, the item shall be returned to Council with full details of the objections received.
3. Should there be no objections received regarding the closure, staff are to proceed with the administrative requirements including the allocation of \$30 000 in the draft 2011/12 budget to undertake the works

**Officer's Reason:** The amended report provides clarification of the statutory obligations under the Local Government Act 1995.

**ITEM 3.8: ALTERNATE RECOMMENDATION BY COUNCILLOR J BOSTOCK**

1. That Lake Seppings Drive remains open with complete access as required by s3.52 of LGA 1995.
2. That financial assistance opportunities be explored, including Black Spot Funding with a view to providing a fully sealed road as soon as practicable.

**ITEM 3.8: RESOLUTION (Alternate Recommendation by Councillor J Bostock)**

**MOVED: COUNCILLOR J BOSTOCK  
SECONDED: COUNCILLOR HAMMOND**

**THAT the Alternate Recommendation by Councillor J Bostock be ADOPTED.**

**CARRIED 9-2**

**Against the Motion:** Councillors Matla and Holden.

**Councillor's Reasons:**

1. Due to its proximity to the CBD.
2. Its already overdue waiting time, having been listed by Landgate on 3 April 1975 as a public road with complete access.
3. Provision of sealed access to 14 Lots, some of which have no other access.
4. Provision of access to Lake Seppings Bird walk.
5. Provision of through route to access Middleton Beach.
6. Safety requirement, since the parallel road, Wakefield Crescent, is one way only and extremely narrow, there is already a problem of misuse of this road with vehicles driving the wrong way, the closure of Lake Seppings Drive would exacerbate this.
7. There is no legal imperative to close this road, indeed we have a duty to keep it open.

**Officer Comment (P Brown):**

Staff do not consider the construction of Lake Seppings Drive to be a candidate for an application for Black Spot funding given the very low traffic volumes and lack of conflict issues normally associated with applications.

Response to Alternative Motion:

- Section 3.52 of the Local Government Act 1995 does outline a Local Government's responsibility to maintain a thoroughfare, however Section 3.52 (2) states 'Except to the extent that it is authorised by law to close them or restrict their use...' Section 3.50 provides the legal instrument to do so under certain conditions i.e. must give notice etc.
- The construction of Lake Seppings Drive is expected to be a relatively expensive project due to poor grounds conditions, clearing and drainage requirements. Black Spot funding projects are subject to formalized road safety audits. It is likely that any recommendation from this process would involve the closure of through traffic movements.

Response to reasons:

1. Proximity to the CBD is not a criteria for constructing / sealing a road.
2. The period at which a road reserve has been registered with Landgate is not a criteria for constructing / sealing a road.
3. There are currently only 2 residences that do not have constructed sealed access to Wakefield Crescent (house number 5 and 7).
4. Recreational access to Lake Seppings will not be altered.
5. There are a range of alternative access routes to Middleton Beach including Collingwood Road, Seymour Street and Wakefield Crescent.
6. There is no increased safety issues associated with Wakefield Crescent and Drew Lane if the through traffic movement is prevented on Lake Seppings Drive.
7. Hoon and dust issues reported by residents are the principal reason for the through traffic movement restriction. Section 3.50 of the Local Government Act 1995 provides the legislative instrument for closure.

**3.9: RESERVE 35988 NORTH RD – PROPOSED MANAGEMENT  
ORDER REQUEST**

<b>File Number or Name of Ward</b>	: PRO132 (Yakamia Ward)
<b>Summary of Key Points</b>	: Request to change Reserve 35988 North Rd to Road Reserve
<b>Land Description</b>	: Reserve 35988
<b>Proponent</b>	: Department of Regional Development and Lands
<b>Owner</b>	: Crown
<b>Consulted References</b>	: <i>Land Administration Act 1997</i>
<b>Reporting Officer(s)</b>	: Manager City Projects (S Pepper)
<b>Bulletin Attachment(s)</b>	: Letter dated 26 October 2010 – Department Regional Development and Lands

**BACKGROUND**

1. Council has obtained Main Roads Blackspot funding to complete a roundabout at the intersection of North Rd and Barnesby Drive. To complete the traffic works, a road widening is required, that would encroach onto Reserve 35988.
2. Reserve 35988 is currently managed by the Minister for Water Resources, with a purpose of 'Sewerage Pumping Station Site'. Discussions with the Department of Water have identified the reserve is no longer required for its needs.
3. The Department of Regional Development and Lands (DRDL) has been advised Council is seeking approval to have the reserve changed to a road reserve, with the support of the Department of Water.

**DISCUSSION**

4. DRDL has written to Council requesting clarification as to whether the encroachment is partial or for the entire reserve, and requires a Council resolution before it can proceed with any action.
5. To expedite the processing of the land purpose change to allow the road works to be completed this financial year, staff have written to the Department advising of the proposal and seeking its support, subject to confirmation from the Department of Water.

**PUBLIC CONSULTATION / ENGAGEMENT**

6. There has been no public consultation, as the reserve is not managed by the City.

## **GOVERNMENT CONSULTATION**

7. The Department of Water has been consulted, initially to obtain an encroachment onto reserve 35988 for the road widening, and subsequently, to cancel the reserve and amend the resultant land into a road reserve. The sewer sump located on the reserve is to be decommissioned, at the Department of Water's cost.

## **STATUTORY IMPLICATIONS**

8. Section 51 of the *Land Administration Act 1997*, states:

***“Cancellation, etc of reserves generally.***

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

9. Under the *Land Administration Act 1997*, section 56, states:

***“Dedication of Roads –***

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

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

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

*NB: Council is required to indemnify the Crown from any claim for compensation.*

## **FINANCIAL IMPLICATIONS**

10. There is no cost involved in seeking the Minister's approval to change the reserve 35988 to road reserve, as the land remains in the Crown's ownership.

**POLICY IMPLICATIONS**

11. Nil

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

12. Council may:

- Agree to the proposal to cancel reserve 35988 and create a road reserve; or
- Decline the request and request staff to re-design the road layout.

**SUMMARY CONCLUSION**

13. The cancellation of the reserve and creation of a road reserve will allow the roundabout to be built and improve safety at the intersection of North Rd and Barnesby Drive.

**RECOMMENDATION**

**ITEM 3.9: RESPONSIBLE OFFICER RECOMMENDATION**

- A. **SEEK Ministerial approval to cancel Reserve 35988 in accordance with section 51 of the *Land Administration Act 1997*;**
- B. **SEEK approval to dedicate the resultant land as road reserve, in accordance with section 56 of the *Land administration Act 1997*; and**
- C. **Indemnify the Department of Regional Development and Lands against all claims and costs related to the creation of the road.**

**ITEM 3.9: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SWANN**

**SECONDED: COUNCILLOR WOLFE**

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

**CARRIED 11-0**

**4.1: APPOINTMENT OF COUNCILLOR HOLDEN TO SENIORS  
ADVISORY COMMITTEE**

**File Number** : CR.MEE.2  
**Reporting Officer** : Community Development Officer-Seniors (R Oswald)  
**Responsible Officer** : ED Corporate and Community Services (P Madigan)

**IN BRIEF**

- Councillor Dufty is currently the only elected member representative on the Seniors Advisory Committee, following the resignation of Councillor Wolfe.
- Councillor Holden has been attending the Seniors Advisory Committee meetings, and Council is required to formalise the appointment of Councillor Holden to the Seniors Advisory Committee.

**Seniors Advisory Committee Terms of Reference:**

To provide a consultative forum for Seniors' issues.

**ITEM 4.1: RESPONSIBLE OFFICER RECOMMENDATION**

**That Councillor Holden be APPOINTED to the Seniors Advisory Committee.**

**MOVED: COUNCILLOR DUFTY  
SECONDED: COUNCILLOR SWANN**

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

**CARRIED 11-0  
ABSOLUTE MAJORITY**

## **4.2: CONSIDERATION OF RECOMMENDATIONS FROM PLANNING SERVICES REVIEW (SEPTEMBER 2010)**

<b>File Number (Name of Ward)</b>	: GO.CLS.23 (All Wards)
<b>Proponent</b>	: City of Albany
<b>Previous Reference</b>	: SCM 25/05/2010 - Item 6.2
<b>Attachment(s)</b>	: Table One – First Report (actions against recommendations)
<b>Appendices</b>	: Review of Planning Services by Planning Context-to be found at Appendices Item 18.1
<b>Consulted References</b>	: Better Practice Review (Department of Local Government)
<b>Reporting Officer(s)</b>	: Executive Director Development Services (G Bride)
<b>Responsible Officer</b>	: Executive Director Development Services (G Bride)

### **IN BRIEF**

- Council has received the review from Planning Context (Charles Johnson) which lists a number of recommendations.
- The purpose of this report is to consider the adoption of the recommendations made by the consultant and update Council on implementation measures.

### **BACKGROUND**

1. At its special meeting dated 25 May 2010 Council appointed Charles Johnson to undertake a review of the Development Services Directorate.
2. Charles Johnson (Planning Context) has completed the review and has presented his findings to Council at the Elected Members Workshop on 28 September 2010.
3. All of the recommendations that were made in the report are presented in Table 1, attached to the rear of this report. Staff have already made progress in relation to a number of recommendations, with others being commenced or pending government agency advice and/or the appointment of a new CEO (a commentary on what actions have been undertaken is also listed within Table 1).

### **DISCUSSION**

4. Whilst the report identified a number of areas of improvement the consultant found that overall the procedures, delegations, practices, governance framework and assessment of planning applications were sound and no major areas of concern were identified.
5. In order to improve the functioning of the department, additional administrative support is in the process of being secured and it is likely that the successful incumbent will commence in mid to late November. This position will be temporary, part time for a period of 12 months and will be funded within the existing planning budget parameters. This has been achieved as a planning officer returning from maternity leave will recommence in a part time capacity in February 2011.

6. A decision on whether this part time administrative position should become permanent thereafter will need to be considered as part of the budget discussions in March next year.
7. The Manager of Planning Services is currently a vacant position, on hold pending Council's position on the EDDS contract renewal. The appointment of a Manager Planning Services can be delayed until next financial year (July 2010) as no provision has been made in the current budget for this position.
8. The recommendation by Mr Johnson relating to in-house strategic planning is supported. In 2009/10 a figure of \$70,000 was allocated to outsourcing the strategic planning functions of the City, which has allowed for the appointment of a casual staff member (experienced town planner) to work with the Department of Planning to finalise the new Town Planning Scheme, in addition to the engagement of planning consultants to review significant planning proposals such as the Emu Point and Big Grove Structure Plans. Whilst these arrangements for the 2009/10 financial year have worked particularly well thus far, it is acknowledged that such arrangements are not sustainable in the medium to long term, and it is recommended that an in-house strategic planning function is restored in the 2010/11 financial year.
9. In raising the profile of strategic planning at the City, it is intended that the Manager of Planning Services role could be reconfigured to focus primarily on strategic planning matters.
10. Mr Johnson also recommended that the directorate name be changed to identify that strategic planning, or planning in general, was reflected in the title. To this end it is recommended that the title be changed to Planning and Development Services. Such a directorate title is used by the City of Bayswater, City of Rockingham and City of Perth.

#### **PUBLIC CONSULTATION / ENGAGEMENT**

11. Not applicable, although it should be acknowledged that Mr Johnson did speak to a range of industry stakeholders as part of the review.

#### **GOVERNMENT CONSULTATION**

12. Not applicable, although it should be acknowledged that Mr Johnson did consult with the Department of Planning and the Department of Local Government as part of the review.

#### **STATUTORY IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

15. There are no financial implications in relation to this financial year (2009/10), as the salary associated with administrative assistant position will be met within existing planning salaries budget.
16. As per the recommendation by Planning Context it is recommended that the outsourcing of the City's strategic planning functions not continue into the 2010/11 financial year, and that a strategic planning section be restored as per 2009/10 and previous financial years. The form and resources associated with the strategic planning team will be reviewed in March next year as part of the next update on the implementation measures.

### **POLICY IMPLICATIONS**

17. Staff have prepared a draft Local Planning Policy Manual which has been circulated to Councillors and will be considered at the December Council Meeting; the rationalisation of Council's policy framework was a key recommendation identified by the consultant.

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

18. Council can decide to not accept the recommendations by the consultant or the proposed actions/responses provided by staff.

### **SUMMARY CONCLUSION**

19. It is recommended that the report by Planning Context be received.
20. It is also recommended that staff provide the next progress report on the implementation of the recommendations by March 2011, including a proposal on the form and function of strategic planning services at the City.

**RECOMMENDATIONS**

**ITEM 4.2: RESOLUTION**

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

**THAT Responsible Officer Recommendations 1, 2 and 3 be moved en bloc.**

**CARRIED 11-0**

**ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION 1**

**The recommendations made by Planning Context in its report dated 1 October 2010 be RECEIVED.**

**CARRIED EN BLOC**

**ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION 2**

**The initial actions/responses identified in Table 1 as attached be ACKNOWLEDGED and that an additional progress report be PRESENTED to Council by March 2011 on the status of the remaining recommendations, including the proposed form and function of strategic planning services at the City.**

**CARRIED EN BLOC**

**ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION 3**

**The Directorate be RENAMED from “Development Services” to “Planning and Development Services” with the Executive Director’s title to be ‘Executive Director Planning and Development Services’ (EDPDS).**

**CARRIED EN BLOC**

**ADOPTION OF RECOMMENDATIONS EN BLOC BY COUNCILLOR LEAVESLEY**

In accordance with clause 5.3 of the *Standing Orders Local Law 2009*, Councillor Leavesley moved the procedural motion to adopt Report Items 4.3 to 4.6 En Bloc.

**Councillor's Reason:**

Council is simply receiving the minutes of the committees.

**ITEMS 4.3 TO 4.6: RESOLUTION**

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

**THAT Recommendations for Items 4.3, 4.4, 4.5 and 4.6 be carried EN BLOC.**

**CARRIED 10-1**

**Against the Motion:** Councillor D Bostock

**4.3: SENIORS ADVISORY COMMITTEE MEETING – 30 SEPTEMBER  
2010**

<b>File Number (Name of Ward)</b>	: CR.MEE.2
<b>Proponent</b>	: City of Albany
<b>Appendices</b>	: Minutes of the Seniors Advisory Committee meeting held on 30 September 2010
<b>Reporting Officer(s)</b>	: Community Development Officer-Seniors (R Oswald)
<b>Responsible Officer</b>	: ED Corporate and Community Services (P Madigan)

**ITEM 4.3: COMMITTEE RECOMMENDATION**

**THAT the UNCONFIRMED minutes of the Seniors Advisory Committee meeting held on Thursday 30 September 2010, be RECEIVED.**

**CARRIED EN BLOC**

**4.4: ALBANY ENTERTAINMENT CENTRE (AEC) COMMITTEE  
MEETING MINUTES**

<b>File Number or Name of Ward</b>	: ED.PJT.1 & ED.PJT.4 (Frederickstown Ward)
<b>Summary of Key Points</b>	: Committee Items for Council Consideration
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: N/A
<b>Attachment(s)</b>	: Committee Meeting Minutes – 30 September 2010
<b>Reporting Officer(s)</b>	: Executive Director Corporate and Community Services (P Madigan)
<b>Responsible Officer(s)</b>	: Executive Director Corporate and Community Services (P Madigan)

**ITEM 4.4: COMMITTEE RECOMMENDATION 1**

**THAT the UNCONFIRMED minutes of the Albany Entertainment Centre Committee meeting held on 30 September 2010 be received.**

**CARRIED EN BLOC**

**4.5: ALBANY TOURISM MARKETING ADVISORY COMMITTEE MEETING  
MINUTES**

**File Number (Name of Ward)** : ED.MEE.2 (All Wards)  
**Proponent** : City of Albany  
**Appendices** : Minutes of ATMAC meeting held on 13 October 2010  
**Reporting Officer(s)** : Manager Economic Development (J Berry)  
**Responsible Officer** : Executive Director Corporate & Community Services  
(P Madigan)

**ITEM 4.5: COMMITTEE RECOMMENDATION 1**

THAT the UNCONFIRMED minutes of the Albany Tourism Marketing Advisory Committee (ATMAC) Meeting held on Wednesday 13 October be RECEIVED.

**CARRIED EN BLOC**

**4.6: LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING  
MINUTES – 6 OCTOBER 2010**

**File Number (Name of Ward)** : ES.MEE.5 (All Wards)  
**Disclosure of Interest** : Nil  
**Appendices** : Local Emergency Management Committee Meeting Minutes-  
6 October 2010  
**Reporting Officer(s)** : Emergency Management Officer (G Turner)  
**Responsible Officer** : Executive Director (WP Madigan)

**IN BRIEF**

- Receive the minutes of the Local Emergency Management Committee.

**ITEM 4.6: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT the UNCONFIRMED minutes of the Local Emergency Management Committee held on the 6 October 2010 be RECEIVED.**

**CARRIED EN BLOC**

## **4.7: ANNUAL REVIEW OF DELEGATIONS**

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

### **IN BRIEF**

- Annual Review of Council Delegations

### **BACKGROUND**

1. Under the provisions of the Local Government Act 1995, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committee's of Council to help facilitate the many services it provides to the community.
2. At least once every financial year, the powers and duties delegated under the Local Government Act are required to be reviewed by the delegator.

### **DISCUSSION**

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

### **Changes to current delegations**

7. All delegations have been reviewed with the changes being proposed for:
- **Appointing an Acting CEO.** (Conditions)
  - **Closing Certain Thoroughfares to Vehicles.** (New delegation)
  - **Disposal of Council Property.** (Name change from Disposal of Council Land, increase from \$5,000 to \$50,000)
  - **Elected member IT Allowance.** (New delegation);
  - **Road Widening** (increase from \$50,000 to \$100,000);
  - **Tenders** (increase from \$100,000 to \$250,000);
  - **Write off Monies.** (Increase from \$2,000 to \$10,000, Conditions. Note this also includes rates penalty interest)

### **STATUTORY IMPLICATIONS**

#### **Delegation to CEO**

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

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

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

#### **Delegation to Committees**

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

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

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

#### **Delegations to be reviewed every financial year**

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

#### **Appointment of authorised persons**

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

## **RESPONSIBLE OFFICERS RECOMMENDATIONS**

### **4.7.1 - APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER**

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

Conditions:

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

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

Report to File.

### **4.7.2 - APPOINTMENT OF PRINCIPAL BUILDING SURVEYOR**

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

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

Report to File.

### **4.7.3 - AUTHORITY TO PAY ELECTED MEMBER IT ALLOWANCES**

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

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

Report to File.

### **4.7.4 - BUILDING LICENCES**

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

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

Applicable legislation/policy:

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

Report to Elected Member Information Bulletin.

#### **4.7.5 - BUSHFIRES AGREEMENTS**

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

Applicable legislation/policy:

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

Report to File.

#### **4.7.6 - CLOSING CERTAIN THOROUGHFARES TO VEHICLES**

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

Applicable legislation/policy:

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

Report to File.

#### **4.7.8 - COMMON SEAL**

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

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

Applicable legislation/policy:

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

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

Report to Elected Member Information Bulletin.

#### **4.7.9 - COMMUNITY FINANCIAL ASSISTANCE (SUNDRY DONATIONS)**

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

Applicable legislation/policy:

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

Report to Elected member information bulletin.

#### **4.7.10 - CROWN RESERVES**

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

Conditions:

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

Applicable legislation/policy:

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

Report to File

#### **4.7.11 - DISPOSAL OF COUNCIL PROPERTY**

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

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

Applicable legislation/policy:

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

Report to File

#### **4.7.12 - DRAINAGE EASEMENTS**

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

Conditions:

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

Applicable legislation/policy:

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

Report to File

#### **4.7.13 - GEOGRAPHIC NAMES COMMITTEE**

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

Applicable legislation/policy:

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

Report to File

#### **4.7.14 - GROSS RENTAL VALUATION**

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

Applicable legislation/policy:

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

Report to Elected Member Information Bulletin

**4.7.15 - LEASES**

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

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

Applicable legislation/policy:

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

Report to Elected Member Information Bulletin.

**4.7.16 - LOCAL LAWS**

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

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

Applicable legislation/policy:

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

#### **4.7.17 - MUNICIPAL AND TRUST FUND PAYMENTS**

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

Applicable legislation/policy:

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

Report to Elected Member Information Bulletin

#### **4.7.18 - OBJECTIONS TO RATES RECORD**

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

Applicable legislation/policy:

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

Report to File

#### **4.7.19 - PICKING FLORA**

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

Applicable legislation/policy:

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

Report to File

#### **4.7.20 - PLANNING INFRINGEMENT NOTICES**

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

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

Applicable legislation/policy:

- *Planning and Development Act 2005*

Report to File

#### **4.7.21 - ROAD WIDENING**

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

Conditions:

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

Applicable legislation/policy:

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

Report to File

#### **4.7.22 - STRATA TITLES**

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

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

Applicable legislation/policy:

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

Report to Elected member information bulletin.

#### **4.7.23 - TENDERS**

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

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

Conditions:

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

Applicable legislation/policy:

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

Report to File

#### **4.7.24 - WRITE OFF DEBTS (MONIES)**

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

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

Applicable legislation/policy:

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

Report to elected member information bulletin.

#### **4.7.25 - FINANCIAL ASSISTANCE & EVENTS FUNDING PROGRAM COMMITTEE DELEGATION**

THAT, under sections 5.16 and 5.17 of the *Local Government Act 1995*, the Financial Assistance & Events Funding Program Committee be delegated:

- Rates Rebates. The authority to Approve/decline applications for minor grants, youth crisis grants and subsidies granted to sporting clubs and community organisations up to 100% of the rates levied in accordance with *the Council Policy - Community Financial Assistance & Events Funding Program*.
- Minor Grants. The annual budget allocation is Financial Assistance & Events Funding Program Committee and the authority to assess applications for minor community grants and to approve funding allocations between \$200 and \$15,000.

Applicable legislation/policy:

- *Local Government Act 1995, section 5.16 (Delegation of some powers and duties to certain committees) & 5.17 (Limits on delegation of powers and duties to certain Committees).*
- *Community Financial Assistance & Events Funding Program – Council Resolution 4.6 - 17/08/10.*

#### **4.7.26 - COUNCIL POLICY - LANDFILL SUBSIDY SCHEME**

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

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

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

Applicable legislation/policy:

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

Report to File

#### **4.7.26 - HR POLICY – HUMAN RESOURCES POLICY**

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

Applicable legislation/policy:

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

##### **4.7.26.1 - (ACKNOWLEDGEMENT PAYMENTS TO EMPLOYEES)**

That, under section 5.50(1) of the *Local Government Act 1995*, the CEO be delegated authority to approve employee acknowledgement payments to employees in addition to contract or award, except when the officer under consideration is the Chief Executive Officer, in which case a Committee consisting of the Mayor and two other Councillors may implement the provisions of this policy to a maximum value of **\$500.00**.

Applicable legislation/policy:

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

Report to Elected Member Information Bulletin

##### **4.7.26.2 - (REPATRIATION EXPENSES)**

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

Condition:

Amount must be allocated in Council's annual budget.

Applicable legislation/policy:

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

##### **4.7.26.3 - (GUIDELINES FOR USE OF COUNCIL OWNED MOTOR VEHICLES)**

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

Applicable legislation/policy:

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

#### **4.7.27 - COUNCIL POLICY - CASH INVESTMENT BACKING FOR RESERVE ACCOUNTS**

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

Applicable legislation/policy:

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

Report to File

#### **4.7.28 - COUNCIL POLICY - INVESTMENT OF SURPLUS FUNDS POLICY**

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

Conditions:

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

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

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

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

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

Applicable legislation and guidelines:

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

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

#### **4.7.29 - COUNCIL POLICY - CITY OF ALBANY'S SERVICE AND TOURIST SIGNAGE POLICY**

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

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

Applicable legislation and guidelines:

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

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

#### **4.7.30 - COUNCIL POLICY - SUBDIVISION AND DEVELOPMENT GUIDELINES**

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

Applicable legislation and guidelines:

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

#### **4.7.31 - COUNCIL POLICY - LEGAL REPRESENTATION FOR MEMBERS, EMPLOYEES AND VOLUNTEERS POLICY**

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

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

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

Applicable legislation and policy:

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

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

#### **4.7.32 – AUTHORISED OFFICERS - DOG ACT 1976**

That, under the provisions of the *Dog Act 1976*, Council appoints the following classes of officer to be an authorised person of the following functions:

- Senior Ranger, Ranger (register dogs, impound dogs, seize dogs, detain dogs and dispose of dogs)
- Customer Service Officer (register dogs)

Applicable legislations/policy:

- *Dog Act 1976*

Notes:

***authorised person*** means a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1)

***registration officer*** means a person authorised by the local government to effect the registration of dogs pursuant to this Act.

*A person who is authorised by a local government to exercise any power under this Act shall be furnished with a certificate in the prescribed form evidencing his appointment, and shall produce that certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise any such power.*

#### **4.7.33 – AUTHORISED OFFICERS – LEGISLATION**

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

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

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

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

**RECOMMENDATION**

**ITEM 4.7: RESPONSIBLE OFFICER RECOMMENDATION**

That Council RECEIVE and ADOPT the reviewed and proposed new delegations detailed in the Officer's Report (Items 4.7.1 to 4.7.33).

(ABSOLUTE MAJORITY)

**ITEM 4.7: RESOLUTION**

**MOVED: MAYOR EVANS**

**SECONDED: COUNCILLOR LEAVESLEY**

**THAT this item lie on the table and be considered at an Elected Members Workshop.**

**CARRIED 11-0**

**Reason (Mayor Evans):**

Council needs more time to scrutinise the proposed changes.

## **4.8: CHRISTMAS / NEW YEAR OPERATING SCHEDULE**

<b>File Number (Name of Ward)</b>	: All Wards
<b>Land Description</b>	: N/A
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: City of Albany
<b>Previous Reference</b>	: Nil
<b>Attachment(s)</b>	: Nil
<b>Reporting Officer(s)</b>	: Executive Manager Community Services (D Schober)
<b>Responsible Officer</b>	: Chief Executive Officer (J Bonker)

### **IN BRIEF**

- Staff are notifying Council of the proposed closing times over the Christmas and New Year period
- This report is preliminary, and is subject to change after receiving feedback from Council

### **BACKGROUND**

1. Christmas operating hours for City of Albany venues are traditionally as follows:

#### **Albany Leisure and Aquatic Centre**

Open 6:00am to 9:00pm Monday to Friday  
8:00am to 5:00pm Saturday  
9:00am to 5:00pm Sunday and Public Holidays  
Closed Christmas Day

#### **Albany Public Library**

Open 9:00am to 6:00pm Monday, Wednesday and Friday  
9:00am to 8:00pm Tuesday and Thursday  
9:30am to 12:30pm Saturday  
Closed Sundays and Public Holidays  
Dec 25<sup>th</sup> to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>

#### **Albany Regional Airport**

Open 7 days per week, 365 days a year according to flight schedules.

#### **Albany Regional Daycare**

Open 7:45am to 5:45pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays  
Dec 25<sup>th</sup> to Jan 3<sup>rd</sup>

#### **Albany Visitors Centre**

Open 9:00am to 5:00pm daily  
Closed Christmas Day

#### **Hanrahan Waste Disposal**

Open 8:30am to 4:15pm daily  
Closed Christmas Day

- Rural Transfer stations – as per schedule (except Christmas Day).

**Mercer Rd Depot**

Open 7:30am to 4:30pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays  
Dec 25<sup>th</sup> to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>

**North Rd Administration building**

Open 9:00am to 5:00pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays  
Dec 25<sup>th</sup> to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>

**Princess Royal Fortress**

Open 9:00am to 5:00pm daily  
Closed Christmas Day

**Town Hall**

Open 10:00am to 4:00pm daily  
Closed Saturday, Sunday and Public Holidays (unless booked)  
Dec 24<sup>th</sup> to Jan 5<sup>th</sup>

- Subject to change

**Vancouver Arts Centre**

Open 10:00am to 4:00pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays (unless booked)  
Dec 25<sup>th</sup> to Jan 3<sup>rd</sup>

2. Within the current Enterprise Workplace Agreements (General Workers, Outside Workers and Daycare) all permanent full time City of Albany staff receive two (2) Public Service sector days leave. These days cover an additional day for New Year and Easter. These days can be taken any time within the 12 month calendar year, but cannot be rolled over into successive years.
3. It is proposed in the new Collective Agreements that will cover staff into the future that the City of Albany consider observing a Christmas to New Year shut down period. This period would reflect the three (3) working days between Christmas and the New Year. The Executive team believe this would provide the City with productivity advantages through an ability to plan more effectively.
4. In negotiations to propose a new Agreement staff have accepted the relinquishment of the previous two (2) Public Sector days leave in lieu of receiving the three (3) days between Christmas and New Year. All staff, if the Agreement is to be accepted, will be required to take the three (3) days in this period. Should a staff member be required to work all, or any part, of these days the staff member will be entitled to claim time worked during this period back at a later date at a mutually agreeable time.

**DISCUSSION**

5. Should Council agree with the proposed changes to the new Collective Agreements covering staff, the following changes would apply:

**Mercer Rd Depot**

Open 7:30am to 4:30pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays  
Dec 25<sup>th</sup> to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>

Proposed new closure  
Dec 25<sup>th</sup> up to and including Jan 3<sup>rd</sup>

**North Rd Administration building**

Open 9:00am to 5:00pm Monday to Friday  
Closed Saturday, Sunday and Public Holidays  
Dec 25<sup>th</sup> to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>

Proposed new closure  
Dec 25<sup>th</sup> up to and including Jan 3<sup>rd</sup>

6. As Christmas Eve falls on Friday this year it is proposed that all business of the City (excepting Albany Regional Daycare) close at 2:00pm on Friday 24<sup>th</sup> December.
7. Further to the proposed new closure dates the Albany Leisure and Aquatic Centre have proposed the following reduction in operating hours during the Christmas / New Year period:

**Albany Leisure and Aquatic Centre**

Fri 24 <sup>th</sup> Dec:	6:00am – 2:00pm (instead of 9:00pm)
Sat 25 <sup>th</sup> Dec:	Closed
Sun 26 <sup>th</sup> Dec:	9:00am – 5:00pm
Mon 27 <sup>th</sup> Dec:	9:00am – 5:00pm
Tue 28 <sup>th</sup> Dec:	9:00am – 5:00pm
Wed 29 Dec:	6:00am – 6:00pm (instead of 9:00pm)
Thu 30 <sup>th</sup> Dec:	6:00am – 6:00pm (instead of 9:00pm)
Fri 31 <sup>st</sup> Dec:	6:00am – 6:00pm (instead of 9:00pm)
Sat 01 <sup>st</sup> Jan:	9:00am – 5:00pm
Sun 02 <sup>nd</sup> Jan:	9:00am – 5:00pm
Mon 03 Jan:	9:00am – 5:00pm

**PUBLIC CONSULTATION / ENGAGEMENT**

Nil

**STATUTORY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

8. Should the new Collective Agreement be endorsed an additional one (1) days pay to staff would be applicable.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

9. This item directly relates to objective:

**Corporate Governance**

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

**POLICY IMPLICATIONS**

Nil

**OPTIONS**

**Option A**

10. The proposed Christmas to New Year shutdown period of three (3) days is accepted, in lieu of the previous two (2) Public Service sector days.

**Option B**

11. The City does not observe a Christmas to New Year shutdown period and continues with the two (2) Public Service sector days.

**SUMMARY CONCLUSION**

12. The proposed changes provide productivity advantages through increased planning, contemporary management practices and not expected to greatly impact customer service delivery.

**ITEM 4.8: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT the Christmas / New Year operating schedule, as follows, be endorsed:**

**Mercer Rd Depot**

Closed last working day before Christmas at 2pm and reopening on the first working day in January

**North Rd Administration building**

Closed last working day before Christmas at 2pm and reopening on the first working day in January

**Albany Leisure and Aquatic Centre**

Fri 24 <sup>th</sup> Dec:	6:00am – 2:00pm (instead of 9:00pm)
Sat 25 <sup>th</sup> Dec:	Closed
Sun 26 <sup>th</sup> Dec:	9:00am – 5:00pm
Mon 27 <sup>th</sup> Dec:	9:00am – 5:00pm
Tue 28 <sup>th</sup> Dec:	9:00am – 5:00pm
Wed 29 Dec:	6:00am – 6:00pm (instead of 9:00pm)
Thu 30 <sup>th</sup> Dec:	6:00am – 6:00pm (instead of 9:00pm)
Fri 31 <sup>st</sup> Dec:	6:00am – 6:00pm (instead of 9:00pm)
Sat 01 <sup>st</sup> Jan:	9:00am – 5:00pm
Sun 02 <sup>nd</sup> Jan:	9:00am – 5:00pm
Mon 03 Jan:	9:00am – 5:00pm

**Albany Public Library**

Closed Dec 24<sup>th</sup> 2:00pm to Dec 28<sup>th</sup> and Jan 1<sup>st</sup> to Jan 3<sup>rd</sup>  
Open Dec 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup> 9:00am to 6:00pm (note Thursday usually 9:00pm)

**Albany Regional Airport**

Open According to flight schedules.

**Albany Regional Daycare**

Closed last working day before Christmas at 4pm and reopening on the first working day in January

**Albany Visitors Centre**

Open 9:00am to 5:00pm daily  
Closed Christmas Day

**Hanrahan Waste Disposal**

Open 8:30am to 4:15pm daily  
Closed Christmas Day

- Rural Transfer stations – as per schedule (except Christmas Day).

**Princess Royal Fortress**

Open 9:00am to 5:00pm daily  
Closed Christmas Day

**Town Hall**

Closed last working day before Christmas at 2pm and reopening on the first working day in January

\* - Subject to change

**Vancouver Arts Centre**

Closed last working day before Christmas at 2pm and reopening on the first working day in January \* - Subject to change

**ITEM 4.8: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR MATLA**

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

**CARRIED 11-0**

**XIV. MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING**

Nil.

**XV. URGENT BUSINESS APPROVED BY DECISION OF THE MEETING**

**15.1: URGENT ITEM - ANNUAL GENERAL MEETING OF ELECTORS  
CHANGE OF DATE**

<b>File Number (Name of Ward)</b>	: REL113 (All Wards)
<b>Previous Reference</b>	: OCM 17/08/10 Item 14.4.1
<b>Consulted References</b>	: Local Government Act 1995 (Act)
<b>Reporting Officer(s)</b>	: Executive Manager Business Governance (S Jamieson) Manager Finance (P Wignall)
<b>Responsible Officer</b>	: Chief Executive Officer – Interim (J Bonker)

**ITEM 15.1: RESOLUTION**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR DUFTY**

**THAT Item 15.1 be ACCEPTED as an urgent item.**

**CARRIED 11-0  
(ABSOLUTE MAJORITY)**

**IN BRIEF**

- Endorse change of date for Annual General Meeting of Electors

**BACKGROUND**

1. On 17/08/10 Council resolved to hold the Annual General Meeting of Electors on the 16/12/10.
2. The proposed Audit Committee meeting for the 11/11/2010 was rescheduled due to a clash with the Peronne Delegation visit.
3. It was proposed to conduct a telephone conference with the Audit partner at this meeting; however the financial statements will not be finalised till the 18/11/2010, at which time the teleconference will occur.

**DISCUSSION****New time frame**

4. **18/11/2010.** Audit Partner will conduct a telephone conference with the Audit Committee regarding the financial statements for the year ended 30/06/2010.
5. **14/12/2010.** Ordinary meeting of Council accept annual report (including the financial statements & audit report)

6. **16/12/2010.** Public notice of annual report availability & Date/Time/Location of Annual Electors Meeting.
7. **08/02/2011.** Annual General Meeting of Electors.

### STATUTORY IMPLICATIONS

8. *Local Government Act 1995:*

*s5.29. **Convening electors' meetings** (1) The CEO is to convene an electors' meeting by giving —*

*(a) at least 14 days' local public notice; and*

*(b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.*

*s.5.42. **Acceptance of annual reports** (1) Subject to Subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year. \*Absolute Majority Required.*

*(2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

*s5.55. **Notice of annual report.** The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

*s1.7. **Local public notice.** (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be — (a) published in a newspaper circulating generally throughout the district;*

### RECOMMENDATION

#### 15.1: RESPONSIBLE OFFICER RECOMMENDATION

**That Council change the date of the scheduled Annual General Meeting of Electors from 16/12/2010 to the 08/02/2011 and advertise the correction accordingly.**

#### **ITEM 15.1: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR HOLDEN**

**SECONDED: COUNCILLOR SWANN**

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

**CARRIED 11-0**

## 15.2: URGENT ITEM - CULL ROAD SUBDIVISION – SALE & MARKETING

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

### ITEM 15.2: RESOLUTION

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

**THAT Item 15.2 be ACCEPTED as an urgent item.**

**CARRIED 8-3**  
**(ABSOLUTE MAJORITY)**

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

### IN BRIEF

- Progress sale of Stage 1A blocks.

### BACKGROUND

1. On 17 Aug 10, Council:

#### **Approved:**

“The selling of Stage 1A of the subdivision of the property located at 34-66 Cull Road, Lockyer, “The Ridge”, in accordance with Council’s adopted Annual Budget 2010-11.”

#### **Authorised:**

“*Calling of Tenders for the appointment of a Marketing and Selling agent for the sale of Stage 1A of the subdivision of the property located at 34-66 Cull Road, Lockyer, “The Ridge”.*”

2. The City advertised in the West Australian, Albany Advertiser and Great Southern Weekender newspapers.

3. At close of the tender period (Wed 25 Aug 10) no submissions were received.
4. Council subsequently commissioned Harley Global Pty Ltd to undertake a full review of the options available to the City in relation to the overall subdivision.
5. Preliminary findings were reported to the Councillor Workshop in October 2010.
6. In relation to Stage 1A. Harley Global has reported that it considers that the lots are fully serviced and titles are issued they should not be delayed from being on the market while other alternatives are considered and implemented if applicable, and that the market traditionally improves from January onwards for about 3 months and it is important to prepare for and realise on this potential.
7. Harley Global has made the following interim recommendations pending the finalisation of the report.
8. **Recommendation Stage 1A.** Harley Global recommends that withdrawn agenda item 2.3 of ordinary council meeting 21/9/10 be reinstated with a modified recommendation in accord with Option A relating to Stage 1A only typically as follows:  
  
*“That Council authorise the CEO to engage potential interested local marketing and selling agents to sell Stage 1A of the Cull Rd subdivision at the property located at 34-66 Cull Rd, Lockyer, “The Ridge””.*
9. **Recommendation Balance Lot 9001.** Harley Global recommends that consideration of the sale of balance lot be deferred pending completion of the development options report in order to examine opportunities to better recover the value of pre-servicing costs.
10. The final report should be available by 30/11/2010.

## DISCUSSION

11. Where a Local Government has invited tenders, however no compliant submissions have been received direct purchases can be arranged on the basis of the following:
  - a. A sufficient number of quotations are obtained (recommended a minimum of three);
  - b. The process follows the guidelines for seeking quotations in accordance with the City’s Purchasing policy;
  - c. The specification for goods and/or services remains unchanged;
  - d. Purchasing (engagement of service) is arranged within 6 months of the closing date of the lapsed tender.
12. As no tenders were received the Council has two options for progressing the sale of Stage 1A, being:
  - a. Readvertise the call for tenders and extend the advertising period.
  - b. Directly approach known marketing and selling agents and request quotations for transparency and comparison (Recommended by Harley Global).

## RECOMMENDED COURSE OF ACTION – DISPOSAL OF STAGE 1A

13. The following steps should be conducted:

- **Step One.** Council authorises the CEO to directly engage and appoint a known marketing and selling agent to sell Stage 1A.
- **Step Two. Delegated authority.** In accordance with section 5.42 of the Act, Council delegate authority for the CEO to:
  - (A) SET reserve prices in accordance with the valuations received, in consultation with the engaged professional valuer;
  - (B) ACCEPT or DECLINE bids set in accordance with the valuations received;
  - (C) ACCEPT or DECLINE subsequent offers that meet or exceed established reserve prices pursuant to regulation 30(2a)(a) of the *Local Government (Functions & General) Regulations 1996* in the event of lots being passed in or having no bid registered.
- **Step Three. Unsold lots.** Any unsold lots are to be listed for sale via private treaty at the reserve price through the marketing/selling agent.

## PUBLIC CONSULTATION / ENGAGEMENT

14. If Council resolves to accept the responsible officer recommendation that the owners of Lot 75 and surrounding land owners are advised by letter of the resolution.

## STATUTORY IMPLICATIONS

15. **Business Plan.** The intent to retire debt as stated in the Business Plan adopted on 21/11/06 is satisfied by this proposal.

16. **Disposal of Property.** It is proposed to dispose of the subdivision lots by a tender process in accordance with Section 3.58(2)(b) of the Act and in accordance with the adopted Business Plan.

17. **Delegated Authority.** Sections 5.42:

*s5.42(1). A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43*

*s5.43(d). A local government cannot delegate to a CEO a power or a duty – acquiring or disposing of any property value at an amount exceeding an amount determined by the local government.*

18. **Reserve Price must be fixed by the Local Government.**

*Regulation 30(2a)(a) of the Local Government (Functions & General) Regulations 1996, being: (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been — (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government.*

## FINANCIAL IMPLICATIONS

19. As previously advised in the City's adopted budget, if Council does not progress with the selling of Stage 1A refinancing of existing loans would be required and targeted debt levels would not be achieved.

## STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

20. This item directly relates to objective 4.1 of the Albany Insight – Beyond 2020 Corporate Plan: *The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.*"

## POLICY IMPLICATIONS

21. **Disposal of Land Policy.** A sale levy of 10 percent from the net profit arising from the sale of Stage 1A does not apply if the subdivision proceeds are used to retire incurred debt from previously committed infrastructure projects.

## SUMMARY CONCLUSION

22. The recommended course of action is to sell Stage 1A (Recommended by Harley Global Pty Ltd), in line with the intent of Council's adopted budget and Business Plan in order to generate finances and reduce debt.

## RECOMMENDATION

### ITEM 15.2: RESPONSIBLE OFFICER RECOMMENDATION

- (i) AUTHORISED the CEO to directly APPOINT a selling and marketing agents using the quotation procedure for the amount \$20,000 - \$99,999 in accordance with the City's Purchasing Policy;
- (ii) Council ENDORSES the sworn valuations for Stage 1A dated 13/09/2010;
- (iii) That, under section 5.42 of the *Local Government Act 1995*, the CEO be DELEGATED to:
- (A) ACCEPT or DECLINE bids, no less than 90% of the endorsed sworn valuations (which is to remain confidential); and
  - (B) ACCEPT or DECLINE subsequent offers that meet or exceed established reserve prices pursuant to regulation 30(2a)(a) of the *Local Government (Functions & General) Regulations 1996* in the event of lots being passed in or having no bid registered;

AND

- (iv) Any unsold lots are to be listed for sale via private treaty at the SET reserve price through the marketing/selling agent.

(ABSOLUTE MAJORITY)

**ITEM 15.2: MOTION 1**

**MOVED: COUNCILLOR MATLA  
SECONDED: COUNCILLOR HOLDEN**

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

**ITEM 15.2: AMENDMENT**

**MOVED: COUNCILLOR D BOSTOCK  
SECONDED: COUNCILLOR J BOSTOCK**

**That an Additional Step is included in the process to first readvertise for Selling And Marketing Agents and only proceed to direct engagement of a marketing and selling agent if no tenders are received.**

**LOST 1-10**

**For the Motion: Councillor D Bostock**

**ITEM 15.2: RESOLUTION**

- (i) AUTHORISE the CEO to directly APPOINT a selling and marketing agents using the quotation procedure for the amount \$20,000 - \$99,999 in accordance with the City's Purchasing Policy;**
- (ii) Council ENDORSES the sworn valuations for Stage 1A dated 13/09/2010;**
- (iii) That, under section 5.42 of the *Local Government Act 1995*, the CEO be DELEGATED to:
  - (A) ACCEPT or DECLINE bids, no less than 90% of the endorsed sworn valuations (which is to remain confidential); and**
  - (B) ACCEPT or DECLINE subsequent offers that meet or exceed established reserve prices pursuant to regulation 30(2a)(a) of the *Local Government (Functions & General) Regulations 1996* in the event of lots being passed in or having no bid registered;****

**AND**

- (iv) Any unsold lots are to be listed for sale via private treaty at the SET reserve price through the marketing/selling agent.**

**CARRIED 10-1  
ABSOLUTE MAJORITY**

**Against the Motion: Councillor Leavesley**

**XVI. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.**

Nil.

**XVII. ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING.****NOTICE OF MOTION BY COUNCILLOR R PAVER****17.1: NOTICE OF MOTION BY COUNCILLOR PAVER-FRENCHMAN BAY APPLICATION  
SPECIAL COUNCIL MEETING RESOLUTION-13/10/2009**

DATE &amp; TIME RECEIVED: Tuesday 09/11/2010 at 8.30AM.

**THIS NOTICE OF MOTION LAPSED AS COUNCILLOR PAVER RETIRED FROM THE  
MEETING BEFORE THE ITEM CAME BEFORE COUNCIL.**

## ITEM 17.1: NOTICE OF MOTION BY COUNCILLOR R PAVER

THAT the minutes of the Special Meeting of Council held on 13/10/2009 be amended to include in full the actual amended recommendation adopted by Council as follows:

“That Council ADOPTS in full the amended recommendations contained within the Consultant’s Report (as follows):

## RECOMMENDATION

THAT Council, having had due regard to the revised Plans and Elevations of Ross McDonald Architects Pty Ltd. dated September 2009 and marked P.01, P.02 and P.03:

- i) Accepts that the history of the matter indicates the fact that it is an anomaly that part of the land remains within the Parks and Recreation local scheme reserve.
- ii) Determines that, in the circumstances, it is satisfied for the purposes of Clause 2.2(c) of the Scheme that the part of the development proposed on land within the Parks and Recreation reservation is consistent with the ultimate purpose intended for the reserve.
- iii) Issues a Notice of Planning Scheme Consent for a “Holiday Accommodation” at Lots 1 and 2 Frenchman Bay Road, Frenchman Bay subject to the following conditions:
  - a) **Noting the significance of the Land as a ‘Special Site’ and the designation of the Land as a Local Strategic Site for Tourism, the Council is concerned that the absence of any development proposals in the eastern 3,000m<sup>2</sup> area makes it difficult to properly assess:**
    - (i) the extent to which the present development complies with the objectives and specific provisions contained in clause 6.2-Frenchman Bay of the City of Albany Residential Design Code Policy (“Policy”);
    - (ii) the extent to which the future development of the eastern 3,000m<sup>2</sup> area is capable of complying with the Policy; and
    - (iii) whether the development of the land as a whole including the 3,000m<sup>2</sup> area is capable of complying with the Policy and achieving a tourist facility appropriate to and desirable for this significant tourism site.

In order to address these concerns the approval of the development is contingent on the agreement by the owner of the land to enter into a Deed with the City prepared by the City's solicitors at the owner's cost, which addresses the principles to be applied to the future development of the eastern 3,000m<sup>2</sup> area. The Deed shall include provisions to the Council's satisfaction to the effect that:

- (i) that part of the area within 75 metres of the horizontal SETBACK datum calculated in accordance with State Planning Policy No. 2.6 will be subject to a Foreshore Management Plan, and will not be used for car parking or developed with any substantial structure (i.e. no structure which requires a building licence). It may be permissible to use the area for alfresco dining;
  - (ii) to the south of the area affected by the Foreshore Management Plan a 15 metre deep section of the land will only be capable of development AT a single storey HEIGHT. Any commercial facilities (e.g. café, restaurant, shop, subject to their permissibility under the Scheme) are to be developed in this section;
  - (iii) development TO A MAXIMUM HEIGHT OF 2 STOREY may be permitted behind the section which is limited to single storey development;
  - (iv) any future development will conform to the abovementioned principles;
  - (v) the land containing the eastern 3,000m<sup>2</sup> area is charged in favour of the City and the City is authorised to lodge an absolute caveat over that Land in order to ensure that any future purchaser of the Land is bound by the same development principles; and
  - (vi) neither the grant of planning approval nor the entry by the City into the Deed indicates that the City is in any way supportive of the future subdivision of the eastern 3,000m<sup>2</sup> area from the land.
- b) the western most four units of proposed Block 1 are to be deleted in accordance with the annotation in red on the approved plans and relocated elsewhere on the site in a location that does not require any substantial amendment of the proposed built form (eg. no 3 storey development) or compromise any other condition applying to the approval.
  - c) Reserve 21337 is to be widened in accordance with the plan received from the Department of Water (as attached), and the land shall be ceded to the Crown free of cost.
  - d) Internal driveways, car parking and vehicle manoeuvring spaces shall be designed, constructed, drained, sealed, kerbed and marked in accordance with the plans hereby approved, and shall thereafter be maintained throughout the life of the development to a standard consistent with the approved plans.
  - e) The fencing delineating the foreshore reserves from private land shall be constructed using post and wire or post and rail construction, (a solid fence is not permitted).
  - f) A detailed Vehicle Movement Plan is to be submitted to the City for approval, prior to the issuing of a building licence. The Plan shall include vehicle numbers, the design of crossovers, proposed improvements to the Council's verge and contributions to the City's road network. The development must thereafter comply with the approved Vehicle Movement Plan.
  - g) A detailed Stormwater Drainage and Nutrient Management Plan showing the water discharged to the south eastern portion of the land is to be submitted to the City for referral to the DOW for the Department's approval prior to the issuing of a building licence. **Prior to granting approval, the City will refer the Plan to the Department of Water for its comments.** The development shall thereafter comply with the approved Plan.

- h) A Schedule of external colours, materials and architectural design features is to be submitted to and approved by the Council prior to the issue of a Building Licence. ~~The schedule should include with preference given to~~ low reflectivity colorbond © roofing, ~~low reflectivity and~~ glazing and dark wall colouring.
- i) The development is to be connected to the reticulated sewerage system to the satisfaction of the Water Corporation in consultation with the Department of Health, prior to any occupation of the site.
- j) Prior to the commencement of the use and the occupation of any building, the perimeter of the development site, and in particular the interfaces with the adjoining reserves, must be fenced to a standard approved by the City.
- k) The development is to be connected to the reticulated water supply system to the satisfaction of the Water Corporation, prior to any occupation of the site.
- l) A Waste Management Plan being submitted to and approved by the Council prior to occupation, showing among other things, waste collection and storage areas and vehicle access and turning areas. Waste Management is to occur in accordance with the approved plan at the developer's cost;
- m) A Lighting Plan showing lighting to pathways and car parking areas is to be submitted to the City for approved prior to occupation of any building and the commencement of the use. All lighting is to be installed and operated in accordance with the approved Plan thereafter.
- n) A fauna management plan will be required to be approved by the Department of Environment and Conservation for the construction stage of the development prior to the issuing of a building licence. This will include management to minimize impact on fauna, measures to address injury to fauna, translocation of fauna under permit from the site where necessary, and identification of approved translocation sites for fauna.
- o) Prior to any construction taking place on site, a fauna spotter is to be engaged by the developer to inspect the site and liaise with the Department of Environment and Conservation in respect to any findings, and thereafter any agreed management measures shall be implemented to the satisfaction of the Council.
- p) **A Construction Management Plan ("CMP") specifying the manner in which construction issues (eg disposal of water run-off, dust management) are to be dealt with, together with** a Staging Plan and Programme for the development showing the construction of the proposed village centre within Stage 1 of the Programme must be prepared and lodged with the City for approval prior to the issuing of a building licence. The development must thereafter be carried out in accordance with the approved Programme. ~~unless the City subsequently agrees to a variation.~~ The City may require that the owner of the land enter into a legal agreement with the City to ensure that the Staging Plan and Programme is implemented. Any such legal agreement is to be prepared by the City's solicitors at the cost of the Applicant/owner, and may include a provision authorising the City to lodge and absolute caveat against the Certificate or Certificates of Title to the land the subject of this approval in order to ensure compliance with this condition.
- q) The Building Licence Application shall be accompanied by details that demonstrate compliance with the following key sustainability criteria included in the application:
- i. a five star energy efficiency rating based on the first rate energy assessment;
  - ii. AAA rating for all plumbing fixtures;
  - iii. minimum of four star rating gas hot water systems;
  - iv. minimum of four star energy rating reverse cycle air conditioners; and
  - v. rainwater tanks integrated with buildings and plumbed to non-potable tap sources within the buildings where possible;

- r) A detailed Foreshore Management Plan being prepared by the applicant and submitted to and approved by the Council and the Heritage Council of Western Australia prior to a building licence being issued, which shall include;-
  - i. upgrading and facilities that respect and complement the existing Whalers Beach Management Plan;
  - ii. appropriate treatment of the interface between the development complex and the adjacent foreshore reserve in terms of fencing, pedestrian movement, landscaping including revegetation, signage and stabilisation of slope;
  - iii. monitoring of the existing foreshore track from the beach to the existing soak/spring to ensure no further erosion;
  - iv. appropriate weed control measures for the vegetated slope area within the foreshore reserve; and
  - v. heritage interpretation for the remains of the whaling station to the satisfaction of the Heritage Council.
- s) A detailed Landscaping Plan being submitted and approved by the Council prior to the issuing of a building licence, which shall include:
  - i. Revegetation of areas generally depicted on the Development Site Plan and identified as such in the Foreshore Management Plan;
  - ii. landscaping around proposed buildings and car parking areas;
  - iii. provision of one shade tree per four (4) non covered vehicle parking spaces;
  - iv. measures to ensure that exotic and non-local species cannot establish over the boundaries of the site into the adjoining national park and foreshore reserve which shall be agreed with the Department of Environment and Conservation; and
  - v. a Phytophthora dieback hygiene plan being submitted and agreed with the Department of Environment and Conservation;
- t) A detailed Fire Management Plan is to be prepared in accordance with the WAPC's Planning for Bush Fire (2001), following consultation with the Department of Environment and Conservation and FESA, is to be submitted for the City for approval. The requirements of the approved Fire Management Plan must be completed prior to the issue of a building licence except to the extent that the Plan incorporates building works.
- u) A detailed site investigation is to be undertaken to ascertain any ground contamination prior to any ground disturbance activities to the satisfaction of Council and the Department of Environment and Conservation.
- v) No clearing of native vegetation is to take place without the express consent of the Department of Environment and Conservation.
- w) A detailed Heritage Impact Assessment is to be submitted and approved by the Council and the Heritage Council prior to any works being undertaken within the foreshore reserve as part of the approved development.
- x) The holiday accommodation is to be used for short stay accommodation only, with a maximum stay of three months occupancy per annum by any single tenant.
- y) The amalgamation of [existing](#) Lots 1 and 2 (in their entirety) is to be finalised prior to the issue of a building licence for the approved development.
- z) No goods or materials are to be stored, either temporarily or permanently, in the parking or landscape areas or within access driveways. All goods and materials are to be stored within the buildings or service courts, where provided.
- aa) The loading and unloading of goods to and from the premises shall be carried on entirely within the site at all times and shall be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
- bb) No signs are to be erected on the lot without Council's approval, in accordance with the City of Albany's Signage Policy.
- cc) A recreational facilities plan is to be provided prior to the issue of a building licence to identify those recreational opportunities that will be provided for

- guests on site to reduce the pressure on the public foreshore.
- dd) Storage sheds and laundry facilities to accommodate the operation of the resort to be identified on the plans prior to the issue of a building licence.
- ee) All apartments referred to in the planning report and on the plans are to be designated as 'short stay units'.
- ff) The inclusion of a games room within the village centre shall be shown on the plans prior to the issue of a building licence.
- gg) This approval does not authorise the development site to be cleared in its entirety. Further approvals must be sought from the City for the clearing of the land at each stage identified in the approved Staging Plan and Programme. Subsequent approvals for the clearing of the land will be given to the extent necessary to carry out each stage of the development.
- hh) A resort management plan is to be prepared prior to the issue of a building licence to the satisfaction of Council and implemented thereafter which identifies the following:
- How check-in/check-out will be managed by the facility manager and confirmation that a written record of all bookings of each unit will be kept;
  - Internal fixtures/fittings and decor in each unit are to be provided and maintained to a specified appropriate standard suitable to tourist letting of the units; and
  - The onsite reception facility and tourist related users are to be subject to lease arrangements or ownership restrictions and disposal mechanisms linked to the facility management/operator function
- ii) **This approval is valid for a period of two years only. If development is not substantially commenced within this period a fresh approval must be obtained before commencing or continuing the development.**

#### Advice Notes

- In relation to Condition (b), the proponent is advised that the relocation of the western accommodation block to the vacant eastern portion of the site is supported in principle (subject to an amended planning consent being lodged addressing the visual amenity and scale aspects of the development and having due regard to the requirements of the Deed).
- **In relation to condition (m) all electrical reticulation within the site will be by way of underground cabling.**
- In relation to Condition (r) Council will consult with DOW before endorsing the plan.
- In relation to Condition (t) Council will seek advice from DEC on the suitability of the fence to protect the National Park and ensure minimal damage during wildfire.
- In relation to Condition (m) lighting plan is to minimise light spill into the adjoining reserve and the use of light towers is to be avoided.
- In relation to Condition (t) the Fire Management Plan is to ensure that any protection measures are contained within subject site and the plan shall not impact upon the adjacent reserves to any extent beyond a minimum fire access track (firebreak) at reserve boundary.
- In relation to Condition (hh) the proponent should liaise with Council and Tourism WA prior to preparing the management plan. Should an application to strata the units be lodged and approved by the WAPC, additional requirements to those listed above may be required.
- A separate application will be required regarding the liquor licensing of the village centre and associated facilities.

- iv) Instructs the staff to take appropriate steps to review the City's Residential Design Code Policy as it relates to the site and make recommendations to Council regarding amendments that may be necessary to reflect the development standards arising out of the Deed required at condition a).
  
- v) Instructs the staff to take appropriate steps to review Amendment 295 to TPS 3 once advertising is complete and make recommendations to Council regarding modifications that may be necessary to the amendment to reflect the development standards arising out of the Deed required at condition a).

**Councillors Reason:**

Resolutions of Council should be included in the minutes in full.

**Officer's Comment (S Jamieson):**

Minutes may be altered only by resolution to correct an error where the facts have not been recorded correctly, but not to change the decision.

Once they are confirmed, the minutes constitute proof that the meeting was held and that the recorded events and resolutions did occur.

The notice of motion ensures openness and transparency.

**XVIII. ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC**

**ITEM 18.0: MOTION 1**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR DUFTY**

**THAT the meeting proceed behind closed doors.**

**CARRIED 11-0**

Members of the public and media left the chamber.

18.1 Executive Contract-Executive Director Development Services

**ITEM 18.1: MOTION 2**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR DUFTY**

**THAT the meeting be re opened to the public.**

**CARRIED 11-0**

**ITEM 18.1: MOTION 3**

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

**THAT Standing Order 3.1-Recording of Proceedings, to stop recording of proceedings, be RESUMED.**

**CARRIED 11-0**

**ITEM 18.1: RESPONSIBLE OFFICER RECOMMENDATION**

**The extension of the contract for MR GRAEME BRIDE as the Executive Director Development Services (EDDS) for a period of five years commencing from 16/11/2010, be ADOPTED.**

**ITEM 18.1: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: COUNCILLOR SWANN  
SECONDED: COUNCILLOR DUFTY**

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

**CARRIED 11-0  
ABSOLUTE MAJORITY**

**XIX. NEXT ORDINARY MEETING DATE**

Tuesday 14 December 2010.

**XX. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 11.45pm.

*(Unconfirmed Minutes)*

---

Mayor MJ Evans JP  
**THE MAYOR**

## APPENDIX A

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

<b>Meeting Date</b>	<b>Item Number</b>	<b>Details/Status</b>
15/06/2010	15.2.3	Lot 5 Rufus Street - Compensation for Subdivision Design Changes. <b>WAITING ON ADVICE FROM LGIS.</b>
19/10/2010	3.4	Rationalisation of Land Uses Surrounding the Albany Woolstores. <b>ITEM WITHDRAWN. TO BE PRESENTED WHEN ADVISED BY APPLICANT.</b>
16/11/2010	1.2	Development Application-Use Not Listed-Wind Turbine-Lot 158 Randell Crescent, Warrenup. <b>ITEM LAID ON THE TABLE UNTIL COUNCIL DEVELOP A POLICY DEALING WITH WIND TURBINES.</b>
16/11/2010	1.3	Development Application-Use Not Listed-Wind Turbine-Lot 154 Randell Crescent, Warrenup. <b>ITEM LAID ON THE TABLE UNTIL COUNCIL DEVELOP A POLICY DEALING WITH WIND TURBINES.</b>
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. <b>LAID ON THE TABLE FOR FURTHER CONSIDERATION BY COUNCIL</b>
16/11/2010	2.7	Request to Renew Lease for a Further 30 Year Term-Redwood Corp. Pty Ltd T/As Rose Gardens Caravan Park <b>LAID ON THE TABLE TO ALLOW THE CITY TO SEEK FURTHER ADVICE AND MEET WITH THE TENANTS TO RESOLVE ALL OUTSTANDING MATTERS OF COMPLIANCE.</b>
16/11/2010	4.7	Annual Review of Delegations. <b>LAID ON THE TABLE FOR CONSIDERATION AT AN ELECTED MEMBER WORKSHOP.</b>

**APPENDIX B**

**TABLED DOCUMENTS**

<b>Document Tabled By</b>	<b>Subject</b>	<b>Ref.</b>
Mr L Eskett	Item 1.2: Development Application-Use Not Listed-Wind Turbine-Lot 158 Randell Crescent, Warrenup Item 1.3: Development Application-use Not Listed-Wind Turbine-Lot 154 Randell Crescent, Warrenup	GO.COM.3

**ELECTED MEMBER TABLED DOCUMENTS**

<b>Document Tabled by</b>	<b>Subject</b>	<b>Ref.</b>
Cr J Bostock	Item 3.8: Lake Seppings Drive-Condition and Future Direction	GO.COM.3
Cr J Bostock	Item 1.5: Scheme Amendment Request-Lot 1001 Catalina Road and Lot 1007 Chester Pass Road, Lange	GO.COM.3

**STAFF TABLED DOCUMENTS**

<b>Document Tabled by</b>	<b>Subject</b>	<b>Ref.</b>
	<b>Nil.</b>	

**Tabled Address by Mr Les Eskett**

Council Meeting 16/11/2010  
Public Consultation / Engagement  
Wind Turbine Lots 154 and 158  
Total of 8 submissions all objecting to the proposal  
Agenda 1.2 Lot 158 and 1.3 Lot 154

Les & Judith Eskett  
82 ( Lot 156 ) Randell Crescent Albany  
Warrenup Ridge Albany 6330 WA

Lane Way Lot 156 on the Title owns half with the other half belong to lot 157 on title

Issue

1. Visual impact in the Area ( House contraction Max 7.5 m )
2. High of structure
3. Noise 24 hrs each day 365 / 366 days each year Very few days are wind free in any 24 hrs period or days in any year
4. Maintenance of Wind Turbine ( ie ) change of Owner ship
5. Skyline look No Power Poles as all service are under ground
6. Randell Crescent Length Approximatly 1K
7. Street Lights 2 , 1 at the corner of Miles Way/ Randell Crescent the other at Randell Crescent / Deloraine Drive . The other end of Randell Crescent has No Light Pole
8. Property Values for all lots Lots 153,155,156,157,159 lower side of Randell Crescent
9. Visual impact through sunlight ( Glare )

Les Eskett 16/11/2010



## Tabled Address by Councillor J Bostock

OCM 16 November 2010

Item 1.5 Scheme Amendment Chester Pass Road (Brooks Garden)

Councillors this SAR is the first step in a long and arduous schedule that will be required to eventually deliver a Big W development on this site. The whole process is expected to take 4 years. I would like to commend the developer and his agents for highlighting those requirements attending to our scheme and strategy and undertaking the task of taking the necessary steps.

This centre is recognised in our strategic planning as appropriate for this kind of development, the issue is the timing. The suggestion that the developer seeks a site in the CBD is totally inappropriate in my view; a view shared in the Shrapnel Report, such developments will not work in the more restrictive context of the city centre and the need to prevent inappropriate retail uses in the town centre.

The question of timing has arisen from the Activity Centres Planning Strategy prepared for the City by Shrapnel; it recognises this site as being a large Neighbourhood Centre with a long term expectation of becoming a larger District Centre. The Centre is currently up to the maximum recommended floor space area, and the strategy suggests, should not be increased for the life time of the strategy. The useful life is normally 5 years, which means this development if initiated tonight and would at the earliest come to fruition around the same time. However it is essential to note that Shrapnel designed his strategy to be used as a guide only and points to the importance of using it as a “responsive system” one that requires constant updating and adjustments, designed to suit particular requirements. He recommends that artificially limiting the overall quantity of retail or other commercial floor space is to be avoided; the intention is to guide development into appropriate locations and allow the market to determine the overall supply.

We are in a changing world and Council must be aware of the needs of the community and their contemporary expectations. It is clear from the publicity and my many inquiries of the general public that the population of Albany are in favour of such a development, this is the right place for it and a developer has evaluated the situation and determined it is the right time to develop. Shrapnel has particularly noted that this site may further increase should demographic analysis warrant it and a proponent wishes to develop. To review our position is therefore appropriate and entirely in line with his recommendation that we should encourage the significant investment required for the provision of retail enterprise.

Councillors we have aspirations of growing our City, it is incongruous to approve endless residential developments, some of which ahead of our strategic schedule, but prohibit the delivery of accompanying retail choice.

The main objection as I understand is the concern in protecting the viability of our city centre. Clearly an honourable objective but I believe there is a flaw in the argument, there is no doubt that retail competition has an impact but a City evolves, it is the essence of progress our city centre must move with the times. Big W is what our community wants, this is the right location. The CBD is our city’s central focus and will remain so but it must offer something entirely different. One goes to Centro to obtain supplies, to the city to socialise, browse and speciality shop. Our retailers should not fear progress but embrace it.

I believe we should embark on this road, and wholeheartedly support this motion.

Councillor Jill Bostock.

## Tabled Address by Councillor J Bostock

OCM 16 November 2010

Item 3.8 Proposed Closure of Lake Seppings Drive.

Councillors I have been trying to understand our responsibility, there is a recognition that this road is required but the proposal is to close it to through traffic, until such times as a developer is willing to pay for it.

This is an established thoroughfare; it was listed by Landgate as a public Road with full access on 3 April 1975. Houses were built up to 30years ago with planning permission to front their homes and garages onto Lake Seppings Drive with the understanding that it would be sealed. I have received more complaints and associated problems regarding this road than any other single issue. I have discussed the matter with officers on many occasions and was assured that the situation had languished long enough, that it would be regraded in the interim but would be realigned and properly surfaced.

The sudden impetus for closure was as a result of Dr. Mildenhalls frustration at Councils failure to seal the road, his challenge "Fix it or Close it". He highlighted two problems; the poor quality of the road creating hazardous conditions, and accidents detailing his personal involvement in treating casualties and associated fear of a major incident and a risk of litigation against the City. The second problem was dust created by traffic, thereby suggesting active use.

The road is just over 2 kms from the CBD; whereas this may not in itself require it to be sealed it does require it to be kept open.

LGA 1995 s 3.52

- (1) This section applies in respect of a thoroughfare only if it is in the metropolitan area or on land that has been constituted a townsite.
- (2) Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure that public thoroughfares are kept open for public use.

Further the Main Roads Act and the Land Administration Act reiterates the importance of the maintenance of thoroughfares demanding good reason and the adherence to a detailed legal process for any closure over 28 days.

What reasons have we, it is used by hoons, so is York Street, and are we to close that? There is a dust problem, this means it is being well used and required demonstrating a need for sealing not closure. We cannot afford it, it represents only 400 meters but subsidence problems creates additional expense and my suggestion of Black Spot funding is rejected by our officers as being unlikely to be successful due to a lack of crash history and low volume of traffic. I have already illustrated that it was the dangerous aspect and over use of the road creating dust that prompted Mr. Milldenhalls concern.

I would also like to bring Councillors attention to the probable repercussions of closing this road which will inevitably place greater demand on Wakefield Crescent, a one way narrow

**Tabled Address by Councillor J Bostock continued.**

road which is already a problem and frequently misused with drivers travelling in the wrong direction. Without the option of an alternative route safety issues are likely to increase.

I have examined the Black Spot funding applications over 2 years and the eligibility criteria. A serious crash history is not a prerequisite, the potential for safety issues is sufficient, out of 21 applications made by the City only 3 had a crash history. Neither are high volumes of traffic a prerequisite, in 21 applications the use varied from 46 to 4,000 traffic movements. Suffice it to say that Black spot funding is available for a variety of needs, some I have personally observed as of low priority, this road represents a genuine need on safety grounds.

I have not understood the reluctance to meet our obligations with regard to this road, but it undoubtedly exists and roads have been sealed many miles from the CBD, with fewer houses and considerably less traffic, we must question our priorities.

In conclusion, this is a thoroughfare established over 30 years; it represents the only access to at least 3 houses and importantly is a through and important route to access Middleton Beach. Common Law, the LGA, Main Roads and the Land Administration Act all demand that it should be kept open. The reasons given for closure are not in my view valid and should be properly challenged. I appreciate that our financial position is poor but I believe the provision of roads is a basic and foremost duty, if we cannot provide 400 meters of sealed road, 2Kms from the CBD we have fundamental problems.

Councillors where there is a will there is a way, my motion is simply to set us in the right direction to formalise that will, in line with our legal duty. To keep the road open as is but responsibly and actively seek financial assistance to deliver a proper sealed road.

The \$30,000 suggested to close the road would be more usefully spent on sealing the current track until such times as the final road can be built.

I ask that you all support this motion it is long overdue.

Councillor Jill Bostock