

MINUTES

ORDINARY MEETING OF COUNCIL

**on
Tuesday, 17th August 2004
7.30pm
Mercer Road Council Chambers**

City of Albany

**** Disclaimer ****

No responsibility whatsoever is implied or accepted by the City of Albany for any act, omission or statement or intimation occurring during Council/Committee meeting or during formal/informal conversations with Staff. The City of Albany disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the City of Albany during the course of any meeting is not intended to be and is not taken as notice of approval from the City of Albany. The City of Albany warns that anyone who has an application lodge with the City of Albany must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the City of Albany in respect of the application.

Signed _____

Date: 18th August 2004

Andrew Hammond
Chief Executive Officer

TABLE OF CONTENTS

1.0	Declaration of Opening	4
2.0	Record of Attendance/Apologies/Leave of Absence (Previously Approved)	4
3.0	Opening Prayer	4
4.0	Response to Previous Public Questions Taken On Notice	4
5.0	Public Question Time	5
6.0	Confirmation Of Minutes of Previous Minutes	5
7.0	Applications For Leave Of Absence	6
8.0	Disclosure of Financial Interest	6
9.0	Matters for Which Meeting May Be Closed	6
10.0	Petitions/Deputations/Presentations	6
11.0	Reports – Development Services	7
11.1	Development	
11.1.1	Development Application – Extension to Outbuilding – Lease 6 Baxteri Road, Cheyne Beach	8
11.1.2	Development Application - Child Care Centre – 44 Lion Street, Centennial Park	13
11.1.3	Development Application – Outbuilding – Lot 301 Ridley Road, Kalgan	19
11.1.4	Development Application – Home Business – 78-86 Kooyong Avenue, Warrenup	26
11.1.5	Building Appeal – Appointment of Referee – 11 Festing Street, Albany	40
11.2	Inspection Services	
	Nil.	44
11.3	Development Policy	
11.3.1	Final Approval On Scheme Amendment – Special Rural Area No 10	45
11.3.2	Initiate Scheme Amendment – Loc 7250 Gwydd Close, Elleker	53
11.4	Reserves Planning	
	Nil.	57
11.5	Development Service Committee	
11.5.1	Mt Martin Regional Botanic Park Advisory Committee Minutes – 7 th July 2004	58
12.0	Reports – Corporate & Community Services	59
12.1	Finance	
12.1.1	List of Accounts for Payment – City of Albany	60

12.2	Administration	
12.2.1	Surrender of Lease – R & JK Petroleum Pty Ltd – Portion of Reserve 42964 (originally part of Reserve 22698)	62
12.2.2	Proposed New Leases for new Aircraft Hangar Sites	66
12.2.3	New Lease – Reserve 2681 Mt Melville Lookout	70
12.2.4	Proposed New Sub-Licences For Albany Town Jetty	79
12.2.5	Proposed Surrender of Lease for Country and Suburban Tennis Club Inc and new Lease for South Coast Country Music Club Inc.	83
12.3	Library Services	
	Nil.	87
12.4	Day Care Centre	
	Nil.	87
12.5	Town Hall	
	Nil.	87
12.6	Albany Leisure & Aquatic Centre	
	Nil.	87
12.7	Great Southern Regional Cattle Saleyards	
	Nil.	87
12.8	Corporate & Community Services Committee	
12.8.1	Disability Services and Community Access Advisory Committee – 16 th June 2004	88
12.8.2	Seniors Advisory Committee – 17 th June 2004	89
12.8.3	Disability Services and Community Access Advisory Committee – 14 th July 2004	90
12.8.4	Seniors Advisory Committee – 15 th July 2004	92
12.8.5	Great Southern Regional Cattle Saleyards Joint Venture Committee meeting minutes – 28 th July 2004	93
12.8.6	Albany Town Hall Theatre Advisory Committee meeting minutes – 2 nd June 2004	94
12.8.7	Albany Arts Advisory Committee meeting minutes – 14 th July 2004	95
12.8.8	Public Arts Committee meeting minutes – 8 th July 2004	96
13.0	Reports – Works & Services	97
13.1	Waste Management	
	Nil.	98
13.2	Asset Management	
13.2.1	Policy – Engineering Conditions of Subdivision - Sections 6 and 9	99

13.3	Works	
13.3.1	Contract C04003 – Supply & Delivery of Road Signage	107
13.3.2	Hire of Front-End Loader	113
13.3.3	Plumbing Services Biennial (2004/06)	113
13.4	Airport Management	
	Nil.	117
13.5	Reserves Management	
	Nil.	117
13.6	Works & Services Committee	
13.6.1	Bushcarers Advisory Committee meeting minutes – 23 rd June 2004	118
13.6.2	Bushcarers Advisory Committee meeting minutes – 28 th July 2004	119
14.0	Reports – General Management Services	120
14.1	Strategic Development	
	Nil.	121
14.2	Organisational Development	
	Nil.	121
14.3	Economic Development	
	Nil.	121
14.4	General Management Services Committee	
14.4.1	Minutes of Convention and Entertainment Centre Steering Committee	122
15.0	Elected Members’ Monthly Report / Information Bulletin	123
16.0	Motions Of Which Previous Notice Has Been Given	123
17.0	Mayors Report	123
18.0	Urgent Business Approved by Mayor or by Decision of the Meeting	125
19.0	Closed Doors	133
20.0	Next Ordinary Meeting Date	133
21.0	Closure of Meeting	133

1.0 DECLARATION OF OPENING

Her Worship the Mayor declared the meeting open at 7.30pm and extended a welcome to all present.

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

Mayor	-	A Goode, JP
Councillors	-	MJ Evans, JP
	-	SM Bojcun
	-	DJ Wolfe
	-	DW Wellington
	-	JD Williams
	-	RH Emery
	-	J Waterman
	-	E Barton
	-	R Paver (arrived at 7.35pm)
	-	J Jamieson
	-	G Sankey
	-	AHM Demarteau
Chief Executive Officer	-	AC Hammond
Executive Director Corporate & Community Services	-	WP Madigan
Manager City Services	-	S Massimini
Executive Director Development Services	-	R Fenn
Minute Secretary	-	SM Day
Approximately 15 members of the public		
2 media representatives		

Apologies / Leave of Absence:

-	P Lionetti
-	I West

3.0 OPENING PRAYER

Councillor Sankey read the opening prayer

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

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

5.0 PUBLIC QUESTION TIME

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

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

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

*** T Smith**

Mr Smith addressed Council in relation to item 12.2.5 seeking Council approval for the South Coast Music Club to take over the existing C&S Tennis Club lease.

***J Bocian**

Mr Bocian addressed Council in relation to the Lower Kalgan Bridge and sought from Council an allocation of \$7,000 for the restoration of the existing bridge trusses in time for the 100th Anniversary scheduled for March 2005. Mr Giles added comment in regard to Main Road’s contribution to the project.

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 20th July 2004; and
- Special meeting of Council held on 27th July 2004.

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

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR EMERY**

THAT the following minutes:

- **Ordinary Council meeting held on 20th July 2004; and**
 - **Special meeting of Council held on 27th July 2004.**
- as previously distributed be confirmed as a true and accurate record of proceedings.**

MOTION CARRIED 13-0

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR WILLIAMS**

**THAT Councillor Bojcun be granted leave of absence from the September 2004
Ordinary Meeting Council.**

MOTION CARRIED 13-0

8.0 DECLARATIONS OF FINANCIAL INTEREST

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

- Councillor Wolfe – Item 12.8.5

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

Development Services

REPORTS

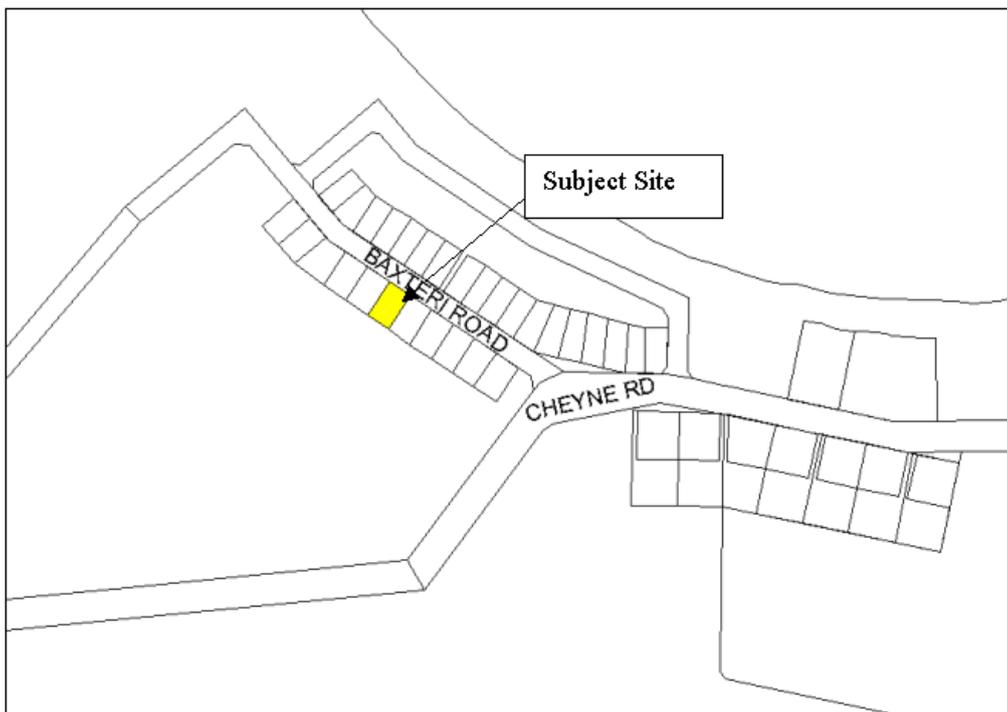
DEVELOPMENT SERVICES REPORTS

- R E P O R T S -

11.1 DEVELOPMENT

11.1.1 Development Application – Extension to Outbuilding – Lease 6 Baxteri Road, Cheyne Beach

File/Ward	: A63751 (Hassell Ward)
Proposal/Issue	: Extension to Outbuilding
Subject Land/Locality	: Reserve 878, Lease 6 Baxteri Road, Cheyne Beach
Proponent	: John and Shirley Gibbons
Owner	: Crown (Lease to John and Shirley Gibbons)
Reporting Officer(s)	: Planning Officer (A Nicoll)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Council grant conditional Planning Scheme Consent.
Bulletin Attachment	: Nil
Locality Plan	:



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

BACKGROUND

1. Development services received a planning application on the 14th July 2004 for an extension to an Outbuilding.
2. The extension will involve development occurring outside the permitted building envelope required by the lease agreement on Reserve No 878, Lease 6 at Cheyne Beach.
3. Previous approval has been granted on this particular property (PSC 95/113 – Item 9.1) by the resolution of Council (14th August 1995) for the purpose of constructing a veranda outside the permitted building envelope.

STATUTORY REQUIREMENTS

4. The property in question is zoned “Special Site” within Town Planning Scheme 3. The special site area is located in Reserve No. 878. The purpose of the reserve is for “Recreation Camping and Holiday Accommodation”. The care, control and management of the reserve is with the City of Albany. The lease agreement for the land requires that:

“All buildings and improvements including fencing to be constructed, erected or made and all works to be carried out or executed on the demised premises by the Lessee shall be –

- (i) *located within the building envelope shown on the plan annexed hereto and marked ‘A’ or such other building envelope as the Lesser may prescribe and the natural vegetation on the balance of the demised premises shall be retained unless the Lessor consents in writing to additional clearing.”*

5. The proposed use for the site, involving the extension to an outbuilding for ‘Holiday Accommodation’, is classified in the Scheme as a ‘P’ (permitted) use.

POLICY IMPLICATIONS

6. There are no policy implications. The City of Albany’s Outbuilding policy does not specify any requirements in areas zoned “Special Site”.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

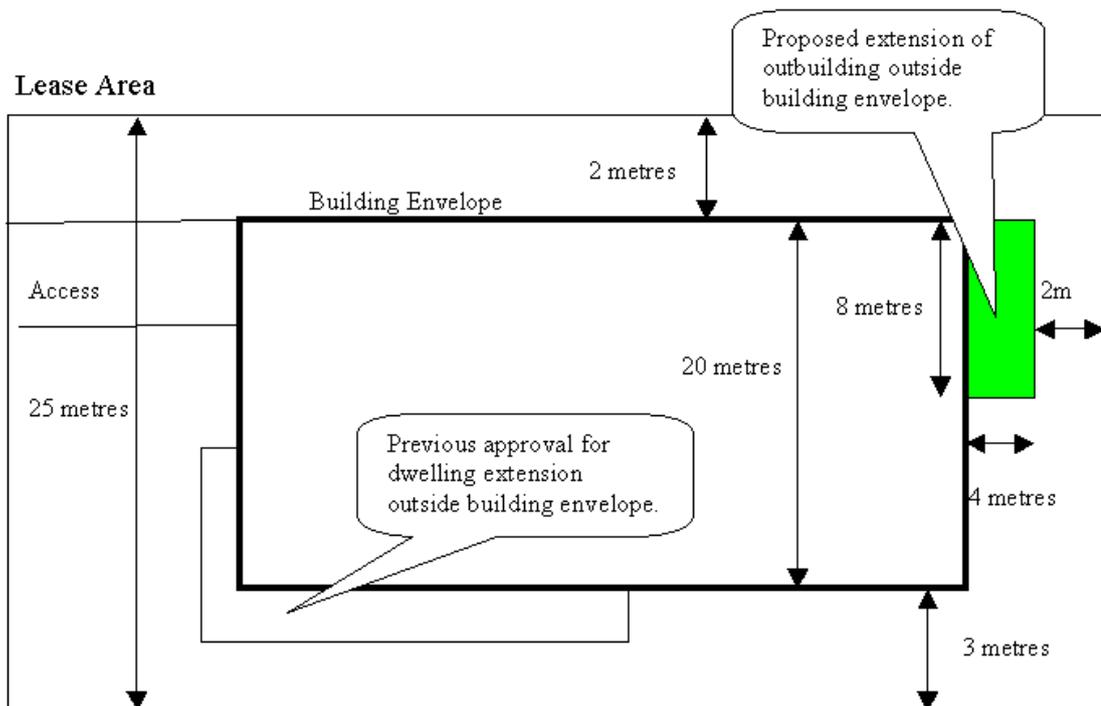
8. There are no strategic implications relating to this item.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

COMMENT/DISCUSSION

9. The extension is to allow storage on site of a boat and tractor. The materials to be used are colorbond sheeting in keeping with the existing shed. Excavation of the land will be required to cater for the extension and to improve drainage.
10. It is staff's opinion the proposed extension and excavation is minor and will not impact on the neighbouring property or the intent of the lease agreement.



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

RECOMMENDATION

THAT Council grant Planing Scheme Consent for the extension to the outbuilding, involving excavation at Lease 6 Baxteri Road, Cheyne Beach conditionally that;

- i) the development be undertaken in accordance with details specified on the plans dated 26th July 2004;
- ii) the outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation;
- iii) the land being excavated is to be retained to the satisfaction of Council’s Principal Building Surveyor; and
- iv) the outbuilding being clad in appropriate colorbond materials in keeping with the existing dwelling.

Voting Requirement Simple Majority

.....

AMENDED RECOMMENDATION

THAT prior to considering the planning merits of the proposed development, Council contact all leasees at Cheynes Beach with the view to obtaining their comment on the request from Mr & Mrs Gibbons to vary the building envelopes applying to development within Lease 6 Bateri Road, Cheynes Beach and that development’s impact upon other leases.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR JAMIESON**

THAT Council lay this item on the table until staff provide a report to Councillors on the legal, planning and potential future subdivision ramifications of a decision by Council not to uphold the leasehold covenant in respect of Lease 6 Baxteri Road, Cheynes Beach.

MOTION CARRIED 11-2

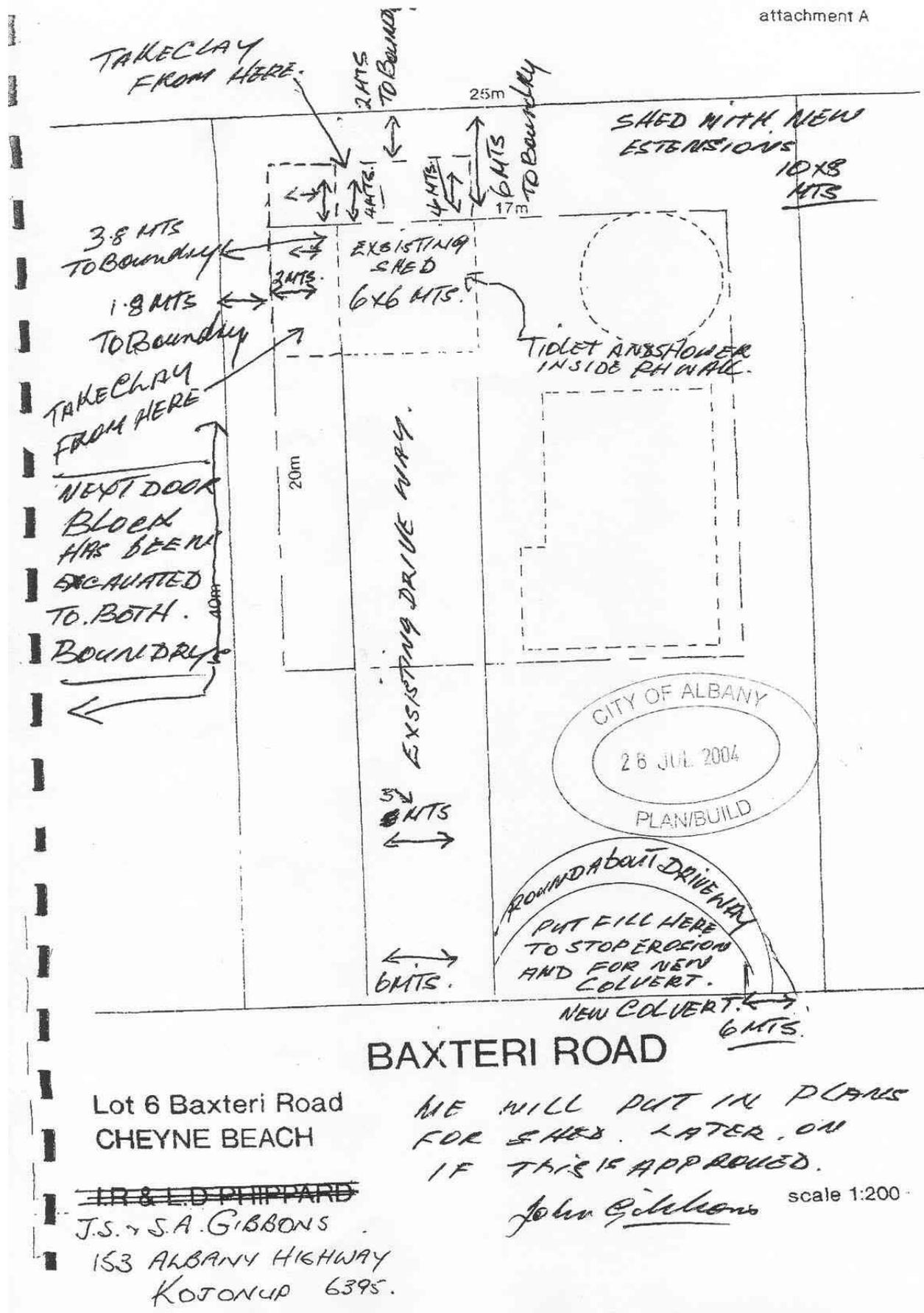
Reason:

- Councillors need more information than that provided in the report.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

attachment A



DEVELOPMENT SERVICES REPORTS

11.1.2 Development Application - Child Care Centre – 44 Lion Street, Centennial Park

File/Ward	: A132560 (Frederickstown Ward)
Proposal/Issue	: Day Care Centre
Subject Land/Locality	: Loc SL294, 44 Lion Street, Centennial Park.
Proponent	: Koltasz Smith and Partners
Owner	: Franca Tognetti
Reporting Officer(s)	: Planning Officer (A Nicoll)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Council grant conditional Planning Scheme Consent and delegate authority to issue approval notice.
Bulletin Attachment	: Nil
Locality Plan	:



DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

BACKGROUND

1. Development Services received an application on the 10th June 2004 for the development of a day care centre at 44 Lion Street, Centennial Park. The proposal involves the development of a single storey building with provision for onsite car parking and outdoor active space. The centre is proposing to cater for a maximum of 99 children up to five years of age and operating between 6.30am to 6.30pm Monday to Friday. Up to 16 qualified personnel will care for the children.
2. The application included traffic, car parking and acoustic statements, all concluding compliance with regulatory criteria and no adverse impacts on the road network and neighbouring properties.
3. Staff have raised concerns for the safety of children in relation to vehicular and pedestrian movement close to a 4-way intersection and the amount of car parking, its access and layout.

STATUTORY REQUIREMENTS

4. The property in question is zoned “Residential (R20)” in Town Planning Scheme 1A on which a “Day Care Centre” is not permitted unless planning consent is granted by the Council, after notice has been given in accordance with Clause 7.5. The requirement of this clause of the scheme has been complied with.

POLICY IMPLICATIONS

5. The Town Planning Scheme 1A does not provide car parking standards for day care centres.

FINANCIAL IMPLICATIONS

6. The “Day Care Centre” will increase pedestrian and vehicle movements near the site, requiring the road network and roadside paths to be developed or upgraded. As a result of the impact, the proponent should be required to carry out any work necessary for the upgrading of adjoining roads and pathways.

STRATEGIC IMPLICATIONS

7. Council is planning to develop a shared path along Pioneer Road, which will link up with the path staff recommended be developed across the frontage of the property in question.

COMMENT/DISCUSSION

Suitability of land use

8. The application seeks to introduce a commercial enterprise within a residential zoning with issues of vehicle and pedestrian safety and no specific standards for parking nominated in Scheme 1A.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

9. A day care centre is not expected to detrimentally impact on the neighbourhood, especially considering no objections were raised during public advertising. There are other commercial enterprises in the locality such as tourist accommodation and a health care clinic.

Traffic Impacts

10. A Traffic Impact Statement prepared for the development anticipated a minor increase in traffic on the surrounding road network without any adverse impacts on the traffic operations. This assumption is based on traffic counts taken at similar child minding centres (Midvale and Canning Vale – Perth) where it was determined that traffic is spread over 3 hour peak periods (7.00 – 10.00am and 3.00 – 6.00pm) and that full concentration of traffic does not occur in these peak periods. Staff support this assumption. However, in considering the safety of the children, staff believe measures should be taken to provide an added level of protection. Traffic islands, with pedestrian refuge, line marking, appropriate signage and a pedestrian path fronting the property need to be developed.

Car Parking Standards

11. The City of Albany Town Planning Scheme 1A does not have standards for car parking at “day care centres”. A survey undertaken to ascertain the requirements of other Council’s, indicated a similar rate to that being proposed (1/10 children, with an additional 16 for staff at a total of 26).
- Canning 1 per staff plus 1 per 10;
 - Melville 1 per staff plus 1 per 10 limit 30 children;
 - South Perth 1 per staff plus 1 per 10;
 - Joondalup 1 per staff plus 1 per 10;
 - Bayswater 1 per staff plus 1 per 10;
 - Gosnells 1 per staff plus 1 per 10;
 - Armadale 1 per 5 or 1 per staff plus 1 per 10 whichever is greater; &
 - Bunbury 1 per staff plus 1 per 10

12. Car parking surveys at similar child care centres (Midvale and Canning Vale – Perth) concluded that the actual parking demand at different times is generally below the 26 parking bays provided for this site (Parking Utilisation Survey following this report). Given this assumption and that the number of bays provided is in keeping with best practice, planning staff believe that the amount of car parking, its access and its layout will be adequate.

Summary

13. With appropriate controls on traffic, and provided the operation of the centre is in accordance with child care requirements, the centre does have the ability to add to the amenity of the area and generate some positive daytime activity. Staff therefore support the application to Council.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

RECOMMENDATION

THAT Council grant its conditional Planning Scheme Consent for the development of a day care centre at 44 Lion Street, Centennial Park subject to, but not limited to conditions requiring;

- i) the construction of a pathway along the frontage of the lot; and;
- ii) traffic control signage, line marking and traffic islands (with pedestrian refuge areas) to be designed and installed at the intersection of Lion Street and Pioneer Road.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR WILLIAMS**

THAT Council grant its conditional Planning Scheme Consent for the development of a day care centre at 44 Lion Street, Centennial Park subject to, but not limited to conditions requiring;

- i) the construction of a pathway along the frontage of the lot; and**
- ii) traffic control signage, line marking and traffic islands (with pedestrian refuge areas) to be designed and installed at the intersection of Lion Street and Pioneer Road.**

MOTION CARRIED 13-0

THAT Council, pursuant to clause 7.22 of the City of Albany Town Planning Scheme No 1A, delegate authority to the Manager Development to issue a conditional Planning Scheme Consent for the development of a “day care centre” at 44 Lion Street, Centennial Park.

Voting Requirement Absolute Majority

.....

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR WELLINGTON**

THAT Council, pursuant to clause 7.22 of the City of Albany Town Planning Scheme No 1A, delegate authority to the Manager Development to issue a conditional Planning Scheme Consent for the development of a “day care centre” at 44 Lion Street, Centennial Park.

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

Parking Utilization Survey 7.00 -10.00am**Table 1**

	Midvale (29 bays)	Canning Vale (24 bays)
Time	No. Bays Occupied	No. Bays Occupied
7.00 – 7.30	9	4
7.30 – 8.00	14	7
8.00 – 8.30	21	7
8.30 – 9.00	23	10
9.00 – 9.30	24	10
9.30 – 10.00	20	11

Parking Utilization Survey 3.00 – 6.00pm**Table 2**

	Midvale (29 bays)	Canning Vale (24 bays)
Time	No. Bays Occupied	No. Bays Occupied
3.00 – 3.30	20	10
3.30 – 4.00	19	13
4.00 – 4.30	22	10
4.30 – 5.00	19	6
5.00 – 5.30	13	6
5.30 – 6.00	8	4

Reference - Transcore Pty Ltd

DEVELOPMENT SERVICES REPORTS

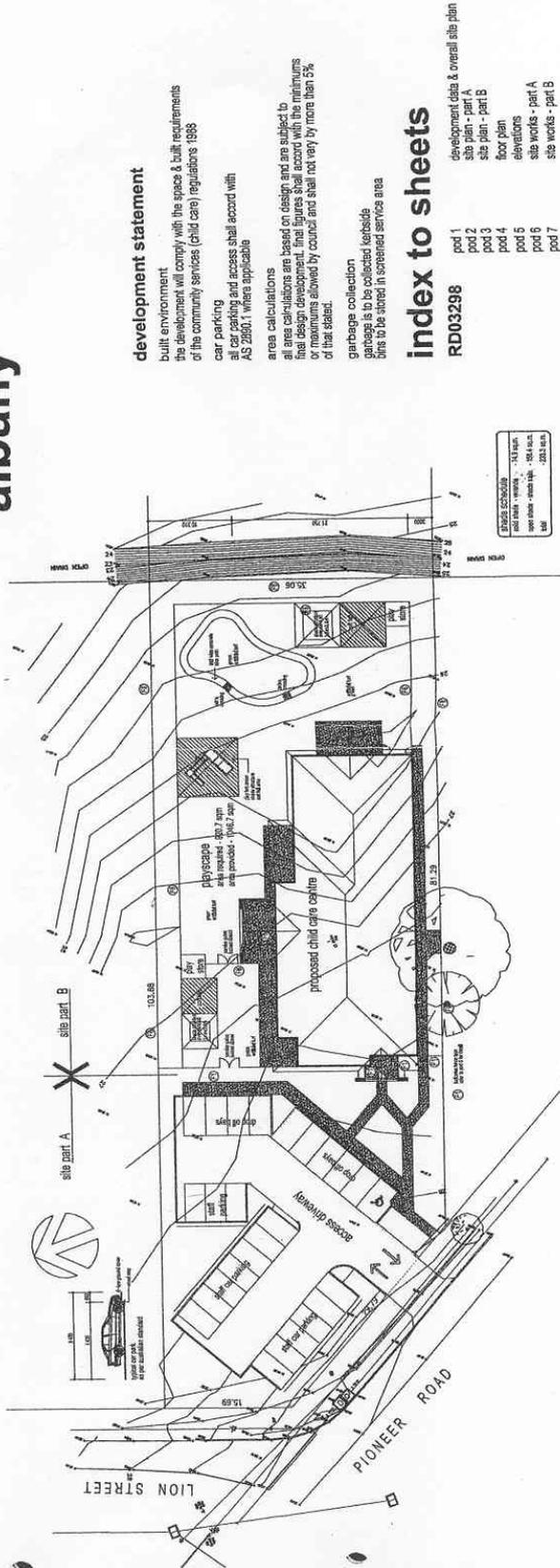
Item 11.1.2 continued

plan of developed proposed child care centre pioneer road albany



site data

t.p.d.		lot 294 on plan 222005		building area	
pioneer road albany		city of albany		enclosed	
3427 sqm		719.9 sqm (21.0%)		veranda	
proposed child care centre		proposed child care centre		entry porch	
99 children		99 children		total	
5 activity rooms		5 activity rooms		total	
no. of children		99 children		playstructure	
no. of activity rooms		5 activity rooms		required 9.3 sqm / child	
staff		15		actual	
contact		1		car parking	
non-contact		16		required 1/staff +1/10 children	
total		16		provided	



development statement

built environment
the development will comply with the space & bulk requirements of the community services (child care) regulations 1998
car parking
all car parking and access shall accord with AS 2860.1 where applicable

area calculations
all calculations are based on design and are subject to final design development. final figures shall accord with the minimums or maximums allowed by council and shall not vary by more than 5% of that stated.

garbage collection
garbage is to be collected kerbside
this to be abated in screened service area

index to sheets

RD03298	pod 1	development data & overall site plan
	pod 2	site plan - part A
	pod 3	site plan - part B
	pod 4	floor plan
	pod 5	elevations
	pod 6	site works - part A
	pod 7	site works - part B
	pod 8	fence details

B car park no's adjusted 1306504

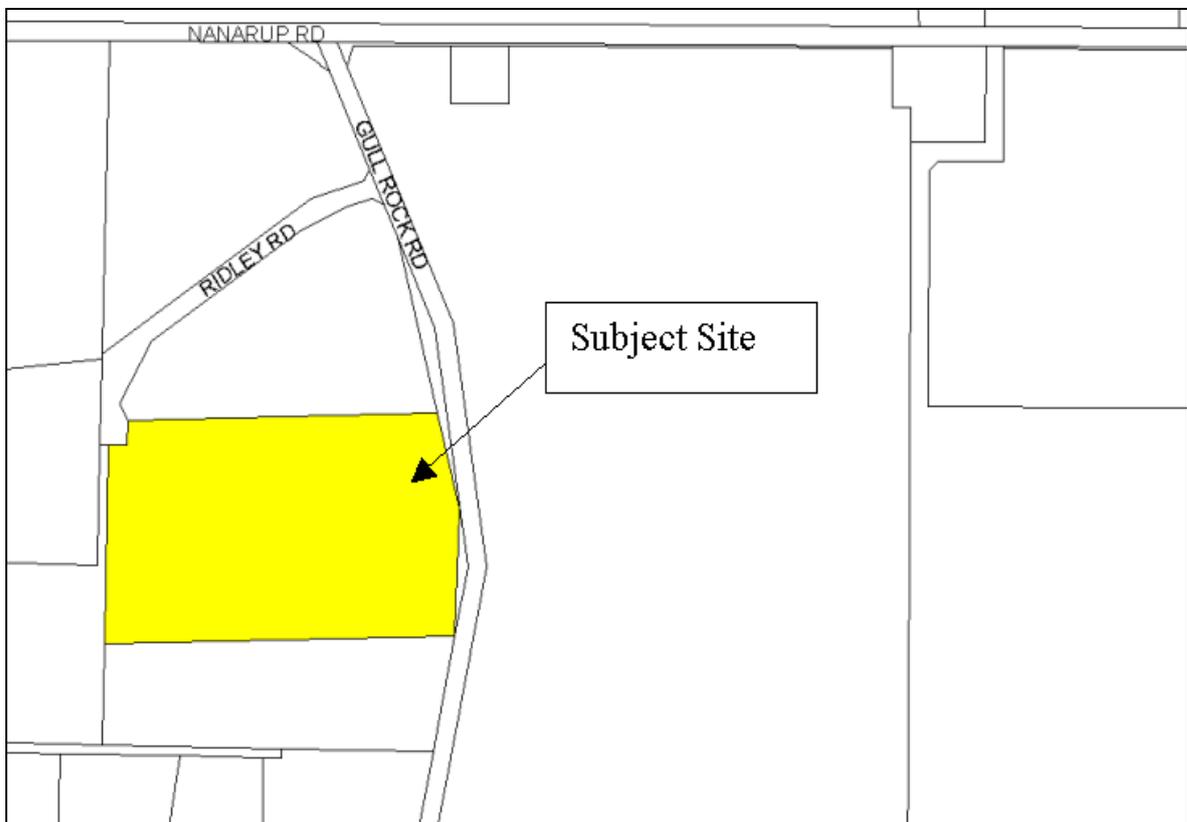
	scale 1:500 drawn C.S.T. date 30/09/04	project proposed childcare centre pioneer road, albany	client ABC learning centres ltd. drawing No. RD03298 POD 1 B
	index & development data		
c. j. raymond O.B.S.A. Lic. No. 031878			

all work shall comply with the provisions of the building code of australia, any applicable governing the local authority, and any signed dimensions shall do not apply, if in doubt case, any discrepancies in this drawing shall be referred to the architect. this drawing shall not be copied or used without authorisation and is protected by copyright.

DEVELOPMENT SERVICES REPORTS

11.1.3 Development Application – Outbuilding – Lot 301 Ridley Road, Kalgan

File/Ward	:	A68634 (Kalgan Ward)
Proposal/Issue	:	Development application for a non complying (over size) outbuilding.
Subject Land/Locality	:	Lot 301 Ridley Road, Kalgan
Proponent	:	R Bairstow
Owner	:	R Bairstow
Reporting Officer(s)	:	Planning Officer (J Devereux)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Grant Planning Scheme Consent, subject to conditions
Bulletin Attachment	:	Nil
Locality Plan	:	

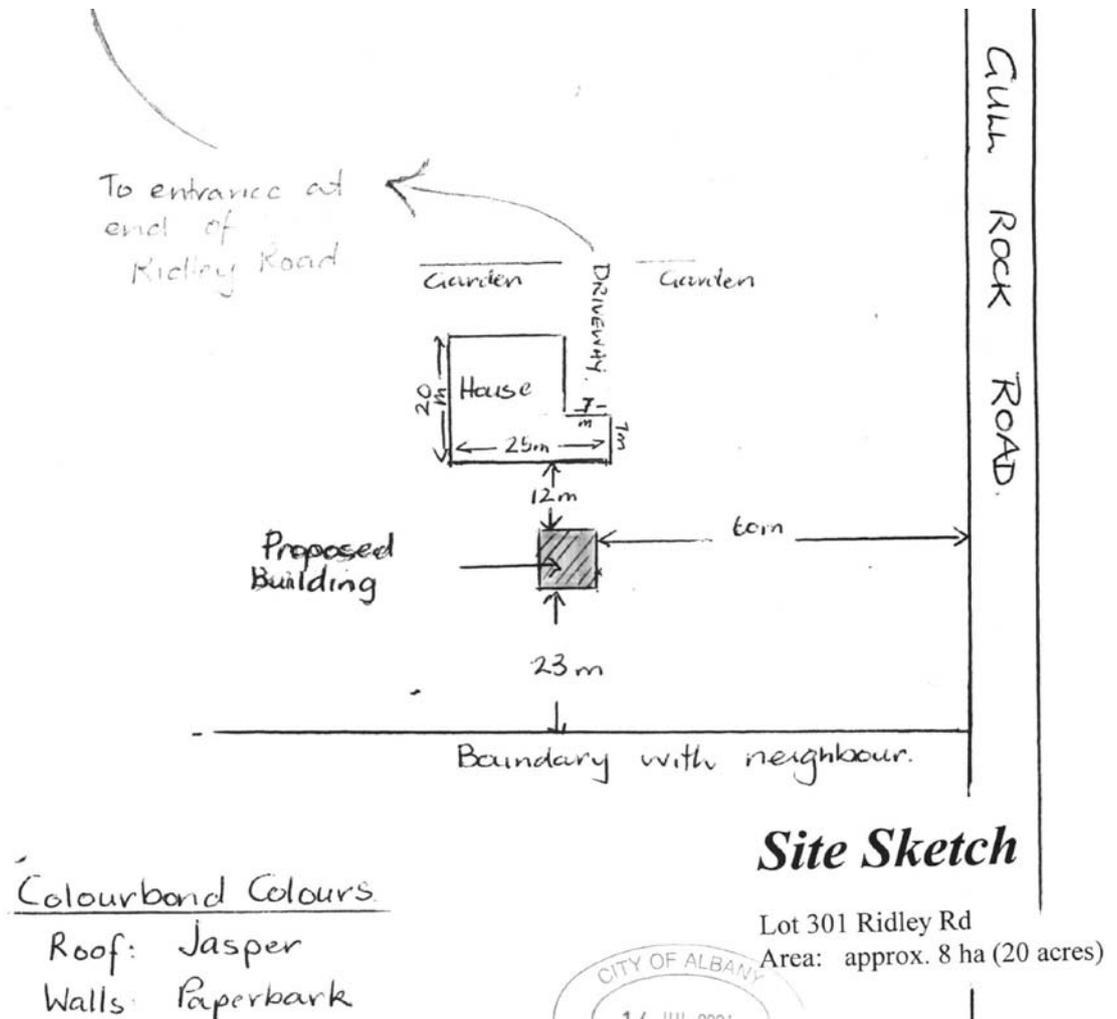


DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

BACKGROUND

1. Council received a development application on the 21 July 2004 for an outbuilding with a floor area of 64m².

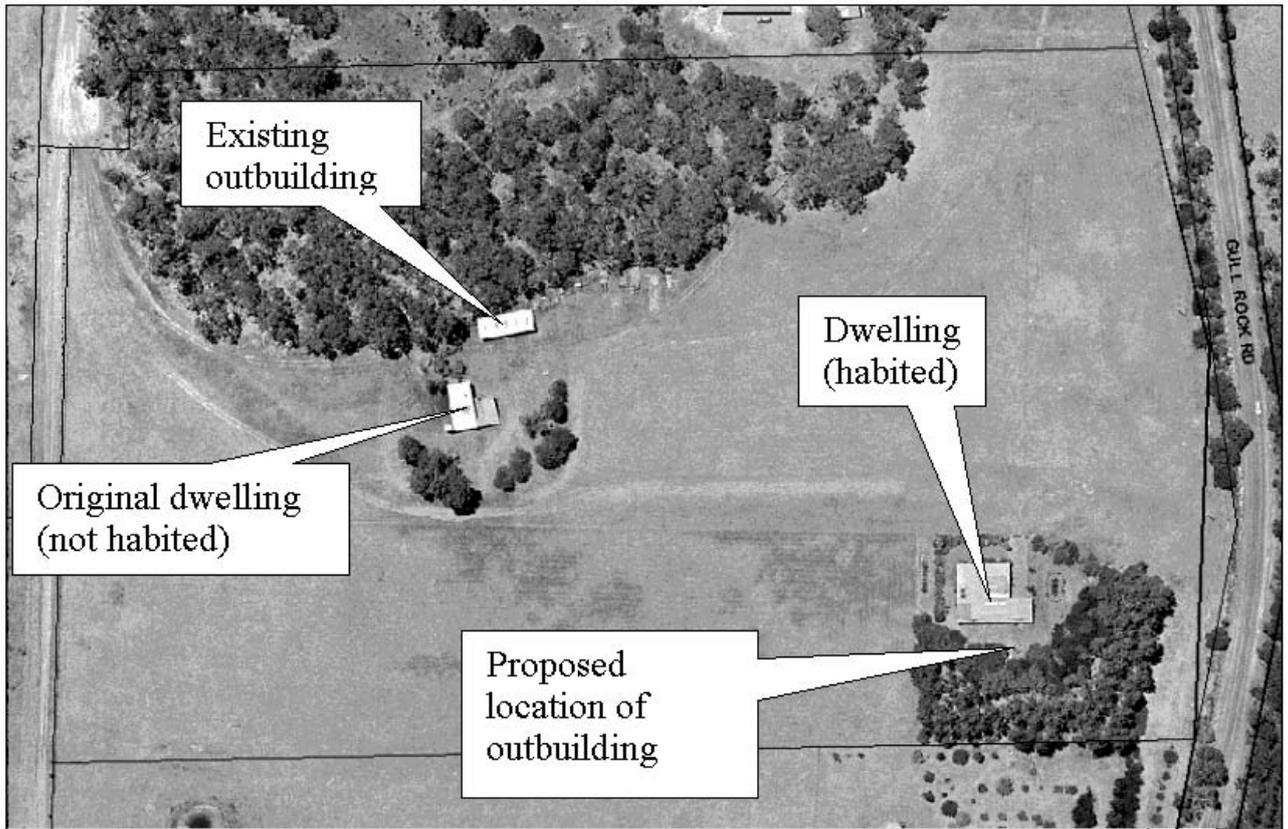


Site Sketch

2. The property is zoned 'Special Rural' and is 8.7 hectares in area and is located adjacent to Gull Rock Road.
3. As there is an existing outbuilding already on the property with a floor area of 139m², approved in 1986, the proposed outbuilding would bring the total amount of outbuilding floor area to 203m². This area of 203m² is contrary to the acceptable floor area of Council's Outbuilding Policy.
4. From viewing an aerial photograph, it was evident that there were two dwellings on the property; which is not allowable under the current provisions relating to this property. The original house (indicated on the following photograph) was used by the previous owner to live in while he was building the new dwelling. The present owners have indicated that the house is in disrepair and they intend demolishing it, due to it being infested with white ants. Refer to 'Attachment 1' for a copy of the correspondence received from the applicant.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued



STATUTORY REQUIREMENTS

5. The property is zoned ‘Special Rural’ Area No 6, under Town Planning Scheme No 3.

POLICY IMPLICATIONS

6. The outbuilding policy has ‘Standard Requirements’ to control the setback and size of outbuildings. If an outbuilding does not comply with these standards, staff can permit a relaxation, subject to a proposal meeting the requirements for ‘Non-Complying Outbuildings’. If the application does not comply with the second set of criteria, the outbuilding ‘will not be permitted’.
7. The requirement for a ‘Non-Complying Outbuilding’ in the ‘Special Rural’ zone specifies a maximum floor area of 150m² per lot. As the proposal would bring the total amount of floor area to 203m², Council needs to decide whether it should vary its policy, due to the circumstances of the application.
8. All other aspects of the policy have been complied with.

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

11. Most 'Special Rural' properties are around 2 ha in size and it is understandable why the size of outbuilding should be limited to a floor area to 150m². However in this circumstance the property is over 8.7 ha in size, which makes it around four times larger than most 'Special Rural' properties; the policy can be construed to be over restrictive for larger 'Special Rural' lots.
12. The proposed outbuilding is situated near the applicant's dwelling and will be set back 60m from Gull Rock Road and 23m from the neighbouring boundary. It will be well screened from Gull Rock Road and the adjoining property by the existing vegetation. It is also proposed to be clad in 'Paperbark' and 'Jasper' coloured 'Colorbond®', which are not considered reflective material in accordance with the 'Outbuilding Policy' and will allow it to blend into the natural surroundings. The proposed outbuilding is unlikely to impact on adjoining properties given the proposed colouring and location.
13. The applicant has indicated that the outbuilding will be used for domestic purposes.
14. The applicant has been made aware that it will be recommended to Council for the original house to be demolished as a condition of approval, if Council resolves to approve the proposed outbuilding. Mr and Mrs Bairstow are happy to accept this as they have the intentions already to remove it, due to it being infested with white ants.
15. Due to circumstances of this application, it is recommend that Council grants conditional approval to the outbuilding due to the size of the property, the scale/nature of the proposal, its intended use and the natural screening already on site.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

RECOMMENDATION

THAT Council grant conditional Planning Scheme Consent for the construction of the outbuilding at lot 301 Ridley Road, Kalgan subject to the following conditions;

- i)** the outbuilding being used for domestic purposes only and not for any commercial or industrial use, or human habitation;
- ii)** vegetation around the outbuilding being maintained for the purpose of reducing its visual impact when viewed from the road and neighbouring properties, as identified on the approved plan;
- iii)** the original dwelling, approved in 1978, being demolished prior to the proposed outbuilding being completed; and
- iv)** the aggregate maximum floor area is not to exceed 203m² for all outbuildings on the site.

Voting Requirement Simple Majority

.....

Correspondence was received on the 17 August 2004 from the applicant requesting an amended recommendation to the above Council Item. Attached is correspondence from the applicant outlining their reasoning for the request.

In summary, the applicant has requested that:-

- the aggregate maximum floor are for all outbuildings on the site to be reduced to 243m²; and
- the landowners be given three months to remove the original dwelling, following the completion of the proposed outbuilding.

As the applicant's request does not greatly differ from what was previously proposed, and is in line with the comments of Council staff, it is recommended that Council support the minor variation.

AMENDED RECOMMENDATION

THAT Council grant conditional Planning Scheme Consent for the construction of the outbuilding at lot 301 Ridley Road, Kalgan subject to the following conditions;

- v)** the outbuilding being used for domestic purposes only and not for any commercial or industrial use, or human habitation;
- vi)** vegetation around the outbuilding being maintained for the purpose of reducing its visual impact when viewed from the road and neighbouring properties, as identified on the approved plan;
- vii)** the original dwelling, approved in 1978, being demolished within three months of the proposed outbuilding being completed; and
- viii)** the aggregate maximum floor area is not to exceed 243m² for all outbuildings on the site.

Voting Requirement Simple Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued.

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR EMERY**

THAT Council grant conditional Planning Scheme Consent for the construction of the outbuilding at lot 301 Ridley Road, Kalgan subject to the following conditions;

- i) the outbuilding being used for domestic purposes only and not for any commercial or industrial use, or human habitation;**
- ii) vegetation around the outbuilding being maintained for the purpose of reducing its visual impact when viewed from the road and neighbouring properties, as identified on the approved plan;**
- iii) the original dwelling, approved in 1978, being demolished within three months of the proposed outbuilding being completed; and**
- iv) the aggregate maximum floor area is not to exceed 243m² for all outbuildings on the site.**

MOTION CARRIED 13-0

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

From: 08 98425400 Page: 1/1 Date: 16/07/2004 2:24:30 PM
GREEN LIGHT TO LITERACY PHONE NO. : 08 98425400 JUL. 16 2004 03:18PM P1

CITY OF ALBANY RECORDS	
FILE:	A68634
FILE:	
16 JUL 2004	
DOC:	ICR406452
OFFICE:	PLAN6
ATTACH:	

R L Bairstow

PO Box 258
ALBANY WA 6331

Telephone 08 9846 4020

Facsimile: 08 9842 8845

Facsimile

Attention: Mr John Devereux
Planning Officer
Albany City Council

16 July 2004

Dear Mr Devereux

Out Building Lot 301 Ridley Road

You are in receipt of our application via Ranbuilt Albany, and I understand that you require further information. Thank you for your advice about this. I understand the details you require concern the buildings in the north-western section of the property.

These are as follows:

- A shed built by the previous owners some considerable time ago. This shed measures approx. seven metres by fifteen metres.
- The other building is a derelict old house which served the needs of the previous owners while the present house was being built. As this is in a poor state I plan to demolish it in the near future.

Thank you again for your assistance.

Yours sincerely

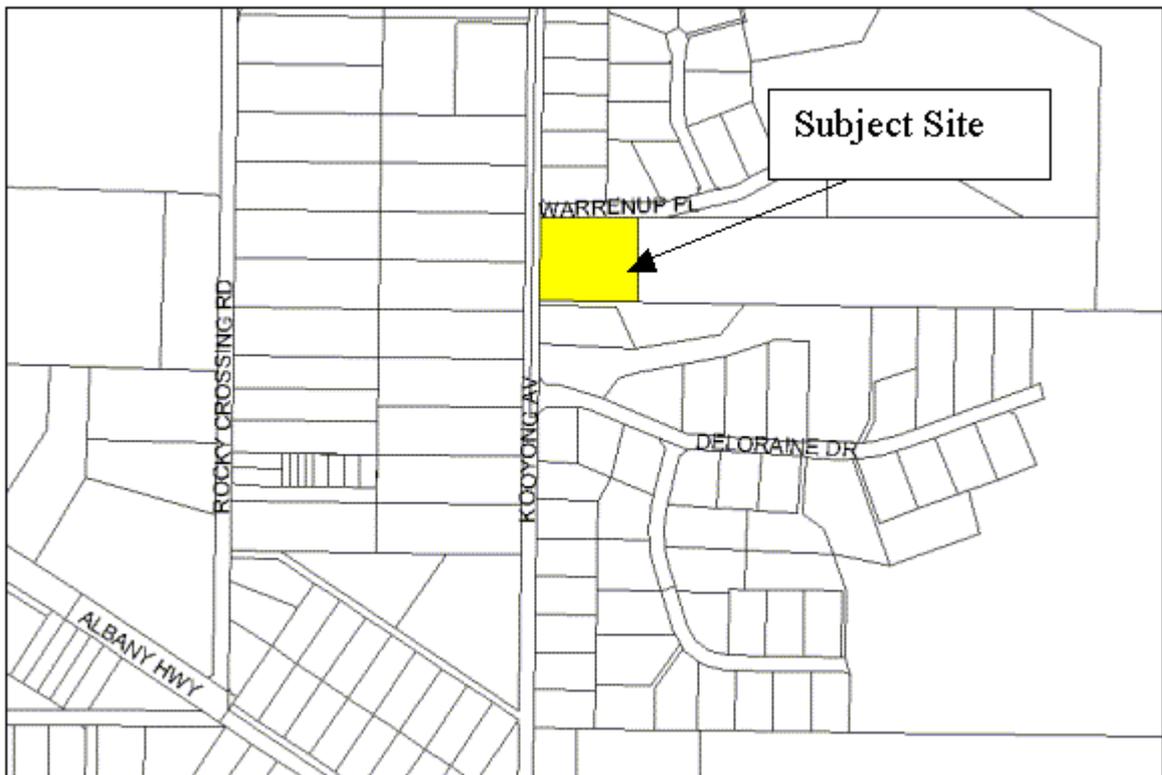
R L Bairstow.....

Bob Bairstow

DEVELOPMENT SERVICES REPORTS

11.1.4 Development Application – Home Business – 78-86 Kooyong Avenue, Warrenup

- File/Ward** : A66919 (Warrenup Ward)
- Proposal/Issue** : Parking of a commercial vehicle (truck) on a Rural property.
- Subject Land/Locality** : 78-86 Kooyong Avenue, Warrenup
- Proponent** : G & J Lawrence
- Owner** : A & R May
- Reporting Officer(s)** : Senior Planning Officer (G Bride)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : To grant planning scheme refusal, on the basis of noise concerns
- Bulletin Attachment** : Submissions / Subdivision Guide Plan for Amendment 230 to TPS No. 3 / Access Routes
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

BACKGROUND

1. An application has been received for a 'Home Business', involving the parking of a commercial truck and trailer and carrying out of maintenance from time to time, at 78-86 Kooyong Avenue, Warrenup (refer applicant's submission at rear of report).
2. The applicant has advised that the bulk of the work he carries out in the truck is seasonal, carting grain at harvest time (between November and January). During these periods the truck would spend most of the time on the farming properties where the grain is harvested over a number of days or weeks. Outside of the grain harvest period the applicant mainly carts fertilizer.
3. The proposed vehicle is a Volvo N12 6 wheel (3 axle) tip truck, with a Boomerang 8 wheel (4 axle) tipping dog trailer. The overall length of the vehicle, including trailer, is 19 metres.
4. There are two large sheds on the property, one being a 9 by 22 metre fully enclosed shed, and the other being a 10 by 20 metre farm shed (open on one side).
5. The applicant has indicated that the truck and trailer will be parked within the farm shed.

STATUTORY REQUIREMENTS

6. The property is zoned "Rural" within Town Planning Scheme No. 3, however the land is currently being rezoned to "Special Residential" (Amendment No. 230). The applicant has placed an offer to purchase two of the proposed "Special Residential" allotments (which includes the existing homestead and sheds), subject to receiving approval from Council to keep the truck on the site. A copy of the Subdivision Guide Plan attached to Amendment No 230 can be found within the Elected Members Bulletin.
7. The application was advertised in accordance with the requirements of Town Planning Scheme No 3, and at the close of submissions, seven were received all objecting to the proposal.
8. Within Town Planning Scheme 3, the use 'Home Business' is classified an 'AA' use within the Rural zone. Within the Scheme an 'AA' use is described as:

"AA" - A use that is not permitted unless the approval of the Council is granted in respect of such use provided however such approval may not be granted by the Council until -

- (a) The Council has advertised its intention to grant approval for such use at least once in a newspaper circulating in the district of the Shire of Albany;*
- (b) After the Council has considered all objections to the granting of such approval received by the Council under 21 days from the publication of the advertisement herein before referred to.*

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

9. Within Town Planning Scheme the use ‘Home Business’ is defined as:

“means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:

- (a) does not employ more than 2 people not members of the occupier's household;*
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
 - (c) does not occupy an area greater than 50 square meters;*
 - (d) does not involve the retail sale, display or hire of goods of any nature;*
 - (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy or parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
 - (f) does not involve the use of an essential service of greater capacity than normally required in the zone;*
 - (g) notwithstanding clauses (c) and (e) above, approval may be granted in the Rural zone for an area of up to 200m² and for up to 3 trucks with a tare weight in excess of 3.5 tonnes, providing it does not adversely affect the rural and landscape amenity of the surrounding area.*
10. As the land is zoned “Rural” and the open shed is 200m² in size, Council can consider approval for a truck that is over 3.5 tonnes tare weight, if in Council’s opinion the keeping of the truck would not adversely affect the rural and landscape amenity of the surrounding area.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

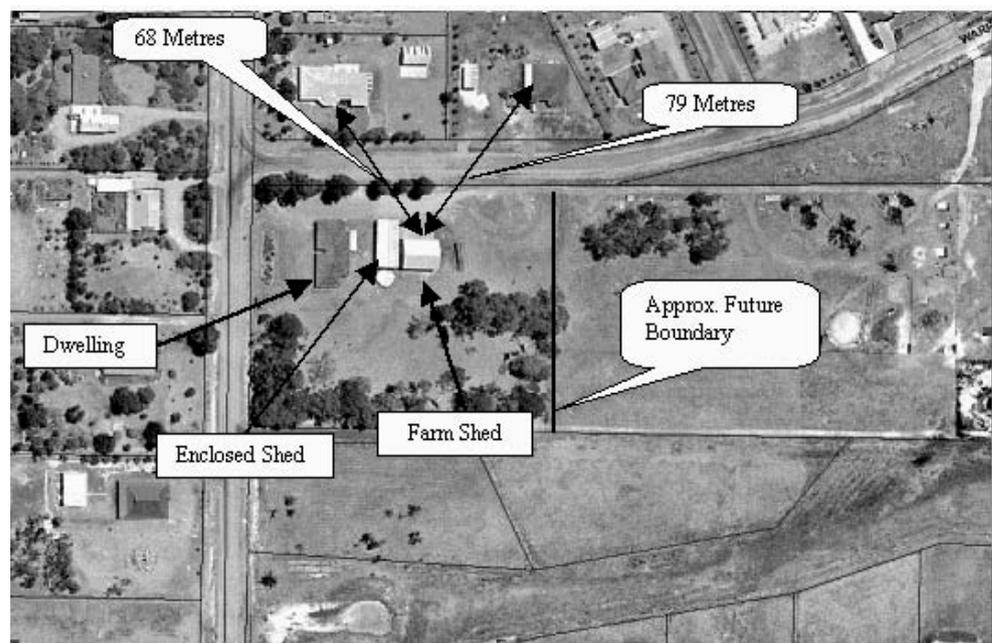
COMMENT/DISCUSSION

14. In relation to the submissions received, the concerns raised included:

- A trucking business could be dangerous for the many children who live in the area.
- The area is peaceful and quiet, and noise levels associated with the truck starting in the morning would disturb this peace.
- Who is going to make sure the truck driver doesn't leave before 6:30am.
- The road surface on the corner of Kooyong Avenue and Warrenup Place is not designed to handle trucks of this size and may cause damage to this section of road through constant turning.
- The proposal would lower property values in the area.
- Once this type of business is permitted it is then open for any type of industry to move into our neighbourhood.
- The storing of fertilizers for any period of time on the property, poses a fire and health hazard for surrounding residents.

15. The applicant has advised that he could leave and enter the property, in his truck, via three possible routes all tested via templates marked out on his Cranbrook property (refer Elected Members Report & Information Bulletin). All options would involve the truck entering and leaving the property in forward gear, however Option 3 and, to a lesser degree, Option 1 would require the truck to reverse into the shed from Warrenup Place, which is discouraged by Staff. Option 2 would cater for all manoeuvrability on the site without the need to utilise Warrenup Place to enter the shed, and would therefore be staff's preferred option.

16. The figure illustrated below indicates the property, the sheds, existing vegetation and setbacks to neighbouring properties.



DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

17. In order to fit the truck wholly within the open shed the applicant would need to disengage the trailer from the truck and park the two vehicles side by side. The applicant has advised that coupling and uncoupling of the trailer is a very simple process that can be completed within a few minutes. The applicant has also advised that, should Council require the truck to be totally obscured from the Warrenup Place, he is willing to enclose the shed by the placement of matching sliding doors.
18. Without undertaking a detailed noise assessment, Council's Environmental Health Officers believe that the truck starting and building up breaking air will more than likely breach the noise regulations, particularly when placed in a quiet "Special Residential" area. The truck is likely to create a noise level of around 75dBa, which would be around 45dBa above the level of background noise in the locality.
19. The applicant has advised that he has a special air compressor that reduces the time needed to build up breaking air, thereby limiting the time the truck would be idling on the property. Despite the applicant's assurances staff have reservations that the noise impacts on those properties along Warrenup Place, particularly during the early morning hours (between 6:30 and 7:00am) can be minimised. Those residents along Kooyong Avenue are less likely to be detrimentally affected by noise, given this road is a regular truck route, and noise from passing trucks would exceed the noise levels generated by the applicant's truck entering and exiting the property. A second letter has been submitted to Council on the issues associated with truck noise (see attached).
20. The applicant has also advised that all major maintenance work will be undertaken off-site, and that no fertilizers or other substances will be kept in the truck or anywhere else on the property.
21. If the applicant encloses the open shed, to ensure that the truck is not visible whilst on the property, and undertakes all manoeuvrability on site, many of the concerns raised within the submissions can be overcome. The outstanding issue, which is unlikely to be resolved without testing from an experienced acoustic consultant, is whether noise emissions will breach the noise regulations. Unless this issue can be resolved, which would need to involve an on-site demonstration of the truck starting, entering and leaving the site, it is recommended that the application be refused.
22. This application also represents a test case, whereby Council's decision will provide staff with greater clarity on whether home-based truck or earthmoving operators should be allowed to operate from "Special Residential" (around 4000m² lots) or "Special Rural" areas (around 1 to 2 hectare lots), or whether they should be restricted to larger rural properties. Home based operators need to be differentiated from trucking or earthmoving businesses that employ more than two staff, as these would still need to be located within industrial areas.

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

RECOMMENDATION

THAT Council resolves to issue a Planning Scheme Refusal for a Home Business (Keeping of a Commercial Vehicle) on 78-86 Kooyong Avenue, Warrenup for the following reasons:

- i) the applicant has been unable to demonstrate that noise emissions omitted from the truck would be within the prescribed noise regulations, in relation to the impact on surrounding residences; and
- ii) the proposed use is inconsistent with the objective for “Special Residential” zoned lots.

Voting Requirement Simple Majority

.....

The Executive Director Development Services advised that the applicant had requested that this item be deferred until the next Ordinary Meeting of Council.

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

GD & JL Lawrence
RMB 306
CRANBROOK WA 6321

3rd June 2004

The Town Planner
City of Albany
221 York Street
ALBANY WA 6330

Dear Sir,

My wife Jan and I wish to purchase the property at 86 Kooyong Avenue, Warrenup. The property has a 9m x 22m shed and a 10m x 20m shed. Our plan for this property is, in several years time, move to Albany, live in the house and park my truck and dog trailer in one shed and use the other shed as a workshop (similar use as current owner). Some light maintenance would take place there from time to time.

The work I do with my truck and trailer is seasonal, carting grain at harvest time (mid November to mid January) when the rig would spend most of the time on the farming properties, where I cart and stay in a caravan. I cart a small amount of fertilizer etc at other times. Truck movements in and out of the property would be very infrequent. Most vehicle movements would not be before 6:30 am and not after 9:00 pm.

I run a Volvo N12 6 wheel (3 axle) tip truck and pull a Boomerang 8 wheel (4 axle) tipping dog trailer. Overall length 19 metres, turning circle 22 metres. There are no plans to upgrade in the near future.

The proposed purchase of this property will be subject to the satisfactory resolution of this issue.

Yours faithfully,



Graham Lawrence



DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

From: 08 98343064 Page: 1/4 Date: 1/08/2004 7:59:05 AM
I : GD & JL Lawrence PHONE NO. : 08 98343064 Aug. 01 2004 07:56AM P:

Attention Graeme Bride:

GD & JL Lawrence
RMB 306
CRANBROOK WA 6321

Phone/fax 9834 3064
Mobile 0427 979 609
Email mareedale@wn.com.au

1st August 2004

Graeme Bride
City of Albany
York Street
ALBANY WA 6330

Attachment to the submission to Council: Re: Application to park a commercial vehicle at 78-86 Kooyong Ave WARRENUP

Dear Graeme

In our discussion on Friday July 30th 1pm to 1.30pm with yourself and Al Fasolo (Roy Western Real Estate), the issue of potential noise was highlighted and needed addressing.

Initially, I want to make clear our planned move to Albany is for semi retirement in about 4-5 years time. My trucking activities will almost certainly be less than they are now. In the past 12 months I carted 15 loads of grain to Albany and 4 loads of fertilizer from Albany over 11 separate days. I expect to cart even less grain to Albany in the future with the upgrade of CBH in Cranbrook that has recently taken place. If we were living at Kooyong Ave during this period I may have come and gone about 6 times. Truck movements would be very infrequent.

When trucks are parked overnight or longer, the motor needs to run for a few minutes to build up compressed air to release the brakes. I can reduce this time by pumping up the air tanks with an air compressor running off mains power housed in the shed surrounded by sound proofing material. The length of time my neighbors would hear the truck, would be kept to a minimum.

I am prepared to run the truck on the property only during the reasonable hours acceptable to my neighbors.

On the odd occasions, that I need to make an earlier start I would arrange to have the truck parked elsewhere.

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

FROM : GD & JL Lawrence From: 08 98343064 Page: 2/4 Date: 1/08/2004 7:59:06 AM
 PHONE NO. : 08 98343064 Aug. 01 2004 07:57AM P

I have done some research on noise and I would like to summarize it this way.

Decibels	(dBA)	Situation
0		The quietest sound you might ever hear
35		Quiet country location
65		Truck driven slowly
90		Truck loaded full power
65-95		Power lawn mower

FOUR ASPECTS OF SOUND

Loudness (dBA)	Frequency or pitch
How Frequently it is heard	Duration of the sound

Sounds in the 60-90 dBA Range reduce by about 5 dBA every 10 meters in distance. So a truck driven slowly at the distance of 40 meters would produce approx 45 dBA.

I will spend more time mowing my lawn than driving my truck in the yard, regrettably making more noise doing that.

If there is still a problem with resolving this issue, I am prepared to bring the truck to Albany for an on site evaluation at a mutually convenient time to the concerned parties.

Finally, we are most encouraged by the response of concerned residents in the area. They have the same liking for the area that we do. They sound like great neighbors to have.

Regards



Graham & Jan Lawrence

INCLUDED 2 pages NOISE LEVELS IN OUR ENVIRONMENT FACT SHEET

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

FROM : GD & JL Lawrence From: 08 98343064 Page: 3/4 Date: 1/08/2004 7:59:06 AM
PHONE NO. : 08 98343064 Aug. 01 2004 07:57AM P:



New York:
50 Broadway, 6th Floor, New York, NY 10004
917-305-7700 (Voice) · 917-305-7999 (TTY) · 917-305-7888 (Fax)

Florida:
2800 W. Oakland Park Blvd., Suite 306, Oakland Park, FL 33311
954-731-7200 (Voice) · 954-731-7208 (TTY) · 954-485-6336

Noise Center

NOISE CENTER OF THE LEAGUE

1 888 NOISE 88

NOISE LEVELS IN OUR ENVIRONMENT FACT SHEET

How Loud is Too Loud? Experts agree that continued exposure to noise above 85 dBA over time, will cause hearing loss. To know if a sound is loud enough to damage your ears, it is important to know both the loudness level (measured in decibels, dBA) and the length of exposure to the sound. In general, the louder the noise, the less time required before hearing loss will occur. According to the National Institute for Occupational Safety and Health (1998), the maximum exposure time at 85 dBA is 8 hours. At 110 dBA, the maximum exposure time is one minute and 29 seconds. If you must be exposed to noise, it is recommended that you limit the exposure time and/or wear hearing protection.

Measure Up and Turn it Down: Decibel Levels Around Us The following are decibel levels of common noise sources around us. These are typical levels, however, actual noise levels may vary depending on the particular item. Remember noise levels above 85 dBA will harm hearing over time. Noise levels above 140dBA can cause damage to hearing after just one exposure.

*Points of Reference *measured in dBA or decibels*

- 0 The softest sound a person can hear with normal hearing
- 10 normal breathing
- 20 whispering at 5 feet
- 30 soft whisper
- 50 rainfall
- 60 normal conversation
- 110 shouting in ear
- 120 thunder

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

FROM : GD & JL Lawrence From: 08 98343064 Page: 4/4 Date: 1/08/2004 7:59:07 AM
 PHONE NO. : 08 98343064 Aug. 01 2004 07:58AM P.

Home	Work	Recreation
<ul style="list-style-type: none"> • 50 refrigerator • 50 - 60 electric toothbrush • 50 - 75 washing machine • 50 - 75 air conditioner • 50 - 80 electric shaver • 55 coffee percolator • 55 - 70 dishwasher • 60 sewing machine • 60 - 85 vacuum cleaner • 60 - 95 hair dryer • 65 - 80 alarm clock • 70 TV audio • 70 - 80 coffee grinder • 70 - 95 garbage disposal • 75 - 85 flush toilet • 80 pop-up toaster • 80 doorbell • 80 ringing telephone • 80 whistling kettle • 80 - 90 food mixer or processor • 80 - 90 blender • 80 - 95 garbage disposal • 110 baby crying • 110 squeaky toy held close to the ear • 135 noisy squeeze toys 	<ul style="list-style-type: none"> • 40 quiet office, library • 50 large office • 65 - 95 power lawn mower • 80 manual machine, tools • 85 handsaw • 90 tractor • 90 - 115 subway • 95 electric drill • 100 factory machinery • 100 woodworking class • 105 snow blower • 110 power saw • 110 leafblower • 120 chain saw, hammer on nail • 120 pneumatic drills, heavy machine • 120 jet plane (at ramp) • 120 ambulance siren • 125 chain saw • 130 jackhammer, power drill • 130 air raid • 130 percussion section at symphony • 140 airplane taking off • 150 jet engine taking off • 150 artillery fire at 500 feet • 180 rocket launching from pad 	<ul style="list-style-type: none"> • 40 quiet residential area • 70 freeway traffic • 85 heavy traffic, noisy restaurant • 90 truck, shouted conversation • 95 - 110 motorcycle • 100 snowmobile • 100 school dance, boom box • 110 disco • 110 busy video arcade • 110 symphony concert • 110 car horn • 110 -120 rock concert • 112 personal cassette player on high • 117 football game (stadium) • 120 band concert • 125 auto stereo (factory installed) • 130 stock car races • 143 bicycle horn • 150 firecracker • 156 capgun • 157 balloon pop • 162 fireworks (at 3 feet) • 163 rifle • 166 handgun • 170 shotgun

[LEAGUE HOMEPAGE](#) || [Noise Center](#) ||| [EMail](#)

© Copyright 1996-2003 LEAGUE FOR THE HARD OF HEARING

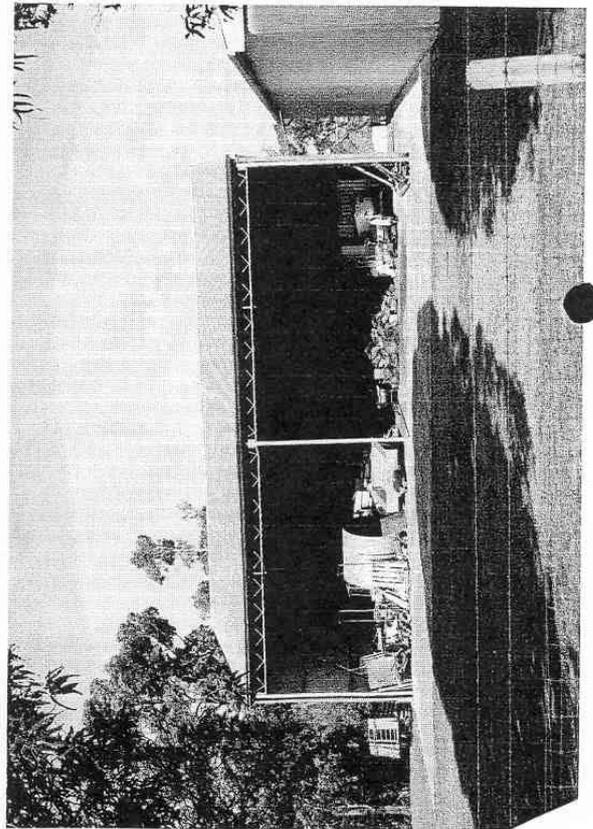
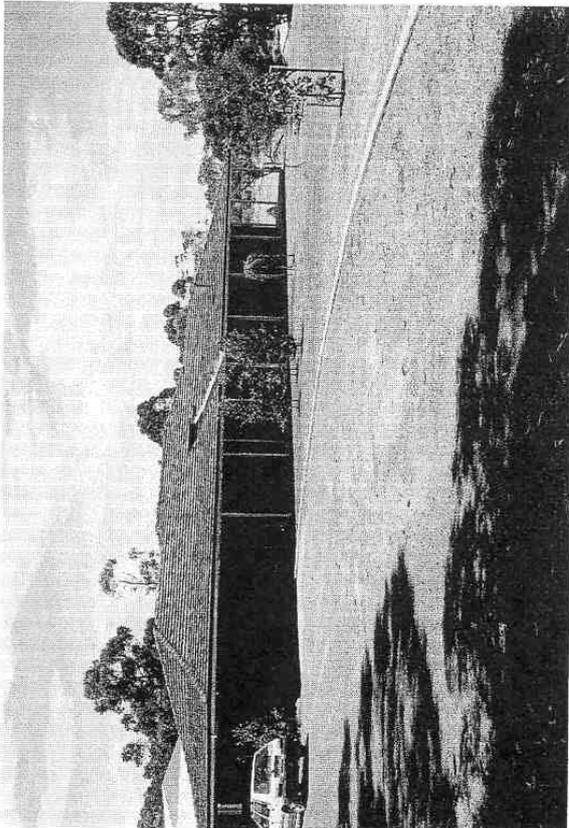
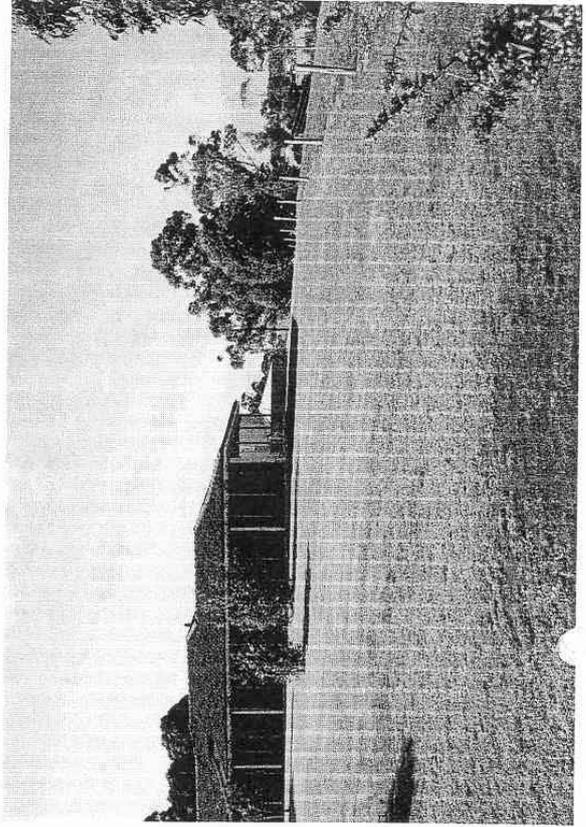
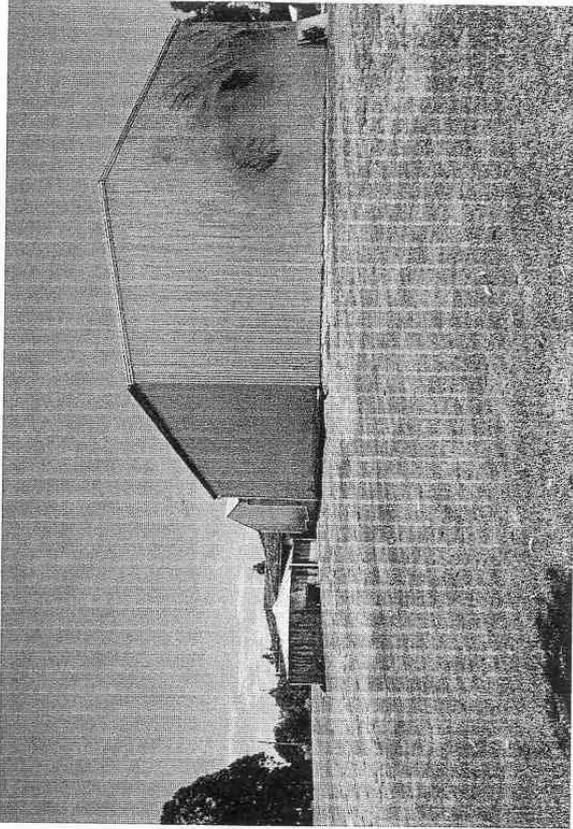


New York:
 71 West 23rd Street, New York, NY 10010-4162
 917-305-7700 (Voice) · 917-305-7999 (TTY) · 917-305-7888 (Fax)

Florida:
 2800 W. Oakland Park Blvd., Suite 306, Oakland Park, FL 33311
 954-731-7200 (Voice) · 954-731-7208 (TTY) · 954-485-6336

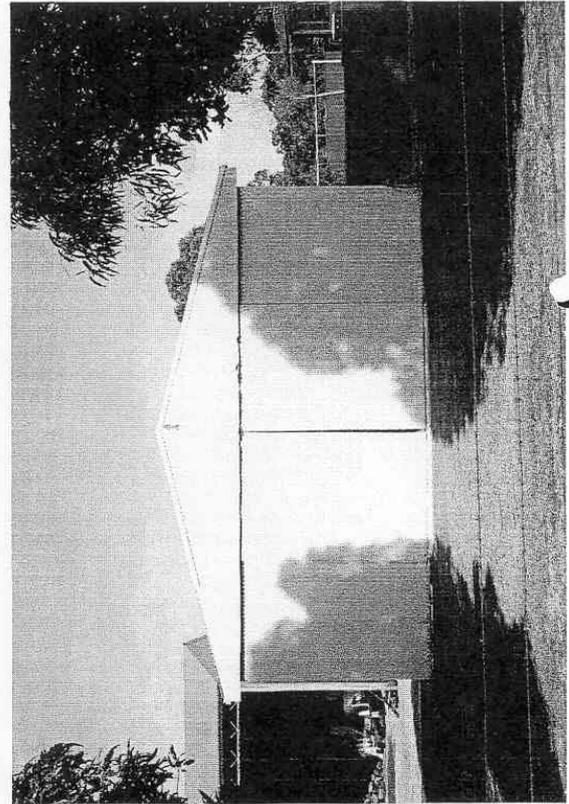
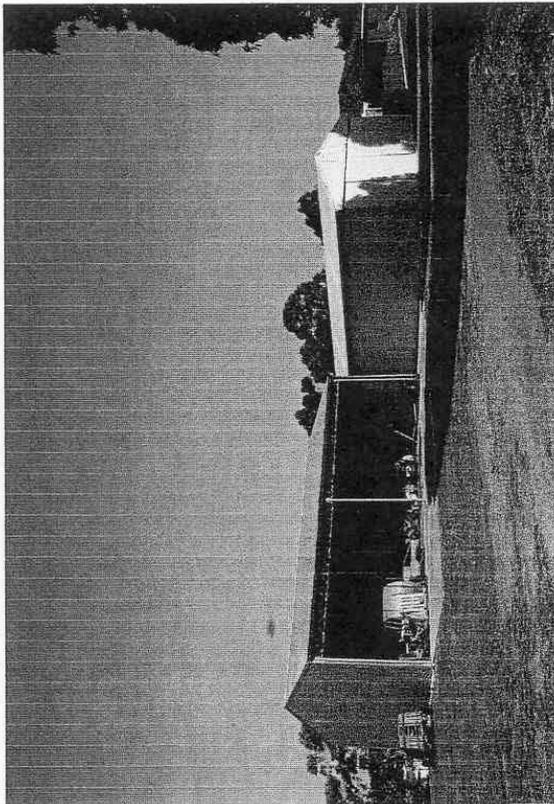
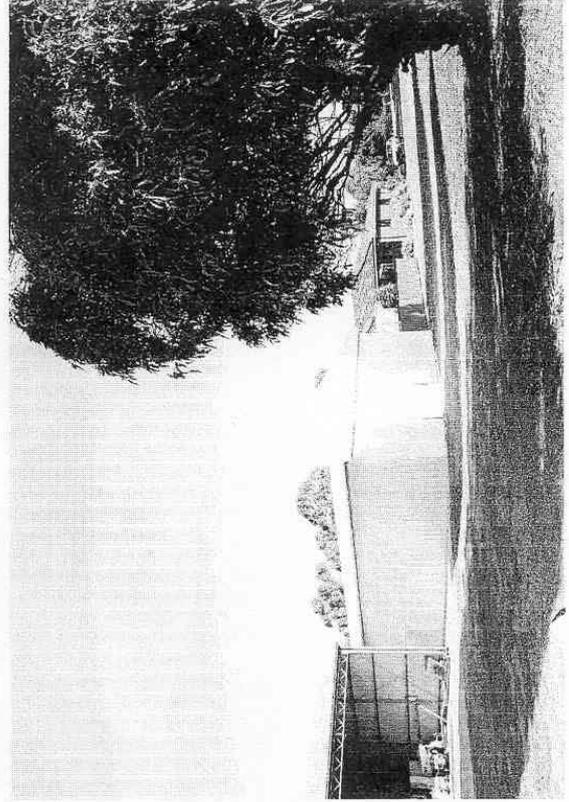
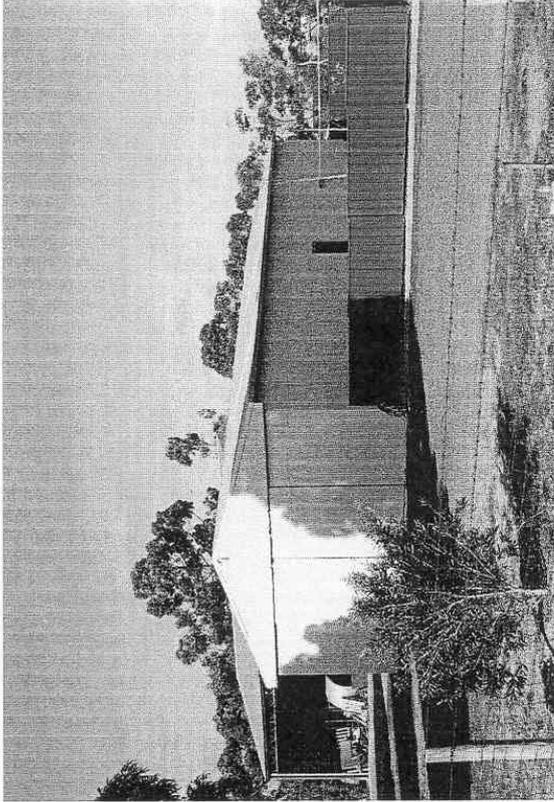
DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued



ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued



ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued



DEVELOPMENT SERVICES REPORTS

11.1.5 Building Appeal – Appointment of Referee – 11 Festing Street, Albany

- File/Ward** : A97453 (Frederickstown Ward)
- Proposal/Issue** : Appointment of Referee to hear building appeal
- Subject Land/Locality** : 11 Festing Street, Albany
- Proponent** : Nil
- Owner** : M & L Roberts
- Reporting Officer(s)** : Executive Director Development Services
(R Fenn)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 20/07/04 – Item 19.1
OCM 15/06/04 – Item 18.1
OCM 20/01/04 – Item 11.1.4
- Summary Recommendation** : Delegate Authority to Chief Executive Officer
to appoint Referee
- Bulletin Attachment** : Nil
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

BACKGROUND

1. Council has been advised that Mr and Mrs Roberts have appealed the notice issued upon them, under Section 401 (a) and (b) of the *Local Government (Miscellaneous Provisions) Act 1960*, relating to the retaining wall built at 11 Festing Street, Albany.
2. The appeal process requires the matter of the compliance of the wall with the approved plans to be dealt with under the *Local Government (Appeals to Minister) Regulations 1961*. The requirement under the notice to have the wall pulled down is dealt with under the *Local Government (Appeals to Building Referees) Regulations 1961*.

STATUTORY REQUIREMENTS

3. **Local Government (Appeals to Minister) Regulations 1961;**
Under these regulations, two copies of the notice of appeal are submitted to the CEO of the Department of Housing and Works, who then submits one copy to the Local Authority. Within 14 days, the CEO of the Local Authority shall supply a statement of the reasons for the Council's decision and any comments of the Local Authority in respect of the appeal. The Minister shall then investigate the matter of the appeal and shall hear such evidence as may be brought before him by the appellant or by the Local Government. The Minister shall inform himself of the subject matter of the appeal in such manner as he thinks fit and shall not be bound by the rules of evidence.
4. **Local Government (Appeals to Building Referees) Regulations 1961:**
These regulations require, within one month of the receipt of the notice of appeal, both the Minister and the local Authority to appoint one referee each to hear the matter. Once the referees are notified of their appointment, they are required within one month to commence hearing the appeal. At the formal hearing, the appellant shall state his case and place all relevant facts before the referees; the CEO or the Building Surveyor shall thereafter state the Local Government's case and lay all relevant facts before the referees. The referees shall determine the question before them on appeal as expeditiously as possible and shall make their award in writing; where the referees are unable to agree they may refer the case to an umpire and may include the umpire's fee in any award of costs.

POLICY IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

FINANCIAL IMPLICATIONS

- 6. The *Local Government (Appeals to Building Referees) Regulations 1961* prescribe that a fee of \$100 be paid to the referee for their service. It is unclear what costs may be awarded to the successful party in the appeal, as prescribed by the regulations. The *Local Government (Miscellaneous Provisions) Act 1960*, at section 430(1)(b) allows the referees to make such order as to costs, charges and expenses as they think fit
- 7. The *Local Government (Miscellaneous Provisions) Act 1960* further states that the eligibility requirements for referees are that they “*are an architect, engineer or surveyor of known ability and they are not an employee or member of the Council.*” At Section 431(1) of the Act, it is stated that a referee is “*entitled to receive for his/her time the fee prescribed by the regulations and from the party by whom he/she is appointed such other remuneration, allowances or expenses as are reasonable for his/her services*”. Council also needs to determine if it wishes to have legal representatives assist in presenting the appeal case to the referees.

STRATEGIC IMPLICATIONS

- 8. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

- 9. Staff are seeking to gain a better understanding of the appeals process to the Building Referees and the calibre of person expected to be appointed as a referee, when Council is called upon to announce their appointment. One option that Council may wish to pursue is to have the Department of Housing and Works provide a shortlist of candidates from which the City’s appointment can be selected.
- 10. With the limited time frames provided through the regulations, it is requested that Council delegate to the Chief Executive Officer the responsibility of appointing the City’s candidate as an appeal referee.

RECOMMENDATION

THAT Council, pursuant to clause 5.42 of the Local Government Act 1995, delegate to the Chief Executive Officer the function of appointing a referee to review Mrs L Robert’s appeal under the Local Government (Appeals to Building Referees) Regulations 1961 against the Section 401 Notice, requiring the retaining wall at 11 Festing Street to be demolished, and that the Chief Executive Officer be encouraged to seek a short list of suitable candidates from the Minister for Housing and Works.

Voting Requirement Absolute Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued.

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR JAMIESON**

THAT Council;

- i) pursuant to clause 5.42 of the Local Government Act 1995 delegate to the Chief Executive Officer the function of appointing a referee to review Mrs Roberts appeal under the Local Government (Appeals to Building Referees) Regulations 1961 against the section 401 Notice requiring the retaining wall at 11 Festing Street to be demolished, and direct the Chief Executive Officer to make the appointment from a short list of four independent structural engineers provided on request by the President of the Institution of Engineers Australia (WA Division); and**
- ii) request the Chief Executive Officer to furnish Councillors with a list of all the items to be submitted to the referees and the Minister of Housing in support of Council's resolution under Item 18.1 of the Ordinary Meeting of Council held on 15th June 2004.**

MOTION LOST 2-11

Reason:

- The review should be capable of being seen by all affected parties as free from any possibility of bias.

It was requested that names be recorded:

For the Motion: Councillors Paver and Jamieson

Against the Motion: Councillors Sankey, Bojcun, Emery, Wellington, Waterman, Williams, Evans, Wolfe, Barton, Demarteau and Mayor Goode.

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR WELLINGTON**

THAT Council, pursuant to clause 5.42 of the Local Government Act 1995, delegate to the Chief Executive Officer the function of appointing a referee to review Mrs L Robert's appeal under the Local Government (Appeals to Building Referees) Regulations 1961 against the Section 401 Notice, requiring the retaining wall at 11 Festing Street to be demolished, and that the Chief Executive Officer be encouraged to seek a short list of suitable candidates from the Minister for Housing and Works.

**MOTION CARRIED 11-2
ABSOLUTE MAJORITY**

11.2 INSPECTION SERVICES

Nil.

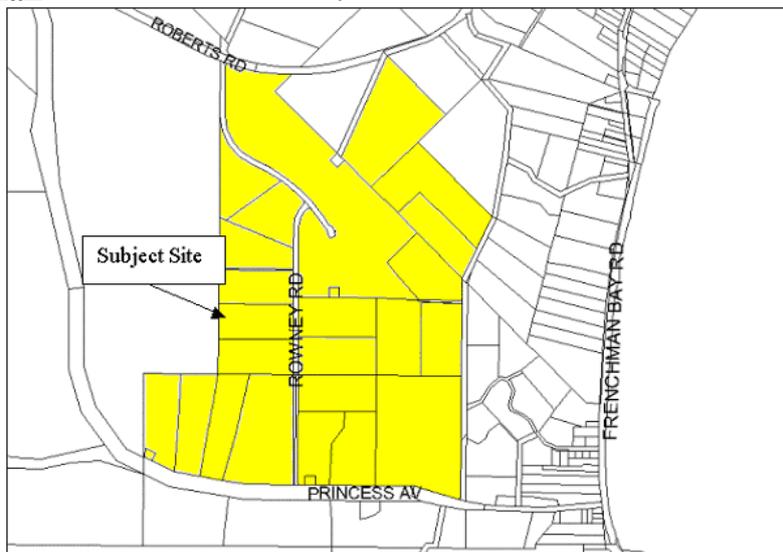
DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

11.3.1 Final Approval On Scheme Amendment – Special Rural Area No 10

- File/Ward** : A175861A (Vancouver Ward)
- Proposal/Issue** : Grant Final Approval to Amendment to modify subdivision guide plan for Special Rural Area No 10
- Subject Land/Locality** : Lots 67, 11, 12, 106, 107, 108 & 109 Home Rd, Lots Pt 2480, 124, 122, 150 & 121 Princess Avenue and Lots 110, 113, 114, 115, 116, 119, 120 & 123 Rowney Road, Robinson
- Proponent** : Ayton Taylor Burrell
- Owners** : Various
- Reporting Officer(s)** : Planning Officer – Policy (R Hindley)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/10/2003 – Item 11.3.4
OCM 17/02/2004 – Item 11.3.6
- Summary Recommendation** : Grant final approval subject to modifications
- Bulletin Attachment** : Scheme Amendment document & submissions

Locality Plan :



DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

BACKGROUND

1. At its meeting of the 17th February 2004:

“THAT, subject to a modification to retain a minimum 15 metre setback to all lot boundaries, Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:
 - i) *modifying the subdivision guide plan for Special Rural Area No. 10; and*
 - ii) *modifying the provisions for Special Rural Area No. 10 to reflect a reduced minimum lot size to 2 hectares.”*
2. The amendment was assessed by the Environmental Protection Authority (EPA) as “Scheme Not Assessed (no appeals)” and was advertised for public inspection until 10th June 2004.
3. After formal advertising had been finalised the proposal was referred to land owners for additional comment until 23rd July 2004.
4. At the close of the advertising periods 19 submissions had been received (refer to the Elected Members’ Report/Information Bulletin for a copy of each submission).
5. The amendment seeks to apply a minimum lot size of 2 hectares to the subject lots which is in accordance with the requirements of Priority 2 classification given to the site by the South Coast Water Reserve.
6. A copy of the amendment documents was included in Council’s February agenda and is available on request.

STATUTORY REQUIREMENTS

7. Section 7 of the Town Planning and Development Act provides the mechanism for a Town Planning Scheme to be amended. Council must resolve to initiate a scheme amendment and then place the amending documents on public display. Any comments received must be considered by Council and a recommendation made to the Minister for Planning and Infrastructure on the course of action Council wishes to pursue (this is where this application currently sits in the process). Council can seek to progress the amendment without change, it can modify the amending documents to reflect the submissions received or it can recommend that the rezoning not proceed.
8. If Council resolves to decline to proceed with the rezoning or to grant final approval to the amendment, with or without modifications, the documents are then referred to the Minister for Planning and Infrastructure. The Minister can accept Council’s recommendation or she can require her own modifications to the documents prior to them being gazetted and coming into force. The Minister can also decline to withdraw from the rezoning if she considers Council’s decision is not consistent with orderly planning.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

POLICY IMPLICATIONS

9. There are various policies and strategies that have relevance to this proposal. They include:
 - The State Planning Strategy;
 - Statement of Planning Policy No. 1 - State Planning Framework Policy (Variation No. 1) (SPP 1);
 - The Albany Regional Strategy (1994);
 - The Local Rural Strategy (1996); and
 - South Coast Water Reserve – Public Drinking Water Source Area (2001)
10. The purpose of SPP 1 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.
11. The subject site is located within Princess Royal Harbour Precinct 3 of the City's Local Rural Strategy. The policy statement for this precinct states that Council will consider requests for rezoning to Special Rural and subsequent subdivision, with an average of one (1) lot per 2.0 hectares, subject to compliance with relevant general policies and proponents being able to demonstrate that the constraints and land management needs can be overcome/met.
12. The Local Rural Strategy seeks to encourage and facilitate development which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits.
13. South Coast Water Reserve – Public Drinking Water Source Area (2001) identifies Special Rural Area No 10 as falling within the Priority 2 area. Within this area subdivision down to 2 ha is supported subject to the following:
 - *Lots should only be created where land capability allows effective on-site soakage disposal of treated wastewater. Conditions apply to siting of wastewater disposal systems in areas with poor land drainage and / or a shallow depth to groundwater, animals are held or fertiliser is applied. Alternative wastewater treatment systems, where approved by the Health Department, may be accepted with maintenance requirements.*
 - *An average rather than minimum lot size may be acceptable if the proponent can demonstrate that the water quality objectives of the source protection area are met, and caveats are placed on titles of specified blocks stating that further subdivision cannot occur.*

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

16. This amendment modifies the existing subdivision guide plan to reflect a reduction in the minimum lot size to 2 hectares for ‘Special Rural Zone No. 10’. The provisions relating to this zone are also modified to reflect the requirements of a 2-hectare minimum lot size.
17. The Water Corporation identified that bore 4/98 does not have a wellhead protection area delineated on the Subdivision Guide Plan. The Subdivision Guide Plan needs to be modified to address this oversight.
18. FESA expressed a desire to expand the fire water system by including a fire hydrant system where reticulated water exists.
19. The applicant, in response to landowner concerns, lodged a submission requiring minor modifications be made to the subdivision guide plan. The proposed changes meet minimum lot size requirements and are considered acceptable.
20. Concern was raised by a number of landowners over the location of one of the strategic firebreaks. In response to this the layout of strategic firebreaks were reviewed and it was determined that the subject firebreak could be removed thus addressing these concerns.
21. A Schedule of Submissions has been prepared and attached in which Staff have prepared a draft comment and recommendation for Council’s consideration.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

RECOMMENDATION

THAT;

- i)** Council grant final approval to Amendment 235 to the City of Albany Town Planning Scheme No. 3 to modify the subdivision guide plan and associated provisions for ‘Special Rural’ Zone No. 10 subject to the following modifications;
 - a) modify the subdivision guide plan to reflect an exclusion area for bore 4/98;
 - b) modify the subdivision guide plan to reflect the revised lot layout;
 - c) modify the subdivision guide plan by deleting the bridleway and strategic fire break in the northern portions of Lots 121, 150, 123 and Pt 2480 Princess Avenue; and
 - d) modify amending text to reflect a requirement for fire hydrants where reticulated water is provided;
- ii)** the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either Noted, Upheld or Dismissed as detailed; and
- iii)** the amending documents be appropriately signed in accordance with Section 7 of the Town Planning and Development Act and then forwarded to the Minister for Planning and Infrastructure for execution and gazettal.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR BOJCUN**

THAT;

- i)** Council grant final approval to Amendment 235 to the City of Albany Town Planning Scheme No. 3 to modify the subdivision guide plan and associated provisions for ‘Special Rural’ Zone No. 10 subject to the following modifications;
 - a) modify the subdivision guide plan to reflect an exclusion area for bore 4/98;
 - b) modify the subdivision guide plan to reflect the revised lot layout;
 - c) modify the subdivision guide plan by deleting the bridleway and strategic fire break in the northern portions of Lots 121, 150, 123 and Pt 2480 Princess Avenue; and
 - d) modify amending text to reflect a requirement for fire hydrants where reticulated water is provided;
- ii)** the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either Noted, Upheld or Dismissed as detailed; and
- iii)** the amending documents be appropriately signed in accordance with Section 7 of the Town Planning and Development Act and then forwarded to the Minister for Planning and Infrastructure for execution and gazettal.

MOTION CARRIED 12-1

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

**Town Planning & Development Act 1928 (As Amended) TPS3
Proposed Amendment No. 235
Schedule of Submissions**

Submission No.	Ratepayer/Resident or Agency	Submission	Comment	Recommended Decision
1.	Water Corporation PO Box 915 ALBANY WA 6330	Require buffer to be established for bore 4/98	Modify the Subdivision Guide Plan	UPHELD
2.	FESA 74 Chester Pass Road ALBANY WA 6330	Request the expansion of the fire water system through the installation of hydrants where reticulated water exists.	Modify amending text to reflect requirement	UPHELD
3.	Western Power South Country Services Branch Boyanup-Picton Rd PICTON WA 6229	No objection to the proposal	Noted	NOTED
4.	Department of Environment PO Box 525 ALBANY WA 6331	No objection to the proposal	Noted	NOTED
5.	Ray Atwell Princess Avenue TORINDIRUP WA 6330	a) Objects to horse trails through his land b) Objects to others gaining road access through his land	a) Modifications to bridleways submitted by Ayton Taylor Burrell. b) The amendment utilises existing road reserves.	UPHELD DISMISSED
6.	Ayton Taylor Burrell 11 Duke Street ALBANY WA 6330	a) Refer to submissions 5a b) Minor variations to lot layouts to take into account site characteristics	a) Refer to submissions 5a b) Modify the Subdivision Guide Plan	UPHELD UPHELD
7.	Marcus Geneve & Mandy Curnow 83 Wilson Street LITTLE GROVE WA 6330	Requests the strategic firebreak along the northern boundary of Pt 2480 be realigned to take into account the topography and remnant vegetation.	A bridleway was proposed to traverse this strategic firebreak but was removed by an earlier modification. Given the land characteristics it is appropriate to realign the strategic firebreak.	UPHELD
8.	RC Rowney PO Box 872 ALBANY WA 6331	Objects to any delay in amendment	Amendment presented for Final Approval	NOTED

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

Submission No.	Ratepayer/Resident or Agency	Submission	Comment	Recommended Decision
9.	John & Sarah McDouall Lot 109 Rowney Rd ROBINSON WA 6330	Requests the strategic firebreak along the northern boundary of Pt 2480, Lots 123, 150 and 121 be realigned to take into account the topography, soil types and remnant vegetation. Wholly in support of the amendment	Given the land characteristics it is appropriate to realign the strategic firebreak.	UPHELD
10.	D Battersby PO Box 781 ALBANY WA 6331	Refer to submissions 10	Noted	NOTED
11.	Ron & Sandra Scott Lot 114 Rowney Road ALBANY WA 6330	Refer to submissions 10	Refer to submissions 10	NOTED
12.	T Ackley RMB 9678 Albany Highway ALBANY WA 6330	a) Refer to submissions 10 b) Concerned non involved parties are benefiting from amendment	a) Noted b) Not a valid planning concern	NOTED DISMISSED
13.	RC & LL Rowney PO Box 872 ALBANY WA 6331	Refer to submissions 8	Refer to submissions 8	NOTED
14.	LM Burgler Lot 122 Princess Ave ROBINSON WA 6330	Refer to submissions 10	Refer to submissions 10	NOTED
15.	Department of Health PO Box 8172 Perth Bus. Centre WA 6849	No objections subject to buffer between residential development and the sand extraction being to the satisfaction of the Department of Environment a) Refer to Submission 6 b) Refer to Submission 9	EPA did not have any issues with the stipulated buffer	NOTED
16.	Ayton Taylor Burrell 11 Duke Street ALBANY WA 6330	a) Refer to Submission 6 b) Refer to Submission 9	a) Refer to Submission 6 b) Refer to Submission 9	NOTED NOTED
17.	John & Sarah McDouall Lot 109 Rowney Rd ROBINSON WA 6330	a) Refer to Submission 9 b) Major attraction of area was larger 4ha lot size c) Concerned that lot layout does not reflect what is currently on lot	a) Refer to Submission 9 b) Modifications to the requirements for Priority 2 areas allow for a reduction in lot size. Existing lots can be retained at the landowners discretion – there is no onus to subdivide rather the amendment provides the potential. c) Guide plan is indicative and lot boundaries can be sympathetic to	UPHELD DISMISSED NOTED

DEVELOPMENT SERVICES REPORTS

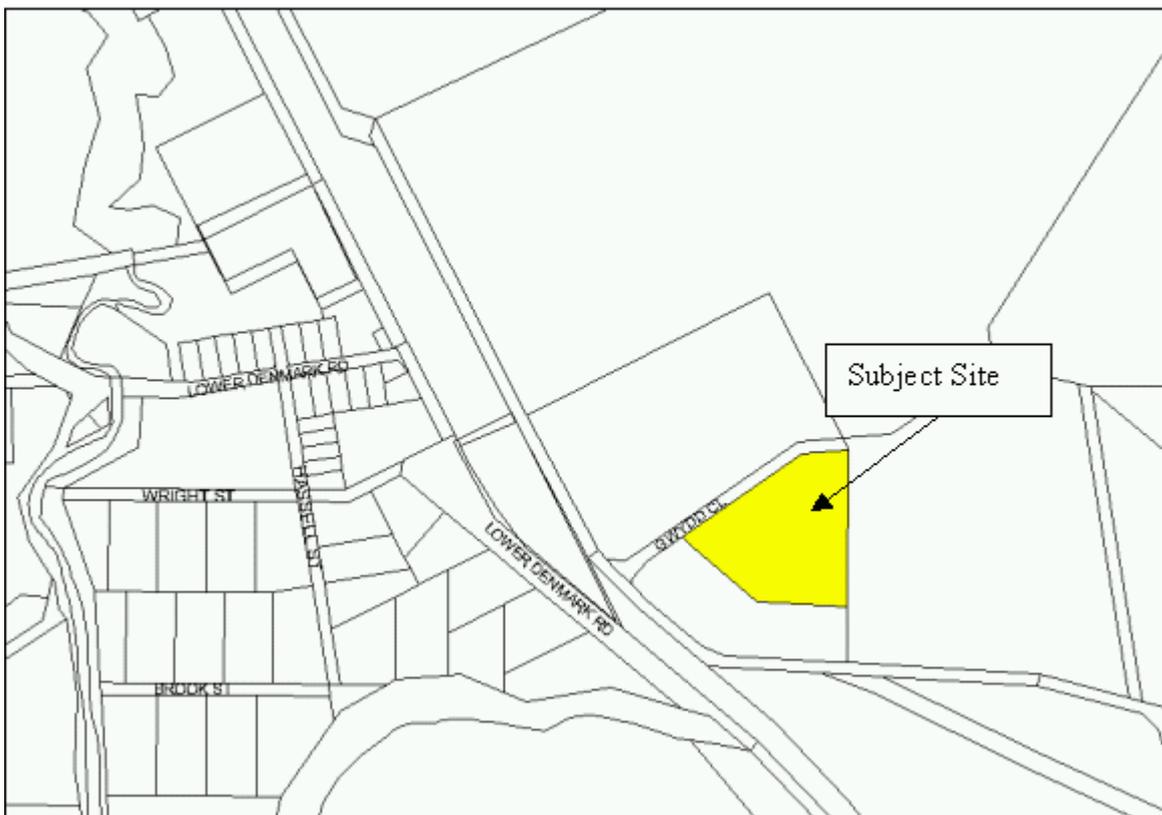
Item 11.3.1 continued

Submission No.	Rate payer/Resident or Agency	Submission	Comment	Recommended Decision
18.	B & J Marsland PO Box 5754 ALBANY WA 6330	<p>d) Concerned that bridle trails that were identified in an earlier plan are not yet in place</p> <p>e) Concerned that further breakdown of lots could occur</p>	<p>existing structures such as outbuildings</p> <p>d) Bridle trails are yet to be established where subdivision has not occurred</p> <p>e) The area is located within a Priority 2 groundwater protection Area and further subdivision is considered an incompatible use within this classification.</p> <p>Refer to submissions 10</p>	<p>DISMISSED</p> <p>NOTED</p> <p>NOTED</p>
19.	Marcus Geneve 83 Wilson Street LITTLE GROVE WA 6330	<p>a) Refer to submissions 7</p> <p>b) Access to proposed lot 36 should be realigned to western boundary to take into account the topography and remnant vegetation</p> <p>c) Lot layout on Pt 2480 should take into account site characteristics</p> <p>d) Bridleways should be opened as soon as possible</p>	<p>a) Refer to submissions 7</p> <p>b) Modify the Subdivision Guide Plan</p> <p>c) Zoning provisions provide capacity to make minor variations to design when subdividing</p> <p>d) Bridleways will be opened as subdivision proceeds</p>	<p>UPHELD</p> <p>UPHELD</p> <p>NOTED</p> <p>NOTED</p>

DEVELOPMENT SERVICES REPORTS

11.3.2 Initiate Scheme Amendment – Loc 7250 Gwydd Close, Elleker

File/Ward	:	A6158A (West Ward)
Proposal/Issue	:	Initiate Amendment to rezone Loc 7250 Gwydd Close, Elleker from ‘Rural’ to ‘Special Use’
Subject Land/Locality	:	Location 7250 Gwydd Close, Elleker
Proponent	:	Ayton Taylor Burrell
Owner	:	AE Taylor
Reporting Officer(s)	:	Planning Officer – Policy (R Hindley)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 21/10/2003 – Item 11.3.3
Summary Recommendation	:	Initiate Amendment
Bulletin Attachment	:	Scheme Amendment documents
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

BACKGROUND

1. At its meeting of the 21st October 2003 Council resolved:

‘THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Location 7250 Gwydd Close, Elleker from ‘Rural’ to ‘Special Use’ subject to the Scheme Amendment addressing the following to the satisfaction of Council:

- i) *detailed Land Capability Assessment;*
- ii) *provision of a potable water supply;*
- iii) *preparation of a Development Guide Plan;*
- iv) *preparation of a Fire Management Plan;*
- v) *protection of remnant vegetation;*
- vi) *provision being made for the primacy of the health use; and*
- vii) *visual amenity (including built form and signage controls).’*

2. The applicant has prepared amendment documents to rezone the site from the ‘Rural’ zone to the ‘Special Use’ zone.
3. The subject site has been developed with a dwelling, chalet and a community /conference centre as part of a health retreat specialising in holistic health.
4. The amendment will facilitate the development of the following uses:
 - Six Chalets
 - Community Centre
 - Consulting Rooms
 - Managers Residence; and
 - Caretakers Accommodation.
5. Council is now required to resolve to amend Town Planning Scheme No 3.
6. A copy of the amending documents is included in the Elected Members’ Report/Information Bulletin

STATUTORY REQUIREMENTS

7. Council’s resolution under the Town Planning & Development Act 1928 and the Town Planning Regulations 1967 is required to amend the Scheme.
8. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
9. 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.
10. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

POLICY IMPLICATIONS

11. There are various policies and strategies that have relevance to this proposal. They include:
 - The State Planning Strategy
 - The Western Australian Planning Commission Statement of Planning Policy No. 1 (SPP 1)
 - The Albany Regional Strategy (1994)
 - The Local Rural Strategy (1996)
12. The purpose of SPP 1 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.
13. The subject site is located within Torbay Precinct 9 of the City's Local Rural Strategy. The policy statement for this precinct states that land use proposals are to be determined in accordance with the general policies.
14. General Policy 46 requires an amendment to be prepared where a proposal proposes more than 3 chalets, if more than one tourism use is proposed or when it becomes the predominant use on the land.
15. The Local Rural Strategy seeks to encourage and facilitate development which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

18. A development guide plan has been prepared showing how the proposed use will build upon existing development on the site.
19. The current use was approved under the 'Rural' zoning however, the further intensification of this use requires the site to be rezoned.
20. The applicant has prepared a bushfire management plan and it has been included within the amendment documentation.
21. Should Council resolve to initiate this amendment and the EPA determine that the amendment is environmentally acceptable, notice will be forwarded to all relevant agencies and affected landowners inviting comment.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

22. The detail provided in the amendment documents addresses the issues raised in response to the earlier Scheme Amendment Request that was considered by Council at its 21st October 2003 meeting. Based on this, the request to initiate this amendment is supported.

RECOMMENDATION

THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany's Town Planning Scheme No. 3 by:

- i) rezoning Location 7250 Gwydd Close, Elleker from 'Rural' to 'Special Use Zone';
- ii) incorporating 'Special Use Zone' Code No. 16 and associated provisions into Schedule III of the Scheme Text; and
- iii) amending the Scheme Maps accordingly.

Voting Requirement Simple Majority

.....

<p>MOVED COUNCILLOR WOLFE SECONDED COUNCILLOR EMERY</p> <p>THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany's Town Planning Scheme No. 3 by:</p> <ul style="list-style-type: none">i) rezoning Location 7250 Gwydd Close, Elleker from 'Rural' to 'Special Use Zone';ii) incorporating 'Special Use Zone' Code No. 16 and associated provisions into Schedule III of the Scheme Text; andiii) amending the Scheme Maps accordingly. <p style="text-align: right;">MOTION CARRIED 13-0</p>

11.4 RESERVES PLANNING

Nil.

DEVELOPMENT SERVICES REPORTS

11.5 DEVELOPMENT SERVICE COMMITTEES

11.5.1 Mt Martin Regional Botanic Park Advisory Committee Minutes – 7th July 2004

- File/Ward** : MAN 072 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration
- Reporting Officer(s)** : Executive Director Development Services (R Fenn)
- Summary Recommendation** : That the Minutes of the Mt Martin Regional Botanic Park Advisory Committee held on the 7th July 2004 be received.

COMMENT/DISCUSSION

Amongst the matters considered by the Committee it was resolved that Mount Martin Regional Botanic Advisory Committee is supportive of Gull Rock R27107 being vested to the Conservation Commission of Western Australia given that appropriate discussion and community consultation and involvements is sought in regard to:-

- Reserve accessibility;
- Fire management (particularly in regard to Spring burning); and
- The development of a local community reference group.

RECOMMENDATION

THAT;

- i) the minutes of the Mt Martin Regional Botanic Park Advisory Committee held on 7th July 2004 be received (copy of minutes are in the Elected Members' Report/ Information Bulletin); and
- ii) a report be submitted to the September meeting of Council on the long term vesting of the Gull Rock and Mount Martin Reserves.

Voting Requirement Simple Majority

.....

Chief Executive Officer left the Chambers at 8.05pm.

**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR WELLINGTON**

THAT;

- i) the minutes of the Mt Martin Regional Botanic Park Advisory Committee held on 7th July 2004 be received (copy of minutes are in the Elected Members' Report/ Information Bulletin); and
- ii) a report be submitted to the September meeting of Council on the long term vesting of the Gull Rock and Mount Martin Reserves.

MOTION CARRIED 13-0

Corporate & Community Services

REPORTS

- R E P O R T S -

12.1 FINANCE

12.1.1 List of Accounts for Payment – City of Albany

File/Ward	:	FIN 040 (All Wards)
Proposal/Issue	:	N/A
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Manager of Finance (S Goodman)
Disclosure of Interest	:	Nil.
Previous Reference	:	N/A
Summary Recommendation	:	Approve accounts for payment
Bulletin Attachment	:	Summary of Accounts
Locality Plan	:	N/A

COMMENT/DISCUSSION

1. The list of accounts for payment for the City of Albany is included in the Councillor Report/Information Bulletin and contains the following:-

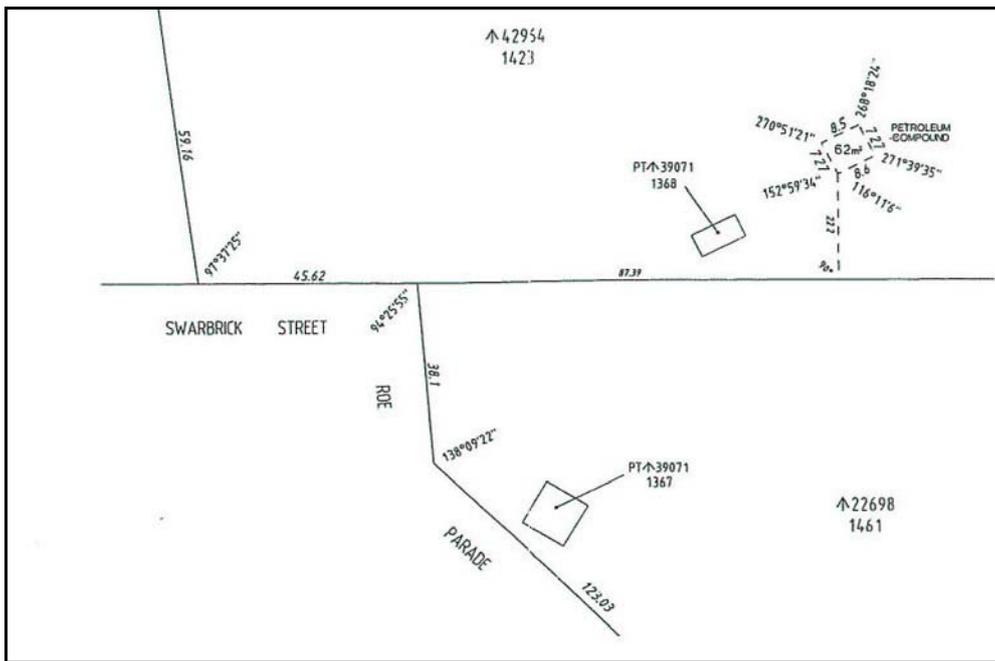
Municipal Fund			
Cheques	totalling	189,420.49	
Electronic Fund Transfer	totalling	2,836,344.22	
Payroll	totalling	654,477.34	
TOTAL			<u>\$3,680,242.05</u>

2. As at 30th July 2004, the total outstanding creditors, stands at **\$1,354,275.86.**

12.2 ADMINISTRATION

12.2.1 Surrender of Lease – R & JK Petroleum Pty Ltd – Portion of Reserve 42964 (originally part of Reserve 22698)

- File/Ward** : PRO 051 (Breaksea Ward)
- Proposal/Issue** : Surrender of Lease
- Subject Land/Locality** : Portion of Reserve 42964 and portion Lot 1423
- Proponent** : R & JK Petroleum Pty Ltd
- Owner** : Crown Land (Managed by City of Albany)
- Reporting Officer(s)** : Corporate Services Officer (A Wiseman)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : That Council approves the surrender of lease for R & JK Petroleum Pty Ltd effective from 31st October 2003.
- Bulletin Attachment** : Nil
- Locality Plan** :



Item 12.2.1 continued.

BACKGROUND

1. An application for Surrender of Lease has been received from R & JK Petroleum. There is still another 12 months remaining on the term, with the lease being for a 5 year period, which commenced on 4 September 2000 and expires on 3 September 2005.
2. The reason for the surrender of lease is because R & JK Petroleum is unable to comply with requests made by the Department of Planning and Infrastructure with regards to licensing requirements for the Emu Point Refuelling Facility and has removed the equipment.

STATUTORY REQUIREMENTS

3. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
4. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
5. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural; educational, recreational, sporting or other like nature.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. All costs associated with the Surrender of Lease and removal of all equipment on the site (including any site and soil assessments required) are to be borne by R & JK Petroleum.

STRATEGIC IMPLICATIONS

8. This complies with Council’s Albany 2020, which in part states as follows:

Managed healthy land/harbour environment – To manage reserves for environmentally sustainable use, community enjoyment and benefit.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.2.1 continued.

COMMENT/DISCUSSION

9. It is recommended that the City of Albany agree to R & JK Petroleum's request to surrender their lease effective from 31 October 2003, which is when the refueling facility was shut down and removed from the reserve.
10. The City of Albany has only just received an Environmental Site Assessment of the demolished aboveground diesel tank facility with soil/groundwater laboratory sampling from Hydrocarbon Remedial Services Pty Ltd, which was conducted in April 2003 and confirms that the lease site has minimal contaminants. In summary their results were as follows:
 - Soils consist of an upper 0.3-m brown pebble rock gravel, and a lower pale cream fine/medium grained sand. Groundwater was encountered at 0.6-0.7mBGL. Underlying soils consisted of pale grey medium grained sand below the groundwater table. All pebble rock backfill was clean and free from odours or staining. Slight diesel odours were detected within deeper soil strata about the mideastern side of the former fence line (Soil Bores SE and NE) – possibly affected from contaminants flushed into the soils from the eastern carpark drainage pipe. Soils beneath the former tank and the western side were clean and free from odour.
 - Minor diesel fuel contaminants were detected in 1 soil and 2 groundwater samples. Maximum soil contaminants were 90mg/kg within Soil Bore NE, with maximum groundwater contaminants of 310 ug/L detected within the same bore. Groundwater contaminants of 280 ug/L were detected within Soil Bore SE. Concentrations are minor in nature, and may be unduly affected by other outside influences. Car-park stormwaters are flushed into the subsurface less than 3 metres away, and due to the large surface area of car park; the low level of contaminants could easily be attributed to car-park fuel stormwater contaminants, than the diesel tank facility.
 - No Polycyclic Aromatic Hydrocarbons (PAH) or other fuels were detected. No light-chain hydrocarbons were detected, verifying that petrol contaminants are not of concern. Heavy metal analysis was not required due to the storage of diesel only. Diesel fuel contaminants are negligible and not at concentrations that would cause concern, meeting all Department of Environmental Protection soil/groundwater quality guidelines. Soils and groundwater would not warrant further monitoring, and not be classified as contaminated.

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.2.1 continued.

- Areas about the former fuel pump and aboveground piping were monitored by Soil Bores NW and CEN. Soil and groundwater analysis about both positions was free from hydrocarbon contaminants, and below the limits of detection. All other surfaces beneath the fuel piping consisted of concrete or wooden piers. Should spillage have occurred, there would have been indications of concrete adsorption and sheens to the surfaces-including wooden planking. An inspection of the soil, concrete, and wooden planking were free from spillage, with a picture reproduced within the next section documenting the clean status of concrete.
- Photographs were reproduced to document the removal of all peripheral equipment, and the clean condition of backfill gravels. Site decommissioning has physically removed all clamps, brackets, concrete bunding and meal structures, resulting in a clean and tidy appearance. The site has negligible pollutant liability, and can be returned to shire control. Due to the previous licence registrations with the Department of Minerals & Energy (DOME), they still require official notification of site demolition, with no further need for a Flammable Goods Storage License.

RECOMMENDATION

THAT subject to Ministerial approval Council agree:-

- i) to the request from R & JK Petroleum to surrender their lease effective from 31st October 2003; and
- ii) all costs associated with the surrender of lease be borne by the applicant.

Voting Requirement Simple Majority

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR WELLINGTON**

THAT subject to Ministerial approval Council agree:-

- i) to the request from R & JK Petroleum to surrender their lease effective from 31st October 2003; and**
- ii) all costs associated with the surrender of lease be borne by the applicant.**

MOTION CARRIED 13-0

12.2.2 Proposed New Leases for new Aircraft Hangar Sites

File/Ward : PRO 330 & PRO 311 (Kalgan Ward)

Proposal/Issue : New Leases

Subject Land/Locality : Portion of Location 5650 Albany Highway
(Harry Riggs Regional Airport)

Proponent : Curtis Reimers & Vince Calleja

Owner : City of Albany

Reporting Officer(s) : Corporate Services Officer (J Twaddle)

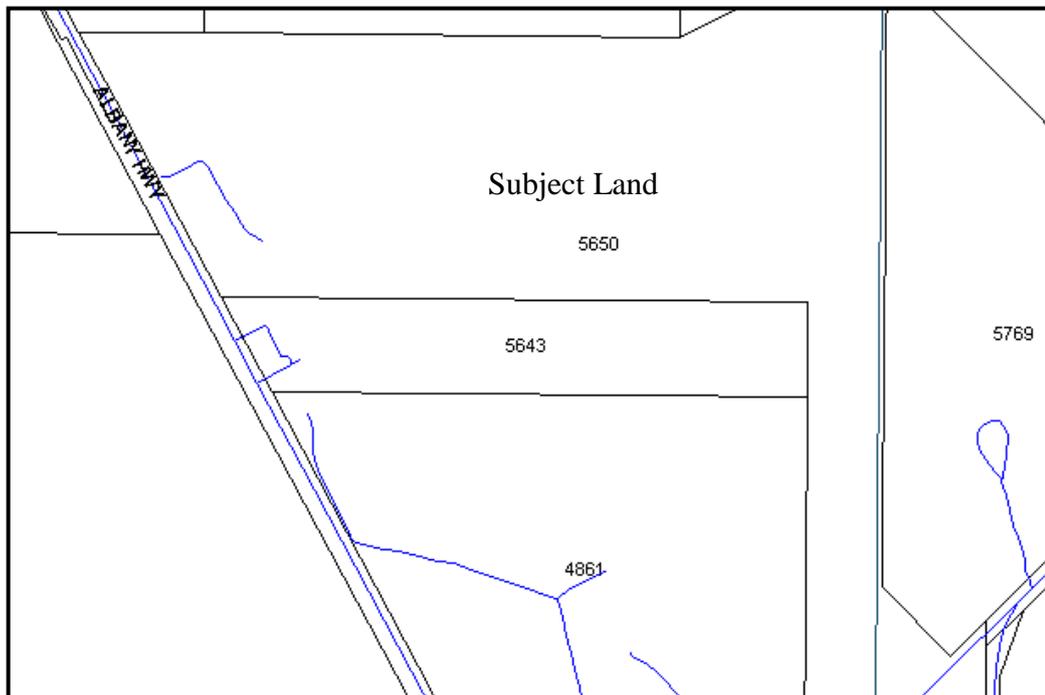
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : That Council approve the request for new leases to be prepared for 10 year terms from 1 October 2004.

Bulletin : Nil

Locality Plan :



Item 12.2.2 continued.

BACKGROUND

1. The City of Albany has recently released five new sites at the Harry Riggs Regional Airport for the construction of Aircraft accommodation.
1. Requests have been received from Mr Curtis Reimers and Mr Vince Calleja for Council to consider granting lease agreements for 10 year terms, for portions of Location 5650, at the Harry Riggs Regional Airport.
2. Location 5650 is located on City of Albany freehold land adjacent to the Airport Terminal on Certificate of Title Volume 2158 Folio 588.

STATUTORY REQUIREMENTS:

4. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue leases over properties, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
5. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed dispositions and invite submissions on the proposal.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

11. All costs associated with these proposed new leases are to be borne by the applicants.

STRATEGIC IMPLICATIONS

12. This request complies with Council’s ‘Albany 2020’, which in part states as follows:

“Transport systems and services designed to meet current and future needs – To plan Albany’s transport infrastructure to meet future needs complementary to the City’s form and sense of place.”

COMMENT/DISCUSSION

13. A recent valuation of the five sites has determined an open market rental value of \$5.50 per square metre per annum. Site 28 on Location 5650 has dimensions of 18 x 14 metres and is valued at \$1386.00 per annum subject to GST. Site 32 on Location 5650 has dimensions of 12.9 x 18 metres and is valued at \$1277.10 per annum subject to GST.

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.2.2 continued.

16. Mr Reimers and Mr Calleja will construct aircraft hangars on the sites at their own expense, subject to appropriate approvals and licences being obtained.
17. Mr Reimers and Mr Calleja will be responsible for ongoing maintenance and insurance of all buildings within the leased areas.
18. All costs relating to the Leases, including connection to various services, are to be borne by the applicants.

RECOMMENDATION

THAT subject to no submissions being received as a result of advertising, Council agree:

- i) to a new lease for Mr Curtis Reimers being prepared for a period of 10 years, from 1 October 2004 to 30 September 2014 on a portion of Location 5650 at the Harry Riggs Regional Airport with a rental review being conducted in the fifth year (2009);
- ii) to a new lease for Mr Vince Calleja being prepared for a period of 10 years, from 1 October 2004 to 30 September 2014 on a portion of Location 5650 at the Harry Riggs Regional Airport with a rental review being conducted in the fifth year (2009);
- iii) the rentals be set at \$1386.00 (Site 28) and \$1277.10 (Site 32) per annum, subject to GST, in accordance with the independent sworn valuation;
- iv) the leases be prepared in accordance with Council's standard leasing terms and conditions, with all maintenance, repairs, insurance and service connection costs being the responsibility of the applicants;
- v) a clause be entered into the agreements, that no compensation be paid to the Lessees should they be affected by any future redevelopment of the Harry Riggs Regional Airport;
- vi) all fees associated with these leases be payable by applicants; and
- vii) the Common Seal of the City of Albany be affixed to the documentation.

Voting Requirement Simple Majority

.....

Item 12.2.2 continued.

**MOVED COUNCILLOR JAMIESON
SECONDED COUNCILLOR WATERMAN**

THAT subject to no submissions being received as a result of advertising, Council agree:

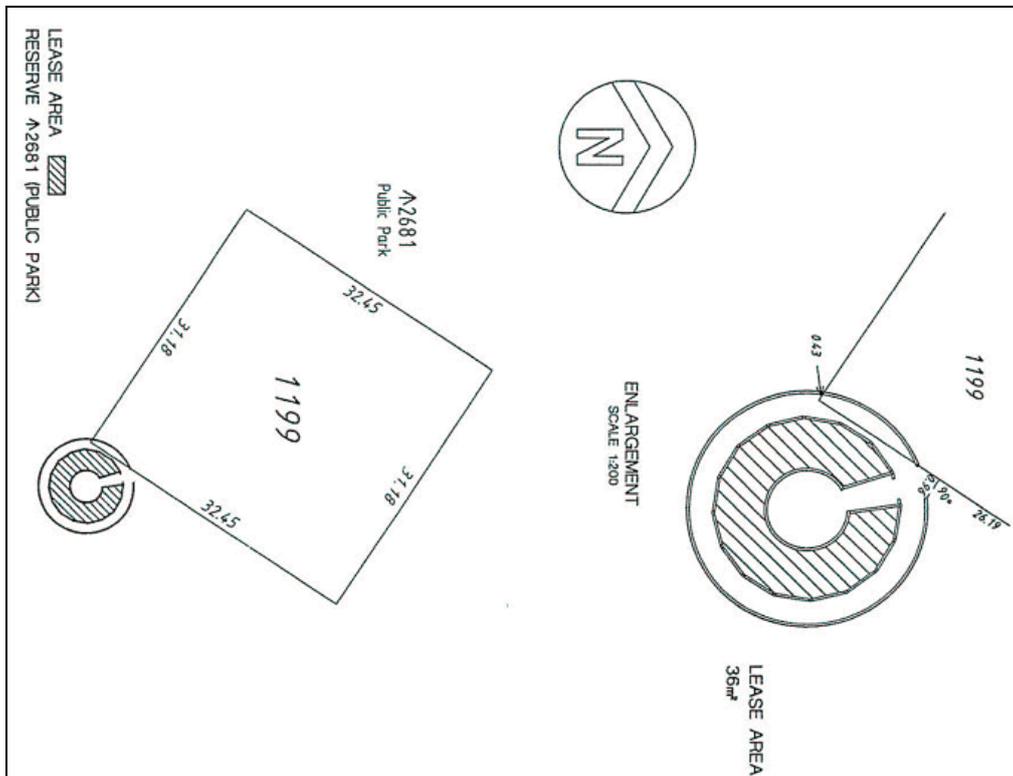
- i) to a new lease for Mr Curtis Reimers being prepared for a period of 10 years, from 1 October 2004 to 30 September 2014 on a portion of Location 5650 at the Harry Riggs Regional Airport with a rental review being conducted in the fifth year (2009);**
- ii) to a new lease for Mr Vince Calleja being prepared for a period of 10 years, from 1 October 2004 to 30 September 2014 on a portion of Location 5650 at the Harry Riggs Regional Airport with a rental review being conducted in the fifth year (2009);**
- iii) the rentals be set at \$1386.00 (Site 28) and \$1277.10 (Site 32) per annum, subject to GST, in accordance with the independent sworn valuation;**
- iv) the leases be prepared in accordance with Council's standard leasing terms and conditions, with all maintenance, repairs, insurance and service connection costs being the responsibility of the applicants;**
- v) a clause be entered into the agreements, that no compensation be paid to the Lessees should they be affected by any future redevelopment of the Harry Riggs Regional Airport;**
- vi) all fees associated with these leases be payable by applicants; and**
- vii) the Common Seal of the City of Albany be affixed to the documentation.**

MOTION CARRIED 13-0

Chief Executive Officer returned to the Chambers at 8.07pm.

12.2.3 New Lease – Reserve 2681 Mt Melville Lookout

- File/Ward** : PRO 060 (Frederickstown Ward)
- Proposal/Issue** : New Lease
- Subject Land/Locality** : Reserve 2681 – JA Barnesby Memorial Lookout at Mt Melville
- Proponent** : Gordon Gibbon
- Owner** : Crown Land (Managed by City of Albany)
- Reporting Officer(s)** : Administration Officer (A Wiseman)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : THAT Council agree to enter into a new lease with Gordon Gibbon for the area formerly used as the Mt Melville Kiosk on Reserve 2681.
- Bulletin Attachment** : Nil
- Locality Plan** :



Item 12.2.3 continued.

BACKGROUND

1. The City of Albany called for registrations of interest to lease a portion of the JA Barnesby Memorial Lookout on a portion of Reserve 2681, previously utilised as a kiosk. At the end of the advertising period on 26 July 2004 only 2 submissions were received.
2. Reserve 2681 is owned by the Crown, managed by the City of Albany with power to lease for periods up to and including 21 years for the purpose of ‘Public Park’.

STATUTORY REQUIREMENTS:

3. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
4. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
5. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.
6. This lease is clearly a commercial operation and therefore the proposed disposition of land is not exempt from the provisions of Section 3.58 of the Act.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

8. All costs associated with any proposed lease are to be borne by the applicant including any legal, survey and advertising fees.

STRATEGIC IMPLICATIONS

9. This request complies with Council’s ‘Albany 2020’, which in part states as follows:

“The continual development of Council services and facilities to meet the needs of all stakeholders – To provide communities with quality buildings that are functional, well-maintained and meet social and cultural needs (Leases on Council buildings)”.

Item 12.2.3 continued.

COMMENT/DISCUSSION

10. Two submissions were received to lease the Mt Melville lease site of 36m², which was previously used for the purpose of operating a kiosk. One registration of interest was from Reece McLean who proposes to utilise the lease site for a coffee shop and art gallery displaying local artists and produce. The other registration of interest was from Gordon Gibbon who proposes to use the lease site to display fine art and craft from this region, local goods and produce for sale, variety of drinks and health snacks, and provide tourist information in conjunction with the Albany Visitor Centre.
11. A copy of both submissions are attached to the rear of this report.

RECOMMENDATION

THAT based on the information provided, Council agree to enter into preliminary negotiations to lease a portion of the JA Barnesby Memorial Lookout on Reserve 2681 to Gordon Gibbon. Once the term of lease, rental amount and other conditions have been discussed further Council approval be sought prior to entering into a new lease agreement.

Voting Requirement Simple Majority

.....

<p>MOVED COUNCILLOR WILLIAMS SECONDED COUNCILLOR PAVER</p> <p>THAT based on the information provided, Council agree to enter into preliminary negotiations to lease a portion of the JA Barnesby Memorial Lookout on Reserve 2681 to Gordon Gibbon. Once the term of lease, rental amount and other conditions have been discussed further Council approval be sought prior to entering into a new lease agreement.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p>
--

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

CITY OF ALBANY RECORDS	
FILE:	P20060
FILE:	
26 JUL 2004	
DOC:	IC2406784
CR-NO:	C0501
ATTACH:	

REGISTRATION OF INTEREST
TO LEASE
THE FORMER MT MELLVILLE KIOSK
BY
GORDON GIBBON

Gordon Gibbon
65 Hillman Street
Spencer Park
Albany 6330

Monday 26 July 2004

Mr Andrew Hammond
Chief Executive Officer
City Of Albany
PO Box 484
Albany WA 6331

REF: PRO 060

Registration of Interest to Lease The Former Mt Melville Kiosk

Frequent walks around the Mt Melville summit reveal the overwhelming beauty and breathtaking views, the best in the state and possibly this Country. The Flora and fauna add to those views and give an individual touch... and then one comes across the John A Bannister Memorial lookout..... Even when the kiosk was operating it looked more like a fortress, most uninviting! Now the site looks neglected and run down with obvious lack of image and desperate for a bit of TLC.

I propose to Develop Mt Melville as a tourist "hot spot" with an identity that shows a city proud of its assets. To promote locally produced arts, goods and services, giving the site the attention it duely needs including organizing

community projects and with an emphasis on the
word - WELCOME - with a ☺ (smiley face)

In a recent phone conversation with Mr Peter Madigan,
he explained the terms of the lease which I
agree with fully. My past experience shows that
I am more than capable of taking on a project
of this size.

Please find attached a brief list of my intentions
and a few personal details which I hope will
be of assistance in your decision making process.

I will be available to start clearing / maintenance
duties immediately, whilst redecorating and upgrading
the lease site will take one to three months before
it becomes fully operational.

Thankyou for your time and consideration,

Gordon Alan Gibbon

Proposed Intentions for the Former Mt Melville
Kiosk Site

1. A site specific logo (incorporating City of Albany) for advertising purposes and to give a specific identity to the Mt Melville Lookout.
2. To display fine art and craft from our region for sale, with assistance from the Vancouver Arts Centre.
3. Provide quality local goods / produce for sale
ie. bottle oils, perfume, preserves, bagged sweets
a small amount of clothing and accessories and
souvenirs with logo.
4. Brewed tea and coffee and cold drinks available for sale with health orientated snacks and cakes
5. Provide tourist information in conjunction with the Albany Visitor Centre
6. Provide regular thorough cleaning of memorial site and public areas immediate to site.
7. Provide all minor maintenance to site and public areas immediate to site
8. Upgrade Signage and promote walkways
9. Promote and organize community projects
ie clean up day, removal of noxious weeds etc.

Personal Details

Gordon Alan Gibbon
phone mobile 0428 172 649

Residential Address : 65 Hillman Street
Spencer Park
Albany WA 6330

PHONE NUMBER : 98425282

EMPLOYED BY : SHIRE OF CRANBROOK
AS : Parks gardens and reserves manager
PERIOD : Seven years

Experience / Certificates : Horticulture and associated
First aid
Occupational Safety and Health Representative
New Enterprise Incentive Scheme Cert.
Restaurant and Business management experience

Community : Cranbrook Mownscape committee
Volunteer fire fighter
Fredrick square steering committee
Cranbrook walking group

References CRANBROOK : CEO. Graham Stanley
DCEO. Martin Cuthbert
Works man. Rod Crabb
Works sup. Jack Childs
Shire President. Nick Burgess
Cr. Jan Pope
Cr. Bennie Climie

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
 ** REFER DISCLAIMER **
 CORPORATE & COMMUNITY SERVICES REPORTS

Reece McLean
 P.O. Box 5402
 ALBANY 6332

CITY OF ALBANY RECORDS	
FILE:	PRO 060
FILE:	
27 JUL 2004	
DOC:	JUL06783
OFFICE:	CSO
ATTACH:	

Ph: 9844 574
 Mo: 0428 44 574

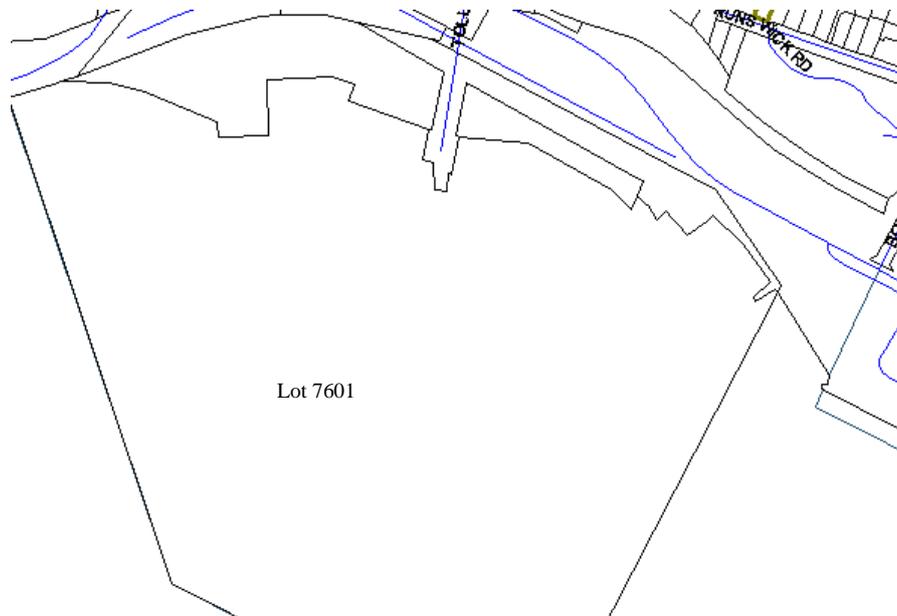
To whom it may concern,

I wish to register my interest in the site situated at the John A Barnesy Memorial Lookout, with the proposal to open a coffee shop, come art gallery featuring and using all local artists and produce. Maintenance of the carpark area is not seen to be a problem.

Yours faithfully
 Reece McLean
[Signature]

12.2.4 Proposed New Sub-Licences For Albany Town Jetty

File/Ward	:	PRO 293 (Frederickstown Ward)
Proposal/Issue	:	New Sub-Licences
Subject Land/Locality	:	Portion of Lot 7601 Princess Royal Harbour, Albany
Proponent	:	City of Albany
Owner	:	City of Albany
Reporting Officer(s)	:	Corporate Services Officer (J Twaddle)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 16/07/02 - Item 12.2.2
Summary Recommendation	:	That Council approve the request for new licences to be prepared for 5 year terms from 1 July 2004.
Bulletin	:	Nil
Locality Plan	:	



Item 12.2.4 continued.

BACKGROUND

1. In July 2001, Council obtained a Jetty Licence for a portion of Lot 7601 Princess Royal Harbour from the Department for Planning and Infrastructure.
2. On the 1st July 2004 the Department for Planning and Infrastructure varied the Jetty Licence, allowing the City of Albany to levy fees for permanent berths. Up until this time, the City of Albany had not been able to collect fees for these berths.
3. The “Silver Star”, “Sail Away” and “Dive.com” vessels currently berth at the Town Jetty with no fees being levied by the City of Albany.

STATUTORY REQUIREMENTS:

4. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a licence over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
5. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
6. The Jetty Licence states that the Ministers approval must be obtained before any transfer, assignments or new licences can be issued. Approval by the Minister was requested on 2 August 2004.

POLICY IMPLICATIONS

7. These Sub-Licenses will operate in conjunction with the proposed Jetties, Bridges and Boat Pens Local Law 2004.

FINANCIAL IMPLICATIONS

8. All costs associated with the proposed new sub-licences are to be borne by the Sub-Licensees.
9. Sub-Licence fees will be charged as per Council’s 2004/2005 Budget which are:
Princess Royal Harbour

Commercial vessels	Annual Fee less than 20m	per metre	\$212.71
Commercial vessels	Annual Fee over 20m	per metre	\$207.72

All amounts include GST.

Item 12.2.4 continued.

STRATEGIC IMPLICATIONS

10. This request complies with Council’s ‘Albany 2020’, which in part states as follows:

“The continual development of Council services and facilities to meet the needs of all stakeholders.”

COMMENT/DISCUSSION

- 11. It is recommended that the Sub-Licences be issued for terms of 5 years only due to the proposed redevelopment of the area.
- 12. Sub-Licence fees will be reviewed annually in line with the City of Albany’s annual budget process.
- 13. With the redevelopment of Princess Royal Harbour, a clause be included to state that ‘the Sub-Licences may be terminated upon provision of one months written notice from the Licensee (City of Albany)’.

RECOMMENDATION

THAT subject to Ministerial approval, Council agree:

- i) to new Sub-Licences for the B Mattinson (Dive.com), Selmech Pty Ltd (Silver Star) and J & D Woodbury (Sail Away) being prepared for periods of 5 years, from 1 July 2004 to 30 June 2009 on portions of Lot 7601 Princess Royal Harbour;
- ii) the rentals be set at \$212.71 & \$207.72 per metre per annum, including GST, in accordance with Council’s 2004/2005 commercial vessels berthing fees outlined in the 2004/2005 budget, with rent reviews being carried out annually in line with the City of Albany’s annual budget process;
- iii) the Sub-Licences be prepared in accordance with Council’s standard licensing terms and conditions, with all maintenance, repairs and insurance costs being the responsibility of the Sub-Licensees;
- iv) an additional clause be included into the Sub-Licences stating that the Sub-Licence may be terminated upon provision of one months written notice from the Licensee;
- v) all fees associated with these Sub-Licences be payable by the Sub-Licensees; and
- vi) the Common Seal of the City of Albany be affixed to the documentation.

Voting Requirement Simple Majority

.....

Item 12.2.4 continued.

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR EMERY**

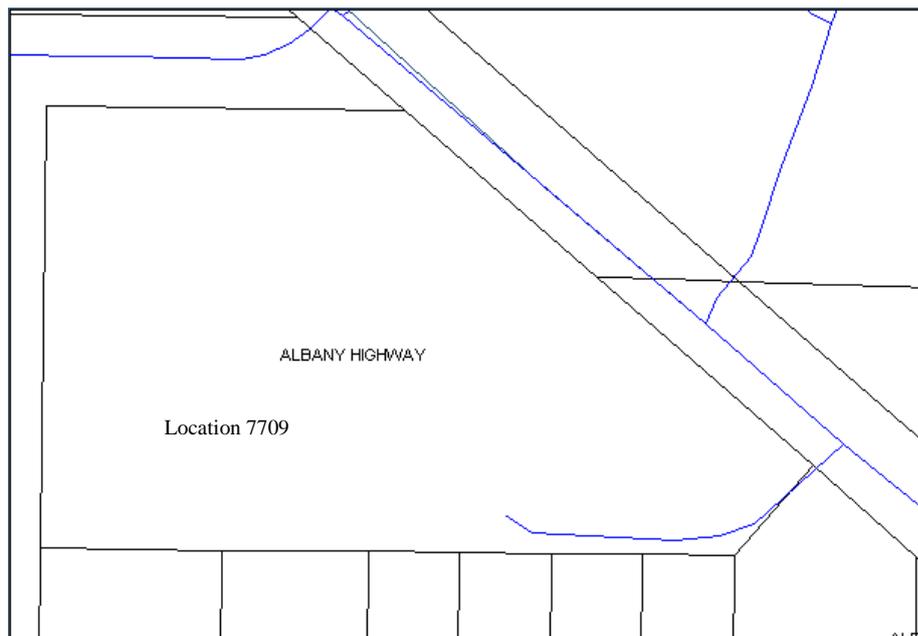
THAT subject to Ministerial approval, Council agree:

- i) to new Sub-Licences for the B Mattinson (Dive.com), Selmech Pty Ltd (Silver Star) and J & D Woodbury (Sail Away) being prepared for periods of 5 years, from 1 July 2004 to 30 June 2009 on portions of Lot 7601 Princess Royal Harbour;**
- ii) the rentals be set at \$212.71 & \$207.72 per metre per annum, including GST, in accordance with Council's 2004/2005 commercial vessels berthing fees outlined in the 2004/2005 budget, with rent reviews being carried out annually in line with the City of Albany's annual budget process;**
- v) the Sub-Licences be prepared in accordance with Council's standard licensing terms and conditions, with all maintenance, repairs and insurance costs being the responsibility of the Sub-Licensees;**
- vi) an additional clause be included into the Sub-Licences stating that the Sub-Licence may be terminated upon provision of one months written notice from the Licensee;**
- v) all fees associated with these Sub-Licences be payable by the Sub-Licensees; and**
- vi) the Common Seal of the City of Albany be affixed to the documentation.**

MOTION CARRIED 13-0

12.2.5 Proposed Surrender of Lease for Country and Suburban Tennis Club Inc and new Lease for South Coast Country Music Club Inc.

- File/Ward** : PRO 240 (West Ward)
- Proposal/Issue** : Surrender of Lease and New Lease
- Subject Land/Locality** : Portion of Plantagenet Location 7709, Reserve 23290
- Proponent** : Country & Suburban Tennis Club Inc and South Coast Country Music Club Inc.
- Owner** : City of Albany
- Reporting Officer(s)** : Corporate Services Officer (J Twaddle)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : That Council approve the request for a surrender of lease and a new lease to be prepared for a 21 year term from 1 October 2004.
- Bulletin** : Nil
- Locality Plan** :



Item 12.2.5 continued.

BACKGROUND

1. Country and Suburban Tennis Club Inc lease a portion of Location 7709 on Reserve 23290 within the City of Albany.
2. A request has been received from Country and Suburban Tennis Club Inc to relinquish their lease.
3. South Coast Country Music Club Inc have expressed an interest in the land and wish to take over the ownership of Country and Suburban Tennis Club Inc buildings constructed on the site.
4. Location 7709 Reserve 23290 is located on Albany Highway. Council has a management order for Reserve 23290, which states the purpose as “Recreation with power to Lease for periods up to and including 21 years”.

STATUTORY REQUIREMENTS:

5. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
6. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
7. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of is a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.
8. The South Coast Country Music Club Inc is a recreational body and therefore the proposed disposition of land is exempt from the provisions of Section 3.58 of the Act.

POLICY IMPLICATIONS

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

Item 12.2.5 continued.

FINANCIAL IMPLICATIONS

10. Council no longer enters into peppercorn rentals but charges an amount equivalent to the minimum gross rental value land rate to all non-profit sporting, and community groups. The rental is reviewed annually in accordance with Council's budget and is subject to GST. For the 2004/2005 financial year the Council adopted a minimum land rate of \$466.00. Therefore it is recommended that this Lease be charged at Minimum Land Rate and reviewed on an annual basis.
11. All costs associated with this proposed new lease are to be borne by the applicants.

STRATEGIC IMPLICATIONS

12. This request complies with Council's 'Albany 2020', which in part states as follows:

"The attraction and development of a broad range of social, cultural and economic entities – To encourage a vibrant Community where all are encouraged to participate and contribute."

COMMENT/DISCUSSION

13. Country and Suburban Tennis Club Inc have not been fully operational for the last three years, and have recently decided to disband.
14. The Country and Suburban Tennis Club Inc have constructed infrastructure on the reserve, which they have negotiated a sale price with the South Coast Country Music Club Inc.
15. The South Coast Country Music Club Inc have agreed to carry out all maintenance and upgrades of the infrastructure to prevent the structures from becoming derelict and will include painting, cleaning, and revegetation.
16. South Coast Country Music Club Inc do not currently have a home venue, which this Lease would be able to provide, allowing revenue to be generated for the Club from hiring the venue for dances.
17. Three adjacent landholders have expressed their support for South Coast Country Music Club Inc proposal, acknowledging that noise originating from the venue will not be an issue.

Item 12.2.5 continued.

RECOMMENDATION

THAT subject to Ministerial approval, Council agree:

- i) to a surrender of Lease being prepared for Country and Suburban Tennis Club Inc for a portion of Location 7709 Reserve 23290 dated 1 October 2004;
- ii) to a new lease for the South Coast Country Music Club Inc being prepared for a term of 21 years, commencing on 1 October 2004 to 30 September 2025 on Portion of Location 7709 Reserve 23290, Albany Highway;
- iii) the rental be set at \$466.00 per annum, subject to GST, in accordance with Council's 2004/2005 minimum GRV land rate figure, with rent reviews being carried out annually based on the minimum GRV land rate adopted by Council;
- iv) the lease be prepared in accordance with Council's standard leasing terms and conditions, with all maintenance and repairs being carried out by the South Coast Country Music Club Inc;
- v) all fees associated with the surrender of lease and new lease be payable by the applicants; and
- vi) the Common Seal of the City of Albany be affixed to the documentation.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DEMARTEAU**

THAT subject to Ministerial approval, Council agree:

- i) to a surrender of Lease being prepared for Country and Suburban Tennis Club Inc for a portion of Location 7709 Reserve 23290 dated 1 October 2004;**
- ii) to a new lease for the South Coast Country Music Club Inc being prepared for a term of 21 years, commencing on 1 October 2004 to 30 September 2025 on Portion of Location 7709 Reserve 23290, Albany Highway;**
- iii) the rental be set at \$466.00 per annum, subject to GST, in accordance with Council's 2004/2005 minimum GRV land rate figure, with rent reviews being carried out annually based on the minimum GRV land rate adopted by Council;**
- iv) the lease be prepared in accordance with Council's standard leasing terms and conditions, with all maintenance and repairs being carried out by the South Coast Country Music Club Inc;**
- v) all fees associated with the surrender of lease and new lease be payable by the applicants; and**
- vi) the Common Seal of the City of Albany be affixed to the documentation.**

MOTION CARRIED 13-0

12.3 LIBRARY SERVICES

Nil.

12.4 DAY CARE CENTRE

Nil.

12.5 TOWN HALL

Nil.

12.6 ALBANY LEISURE AND AQUATIC CENTRE

Nil.

12.7 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS

Nil.

12.8 CORPORATE & COMMUNITY SERVICES COMMITTEE

12.8.1 Disability Services and Community Access Advisory Committee meeting minutes – 16th June 2004

- File/Ward** : MAN 134 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Disability Services and Community Access Advisory Committee held on 16th June 2004 be adopted.

RECOMMENDATION

THAT the minutes of Disability Services and Community Access Advisory Committee held on 16th June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR PAVER**

THAT the minutes of Disability Services and Community Access Advisory Committee held on 16th June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

12.8.2 Seniors Advisory Committee meeting minutes – 17th June 2004

- File/Ward** : MAN 131 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Seniors Advisory Committee held on 17th June 2004 be adopted.

RECOMMENDATION

THAT the minutes of Seniors Advisory Committee held on 17th June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR JAMIESON
SECONDED COUNCILLOR PAVER**

THAT the minutes of Seniors Advisory Committee held on 17th June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

12.8.3 Disability Services and Community Access Advisory Committee meeting minutes – 14th July 2004

- File/Ward** : MAN 134 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Disability Services and Community Access Advisory Committee held on 14th July 2004 be adopted.

RECOMMENDATION

THAT the minutes of Disability Services and Community Access Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following motion adopted:-

THAT the minutes of Disability Services and Community Access Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following motion adopted:-

6.1 Review of Committee membership and Terms of Reference

THAT the Terms of Reference for the Disability Services and Community Access Advisory Committee be amended to provide for additional membership and the following new members appointed by Council to the Committee.

- Jo Hummerston, Albany Chamber of Commerce & Industry;
- Malcolm Mallarby, Albany Visitors Centre;
- Arlene Osborne, Community Representative;
- Ann Weaver, Neurological Nurse; and
- Kathleen Summers, Disabled Persons Representative.

Voting Requirement Absolute Majority

.....

Item 12.8.3 continued.

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR WOLFE**

THAT the minutes of Disability Services and Community Access Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following motion adopted:-

THAT the minutes of Disability Services and Community Access Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following motion adopted:-

6.2 Review of Committee membership and Terms of Reference

THAT the Terms of Reference for the Disability Services and Community Access Advisory Committee be amended to provide for additional membership and the following new members appointed by Council to the Committee.

- **Jo Hummerston, Albany Chamber of Commerce & Industry;**
- **Malcolm Mallarby, Albany Visitors Centre;**
- **Arlene Osborne, Community Representative;**
- **Ann Weaver, Neurological Nurse; and**
- **Kathleen Summers, Disabled Persons Representative.**

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

12.8.4 Seniors Advisory Committee meeting minutes – 15th July 2004

- File/Ward** : MAN 131 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Seniors Advisory Committee held on 15th July 2004 be adopted.

RECOMMENDATION

THAT the minutes of Seniors Advisory Committee held on 15th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR EMERY**

THAT the minutes of Seniors Advisory Committee held on 15th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

12.8.5 Great Southern Regional Cattle Saleyards Joint Venture Committee meeting minutes – 28th July 2004

- File/Ward** : REL 087 (Shire of Plantagenet)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 28th July 2004 be adopted.

RECOMMENDATION

THAT the minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 28th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

Councillor Wolfe declared an interest in this item. The nature of his interest is that he occasionally uses the Great Southern Regional Cattle Saleyards. The extent of his interest is that he derives an income from the sale of those cattle through the Saleyards.

Councillor Wolfe sought approval to remain within the Chambers to discuss this item and participate within debate.

Councillor Wolfe left the Chambers at 8.14pm.

**MOVED COUNCILLOR JAMIESON
SECONDED COUNCILLOR WELLINGTON**

THAT Councillor Wolfe be permitted to remain within the Chambers during the discussion of this item and participate within debate and vote on the item.

MOTION CARRIED 12-0

Councillor Wolfe returned to the Chambers at 8.14pm.

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR WELLINGTON**

THAT the minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 28th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

CORPORATE & COMMUNITY SERVICES REPORTS

12.8.6 Albany Town Hall Theatre Advisory Committee meeting minutes – 2nd June 2004

- File/Ward** : SER 047 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Town Hall Theatre Advisory Committee held on 2nd June 2004 be adopted.

RECOMMENDATION

THAT the minutes of Albany Town Hall Theatre Advisory Committee held on 2nd June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR WATERMAN**

THAT the minutes of Albany Town Hall Theatre Advisory Committee held on 2nd June 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

ORDINARY COUNCIL MEETING MINUTES – 17/08/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

12.8.7 Albany Arts Advisory Committee meeting minutes – 14th July 2004

- File/Ward** : MAN 116 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Arts Advisory Committee held on 14th July 2004 be adopted.

RECOMMENDATION

THAT the minutes of Albany Arts Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

<p>MOVED COUNCILLOR WATERMAN SECONDED COUNCILLOR WILLIAMS</p> <p>THAT the minutes of Albany Arts Advisory Committee held on 14th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).</p> <p>MOTION CARRIED 13-0</p>

12.8.8 Public Arts Committee meeting minutes – 8th July 2004

- File/Ward** : REL 130 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Public Arts Committee held on 8th July 2004 be adopted.

RECOMMENDATION

THAT the minutes of Public Arts Committee held on 8th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR JAMIESON**

THAT the minutes of the Public Arts Committee held on 8th July 2004 be received subject to:

Council disbanding the Public Arts Committee and directing the functions of that committee to the Albany Arts Advisory Committee. The Albany Arts Advisory Committee will be responsible for making recommendations to both Council and Council Advisory Committees on the:

- i) design and form of public art for installations in Council Parks and Gardens, Streetscapes and Municipal buildings;**
- ii) design and form of public art associated with development of private facilities on private land;**
- iii) design and form of public art associated with the development of State and Federal Government facilities; and**
- iv) allocation of Council reserve funds for public art.**

Should the Albany Arts Advisory Committee require to engage an expert assistant in these functions, then costs involved should be passed onto the project proponent.

MOTION LOST 6-7

Reason:

- The Albany Arts Advisory Committee have the expertise and experience to be Councils principal adviser on Public Art matters.

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR SANKEY**

THAT the minutes of Public Arts Committee held on 8th July 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 7-6

Works & Services

REPORTS

WORKS & SERVICES REPORTS

- R E P O R T S -

13.1 WASTE MANAGEMENT

Nil

WORKS & SERVICES REPORTS

13.2 ASSET MANAGEMENT

13.2.1 Policy – Engineering Conditions of Subdivision - Sections 6 and 9

File/Ward	: STR 097 (All Wards)
Proposal/Issue	: Clarification of the existing Engineering Conditions of Subdivision Policy Section 6, Clause 6.1.1 – Bond Applications, and Section 9, Clause 9.4.1 – Public Open Space.
Subject Land/Locality	: N/A
Proponent	: City of Albany
Owner	: N/A
Reporting Officer(s)	: Manager Asset Services (G Edwards)
Disclosure of Interest	: Nil
Previous Reference	: OCM 18/11/2003 – Item 13.2.1
Summary Recommendation	: THAT Council adopts as policy the amendments to Engineering Conditions of Subdivision Section 6, Clause 6.1.1 – Bond Applications, and Section 9, Clause 9.4.1 – Public Open Space as proposed and attached.
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. At its meeting held 18th November 2003, Council adopted the “Engineering Conditions of Subdivision” policy document.
2. The policy is to advise developers, planners, engineers and contractors about the approach the City of Albany will adopt when dealing with the engineering aspects of subdivision development. It is acknowledged that occasionally variations may be justified.
3. To date, several incidences have occurred where:
 - i) developers have advised that City of Albany has imposed a bonding arrangement upon the developer and/or accepted a bond as the basis for the City of Albany completing subdivision construction; and

WORKS & SERVICES REPORTS

Item 13.2.1 continued

- ii) difficulty has arisen on a regular basis over the development of areas designated for future public open space. This matter has been discussed with the Western Australian Planning Commission, and the advice received has been that the issue is one for resolution by the local government.
4. An amendment of Sections 6.1.1 which relates to Bond Applications and 9.4.1 of the policy, which relates to Public Open Space, is proposed to clarify and strengthen advice within the existing policy.

STATUTORY REQUIREMENTS

5. With regard to Section 6.1.1 - Bond Applications, the Local Government (Miscellaneous Provisions) Act 1960, section 295, sub section 6 (a) states:

“Where a person who is subdividing land is by the provisions of this part is required to construct and drain streets shown in the plan of subdivision he may -

- i) *Carry out or cause to be carried out the construction and drainage at his own cost and expense; or*
 - ii) *Arrange for the local government to carry out the work on his behalf and at his cost and expense.”*
6. With regard to Section 9.4.1 – Public Open Space, the development of land designated as future public open space is regarded as a matter for appropriate resolution by the local government, consequent to activities initiated through the Town Planning and Development Act 1928.

POLICY IMPLICATIONS

7. This is a clarification to strengthen advice within the policy “Engineering Conditions of Subdivision”.

FINANCIAL IMPLICATIONS

8. The financial implications relating to this item are limited to the risks associated with accepting bonds for subdivision construction and asset management objectives.

STRATEGIC IMPLICATIONS

9. The Port of Call identified in the City of Albany’s Strategic Plan, ‘Albany 2020, Charting Our Course’ is:
The continued development of Council services and facilities to meet the needs of all stakeholders.

Objective:-

- To support local investment through the professional and expedient delivery of development approval processes and by providing guidance, which protects Albany’s natural environment, heritage and uniqueness.

WORKS & SERVICES REPORTS

Item 13.2.1 continued

COMMENT/DISCUSSION

Section 6.1.1 – Bond Applications

10. Section 295 of the Local Government (Miscellaneous Provisions) Act 1960, does not provide for the bonding of subdivision construction. Either the subdivider carries out the construction or arranges for the local government to undertake the construction at the subdivider's expense.
11. Local government therefore, may request, but has no authority to impose upon the developer the bonding of incomplete subdivision construction. Similarly, the developer may request, but there is no obligation for the local government to accept, the bonding of incomplete subdivision construction.
12. The local government may refuse to accept bonding and withhold clearances until subdivision construction is satisfactorily completed. Bonding is an arrangement between the developer and the local government, which can only proceed by mutual agreement.

Section 9.4.1 – Public Open Space

13. The Western Australian Planning Commission frequently imposes the surrender of land for public open space, as a condition of subdivision. Commonly, however, development of the land is not required.
14. Developers frequently wish to proceed to develop areas designated as future public open space regardless of the Western Australian Planning Commission conditions of subdivision.
15. In the circumstances where there is not an imposed WAPC requirement to develop areas designated for future public open space, technically, the City of Albany is unable to participate in negotiation about the development from a position of right, even though the land will become a reserve managed by the City of Albany, nor disagree with the developer's proposal or prevent the owner proceeding, unless the development requires Planning Scheme Consent.
16. At the time of the developers request for subdivision clearances, however, the City of Albany may:
 - i) Refuse to accept land designated for public open space, which may have been developed, but is regarded as encumbered, degraded or delivered in a condition unsatisfactory to the City of Albany;
 - ii) Require that all conditions of subdivision, including those related to the designated public open space, are satisfied before any subdivision clearances are issued;
 - iii) Negotiate with the developer about development of the land after the land has been ceded as public open space and management responsibility rests with the City of Albany.

WORKS & SERVICES REPORTS

Item 13.2.1 continued

17. Whilst there may be an element of goodwill, the development of land designated as future public open space is often undertaken by the developer for marketing purposes. These improvements:
 - i) Are frequently undertaken far earlier than would be the case if left to the City of Albany;
 - ii) May not be consistent with the future asset management intentions of the City of Albany;
 - iii) May be retained or removed at any time following subdivision clearance at the discretion of the City of Albany;
 - iv) Usually create an expectation among residents, compelling the City of Albany to retain or maintain the improvements.
18. The circumstances sometimes can lead to conflict for officers, developers and consultants, and are contrary to City of Albany asset management objectives.
19. It is proposed that for acceptance the developer's proposal must comply with the Strategic Classifications for the development of public open space and the IPWEA Local Government Guidelines for Subdivisional Development already adopted by the Council at the Ordinary Meeting of 18/11/2003.
20. Therefore, as indicated by the IPWEA Guidelines, irrespective of the imposed conditions of subdivision, the City of Albany will treat the development of land designated as future Public Open Space as though WAPC conditions of subdivision do exist.
21. It is also consistent with the IPWEA Guidelines, that among other requirements, the developer must:
 - i) Submit an overall Master Plan, for approval in principle, prior to the preparation and submission of design drawings;
 - ii) Submit design drawings for approval, prior to commencing development of the land designated as future Public Open Space;
 - iii) Agree to maintain and water all landscaping and grassing for at least two (2) summer periods to ensure full establishment;
 - iv) Lodge with the City of Albany a maintenance bond, in the form of cash or a guarantee from a financial institution acceptable to the local government. The bond will be returned when the maintenance period has been satisfactorily completed.
22. The IPWEA Guidelines do not nominate a maintenance bond amount. In keeping with the maintenance bond for road and drainage works it is proposed that the maintenance bond be 5% of the cost of the landscaping and grassing. Landscaping includes all paths, structures, furniture and features.

WORKS & SERVICES REPORTS

Item 13.2.1 continued

- 23. This item was previously placed before Council at its meeting held 20th July 2004, where it was resolved that this item lay on the table for one month to allow further discussion and consideration.

RECOMMENDATION

THAT Council adopts as policy the amendment to Engineering Conditions of Subdivision Section 6 Clause 6.1.1 and Section 9 Clause 9.4.1 as proposed and attached.

Voting Requirement Absolute Majority

.....

The Manager City Services advised that this item had been withdrawn.

WORKS & SERVICES REPORTS

Item 13.2.1 continued

EXISTING POLICY

6. PRACTICAL COMPLETION

6.1 Bond Applications

- 6.1.1 The City of Albany requires that construction of the subdivision be completed prior to issuing final clearances and is therefore not in favour of bonding incomplete works.

PROPOSED POLICY

6. PRACTICAL COMPLETION

6.1 Bond Applications

- 6.1.1 The Local Government (Miscellaneous Provisions) Act 1960, section 295, sub section 6 (a) states:

Where a person who is subdividing land is by the provisions of this part is required to construct and drain streets shown in the plan of subdivision he may –

- i. Carry out or cause to be carried out the construction and drainage at his own cost and expense; or*
- ii. Arrange for the local government to carry out the work on his behalf and at his cost and expense.*

Section 295 of the Local Government (Miscellaneous Provisions) Act 1960, does not provide for the bonding of subdivision construction. Consequently:

- The local government may request, but has no authority to impose upon the developer the bonding of incomplete subdivision construction;
- The developer may request, but there is no obligation for the local government to accept, the bonding of incomplete subdivision construction.
- The local government may refuse to accept bonding and withhold clearances, until subdivision construction is satisfactorily completed.
- Bonding is an arrangement between the developer and the local government, which can only proceed by mutual agreement.

The City of Albany requires that construction of the subdivision be completed prior to issuing final clearances and is therefore not in favour of bonding incomplete construction.

WORKS & SERVICES REPORTS

Item 13.2.1 continued

EXISTING POLICY

9.4 Public Open Space

9.4.1 Service Authority Sub-stations

Service authority plant, such as Western Power transformer sites and Water Corporation pumping stations, are to be located on separate parcels of land, under the control of the relevant authority, and connected to the public road network. Boundaries are to be arranged such that they do not intrude into road reserves or public open space to be managed by the City of Albany.

PROPOSED POLICY

9.4 Public Open Space

9.4.1 General Requirements

It is acknowledged that the Western Australian Planning Commission frequently does not impose the development of public open space as a condition of subdivision.

Irrespective of the imposed conditions of subdivision, the City of Albany will treat the development of land designated as future Public Open Space as though Western Australian Planning Commission conditions of approval do exist.

Development shall therefore satisfy the requirements of the City of Albany, including consistency with the IPWEA Local Government Guidelines for Subdivisional Development.

The proposed development must be consistent with the strategic asset management objectives of the City of Albany and therefore must satisfy the relevant strategic reserve classification nominated below.

Reserve Classification	
Recreation	Conservation
Regional Facility	Regional Significance
Family Park	Wetland / Foreshore
Suburban Park	Vegetation Retention
Minor Reserve	Federal / State Reserve System
Active Reserve	Public Use Reserve

Prior to the City of Albany considering proposals for the development of land designated for future public open space the developer must:

WORKS & SERVICES REPORTS

Item 13.2.1 continued

- Submit a Master Plan of the proposed development;
- Receive development approval from the City of Albany.

It is also consistent with the IPWEA Local Government Guidelines for Subdivisional Development, that among other requirements, the developer must:

- Submit design drawings for approval, prior to commencing development of the land designated as future Public Open Space;
- Agree to maintain and water all landscaping and grassing for at least two (2) summer periods to ensure full establishment;
- Lodge with the City of Albany a maintenance bond, in the form of cash or a guarantee from a financial institution acceptable to the local government. The bond will be returned when the maintenance period has been satisfactorily completed.

The maintenance bond shall be 5% of the cost of all landscaping and grassing. Landscaping shall include all paths, structures, furniture and features.

9.4.2 Service Authority Sub-stations

Service authority plant, such as Western Power sites and Water Corporation pumping stations, are to be located on separate parcels of land, under the control of the relevant service authority, and connected to the public road network. Boundaries are to be arranged such that they do not intrude into road reserves to be managed by the City of Albany.

WORKS & SERVICES REPORTS**13.3 WORKS****13.3.1 Contract C04003 – Supply & Delivery of Road Signage**

File/Ward	:	C04003 (All Wards)
Proposal/Issue	:	Supply & Delivery of Road Signage by Public Tender
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Depot Services Co-ordinator (J Harbach)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council accepts the tender C04003 from Sunny Sign Company for the Supply & Delivery of Signage.
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. Council's current contract for the supply & delivery of road traffic signs to the Mercer Road Depot expired on 30 June 2004. In order for Council to maintain the current level of commitment for these works, Council is required to re-tender this service. Works are carried out on an 'as and when required' basis.
2. A request for tenders for the Supply & Delivery of Signage was published in the West Australian on 16 June 2004 and in the Albany Advertiser on 17 June 2004 with a copy in the Albany Extra on 18 June 2004.
3. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for this tender is documented below:

Criteria	% Weight
Cost	70
Relevant Skills & Experience	10
Reliability of Tenderer	10
Quality Accreditation	10

WORKS & SERVICES REPORTS

Item 13.3.1 continued

STATUTORY REQUIREMENTS

4. 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 \$50,000.
5. 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.
6. Regulation 19 requires Council to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

8. Funds for the replacement of signage are budgeted for each year in general road maintenance. \$36,500 was allocated in the 04/05 budget for the purchase and replacement of signs, including the poles and other sign accessories. Should Council accept the recommendation, it is anticipated that \$28,078 will be used to purchase road traffic signs, with the remaining \$8,422 to fund the purchase of poles and other sign accessories

STRATEGIC IMPLICATIONS

9. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:

Port of Call

The continual development of Council services & facilities to meet the needs of all stakeholders

Objective:

- To ensure directional, locational and advertising signage is clear, accurate & sensitive.

COMMENT/DISCUSSION

10. Specifications were issued to five possible tenderers, with three tender submissions received by the close of the tender period. Of the submissions received, none were from local suppliers.
11. A complete list of signs and the estimated numbers required for a twelve (12) month period were supplied as part of the tender. Tenderers were required to submit prices and the projected total amount for each item was calculated to give a lump sum total.

WORKS & SERVICES REPORTS

Item 13.3.1 continued

- 12. Tenderers were also required to submit pricing for sign accessories. Given that there were significant variable components in each of the tendered submissions, sign accessories were excluded from the evaluation.
- 13. The following table summarizes those submissions received by the close of the tender period:

Tenderer	Total Price	Weighting
Sunny Sign Company	\$28,078.00*	58
De Neefe Signs	\$28,162.00	55
Road Safety Shop	\$33,283.00	44.2

** Includes the cost of delivery to Council*

- 14. Tenderers were required to incorporate the cost of delivery of signage to the Mercer Road Depot in their submission. The tender offered by Sunny Sign Company offers a significant cost advantage to Council, particularly as the pricing quoted by them includes delivery. The submission from De Neefe Signs did not allow for delivery to the Depot, this would be an additional expense to Council. The Road Safety Shop included one delivery service per week, however, all additional deliveries would be at Council expense.
- 15. Sunny Sign Company have, on previous occasions, submitted lower pricing for all types of signage required by Council. The service and delivery provided by this company has consistently met expectations.
- 16. Following evaluation, it was concluded that the submission from Sunny Sign Company would be the most advantageous to Council.

RECOMMENDATION

THAT Council award Contract C04003 for the Supply & Delivery of Signage to Sunny Sign Company.

Voting Requirement Simple Majority

<p>MOVED COUNCILLOR DEMARTEAU SECONDED COUNCILLOR SANKEY</p> <p>THAT Council award Contract C04003 for the Supply & Delivery of Signage to Sunny Sign Company.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p>

WORKS & SERVICES REPORTS**13.3.2 Hire of Front-End Loader**

File/Ward	: C04006 (All Wards)
Proposal/Issue	: Hire of Front-End Loader to 30 th June 2005.
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager City Services (S Massimini)
Disclosure of Interest	: N/A
Previous Reference	: N/A
Summary Recommendation	: That Council accepts the tender from AD Contractors for the dry hire of a CAT 966D Front-End Loader.
Bulletin Attachment	: Nil
Locality Plan	: N/A

BACKGROUND

1. Council has recently been using a CAT 966D Loader at the Hanrahan Road landfill site within the City. The use of a front-end loader has greatly improved efficiency at the site.
2. Current weekly hire costs to Council is \$1,210 (incl GST). Given the level of use and the total cost associated with the hire of this plant, Council was required to go to tender.
3. A request for tenders was published in the West Australian on 30 June 2004 and the Albany Advertiser on 1 July 2004 with a copy in the Albany Extra on 2 July 2004.
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 this tender is detailed below:

Criteria	% Weight
Price	70%
Reliability of Tenderer	30%
Total	100%

WORKS & SERVICES REPORTS

Item 13.3.2 continued

STATUTORY REQUIREMENTS

5. Regulation 11 of the Local Government (Functions & General) Regulations 1996 requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$50,000.
6. 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.
7. Regulation 19 requires Council to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

9. The total cost of the tender over a 12 month period is \$38,280, presenting a significant cost saving to Council from the current hire costs, which at \$1,210 per week, would total \$69,920 per annum. The savings gained, should Council accept the recommendation, will offset operating costs for the Hanrahan Road landfill site.

STRATEGIC IMPLICATIONS

10. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:

Managed healthy land/harbour environment.

- Objective:

To participate in a regional waste program, which is environmentally responsible, cost efficient and effective.

COMMENT/DISCUSSION

11. Specifications were issued to fifteen possible tenders, with six tender submissions received by the close of the tender period. Of the submissions received, three were from local suppliers.
12. The following table summarizes those submissions received by the close of the tender period. The results from the evaluation favour the supplier with the highest weighting.

WORKS & SERVICES REPORTS

Item 13.3.2 continued

Tenderer	Machine	Hire Rate/Month (inc. GST)	Weighting
AD Contractors	CAT 966D Front-End Loader	\$3,190	87
P&F Boccamazzo	CAT 966D Loader	\$3,840	73
Vancouver Waste Services	CAT 966	\$4,670	59
McAsset (WA) Pty Ltd T/A All Earth Contracting	Komatsu WA420-3H (2000)	\$8,800 plus \$88.00 per hour after 72 hours per calendar month	36
The Cat Rental Store	CAT 966G	\$13,449.22 plus delivery \$1,048 and pick up \$1,048.	34
The Cat Rental Store	CAT 950G	\$11,380.00 plus delivery \$1,048 and pick up \$1,048.	34

13. Following evaluation, it was concluded that the submission from AD Contractors was the most advantageous to Council. This local company is well able to supply service and back up as necessary, and Council staff are familiar with the proposed model of compactor.

RECOMMENDATION

THAT Council accepts the tender C04006 from AD Contractors for the ‘dry’ hire of a CAT 966D Front-End Loader.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DEMARTEAU**

THAT Council accepts the tender C04006 from AD Contractors for the ‘dry’ hire of a CAT 966D Front-End Loader.

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

13.3.3 Plumbing Services Biennial (2004/06)

File/Ward	: C04004 (All Wards)
Proposal/Issue	: Plumbing Services by public tender.
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Trades & Buildings Coordinator (P Owen) Manager City Services (S Massimini)
Disclosure of Interest	: N/A
Previous Reference	: N/A
Summary Recommendation	: That Council accepts tender C04004 for Plumbing Services from Knotts Plumbing.
Bulletin Attachment	: Nil
Locality Plan	: N/A

BACKGROUND

1. During the 2003/04 financial year, Council spent a total of \$128,411.00 (incl GST) on plumbing services through Council's current plumbing contractor. This cost covers all facets of plumbing, including hourly rates for labour, parts and materials required, as well as any legislated fees & charges related to plumbing requirements.
2. As Council does not employ a qualified licensed plumber on staff, it is necessary for this service to be sourced from outside the organization.
3. Given the level of costs involved, and to ensure plumbing works are carried out by a licensed plumber this service was required to go to tender.
4. A request for tenders was published in the West Australian on 16 June 2004 and the Albany Advertiser on 1 June 2004 with a copy in the Albany Extra on 2 June 2004.
5. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall points score for each tender. The criteria used for this tender is documented below:

WORKS & SERVICES REPORTS

Item 13.3.3 continued

Criteria	% Weight
Price	50%
Relevant Skills and Experience	30%
Work Capabilities	10%
Safety Management	10%
Total	100%

STATUTORY REQUIREMENTS

6. Regulation 11 of the Local Government (Functions & General) Regulations 1996 requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$50,000.
7. 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.
8. Regulation 19 requires Council to advise each tenderer in writing the result of Council’s decision.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

10. Plumbing costs are sourced from budget allocations for each individual building maintenance fund, or in the case of new infrastructure, from the total budgeted cost for construction.
11. Council currently pays Active Plumbing \$40.00 per hour for plumbing services and spent \$128,411 on services in the last financial year, including materials.
12. The tender from Knotts Plumbing of \$39.00 per hour is marginally cheaper, and depending on the cost of materials and hours required, it is estimated that awarding this tender will save in the order of \$2,000 to \$4,000 per annum; a saving which would go towards offsetting building maintenance costs.

STRATEGIC IMPLICATIONS

13. In the City of Albany’s 2020 Plan Charting Our Course, the following Port of Call is identified:

WORKS & SERVICES REPORTS

Item 13.3.3 continued

The continual development of Council services & facilities to meet the needs of all stakeholders

• Objective:

- To provide communities with quality buildings that are functional, well-maintained and meet social and cultural needs.
- To provide well services & maintained public convenience and community rest room facilities.

COMMENT/DISCUSSION

14. Specifications were issued to four possible tenders, with three tender submissions received by the close of the tender period. Of the submissions received, all were from local suppliers.

15. Tenders were received from registered companies as tabled below:

All classifications of plumbing services work (All costs inclusive of GST)	Active Plumbing	Knotts Plumbing	Marshall Smith Plumbing
Rate/Hour	45.00	39.00	45.00
Minimum Charge for Call-out	45.00	39.00	45.00
After Hours Loading	66.00	plus 10.00 per hour	10.00 per hour
Supply materials as required at current Trade List Price	+15%	+10%	+15%
Minimum Notice	As required	As required	1 hour

Evaluation Score	85	90	72.5
------------------	----	----	------

16. The results from the evaluation favour the supplier with the highest weighting.

17. Both Active Plumbing and Knotts Plumbing supplied adequate documentation to support their tenders, in line with the request for tender documentation

18. Knotts Plumbing supplied the lowest hourly rate and a well documented Safety Management Plan, however, their documentation shows small staffing levels which may impact on Council should not enough tradesmen be available to fulfil multiple tasks.

19. Active Plumbing, Council’s current Contractor, has provided an excellent and professional level of service over the past two years. They also provided a well documented tender submission. However the tendered price is significantly higher than Knotts Plumbing.

20. Marshall Smith supplied no supporting documentation.

21. Following evaluation, it was concluded that the submission from Knotts Plumbing would be the most advantageous to Council.

WORKS & SERVICES REPORTS

Item 13.3.3 continued

RECOMMENDATION

THAT Council accepts tender C04004 for Plumbing Services from Knotts Plumbing.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR PAVER**

THAT Council accepts tender C04004 for Plumbing Services from Knotts Plumbing.

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

13.4 AIRPORT MANAGEMENT

Nil

13.5 RESERVES PLANNING & MANAGEMENT

Nil

WORKS & SERVICES REPORTS

13.6 WORKS & SERVICES COMMITTEES

13.6.1 Bushcarers Advisory Committee meeting minutes – 23rd June 2004

- File/Ward** : MAN 121 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Works & Services
(B Joynes)
- Summary Recommendation** : That the Minutes of the Bushcarers Advisory
Committee meeting held on 28 July 2004 be
received.

RECOMMENDATION

THAT the minutes of the Bushcarers Advisory Committee meeting held on the 23rd June 2004 be received (copy of minutes in the Elected Members' Report/Information Bulletin).

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR SANKEY
SECONDED COUNCILLOR BOJCUN**

THAT the minutes of the Bushcarers Advisory Committee meeting held on the 23rd June 2004 be received (copy of minutes in the Elected Members' Report/Information Bulletin).

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

13.6.2 Bushcarers Advisory Committee meeting minutes – 28th July 2004

- File/Ward** : MAN 121 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Works & Services
(B Joynes)
- Summary Recommendation** : That the Minutes of the Bushcarers Advisory Committee meeting held on 28 July 2004 be received.

RECOMMENDATION

THAT the minutes of the Bushcarers Advisory Committee meeting held on the 28th July 2004 be received (copy of minutes in the Elected Members' Report/Information Bulletin).

Voting Requirement Simple Majority

.....
MOVED COUNCILLOR SANKEY
SECONDED COUNCILLOR JAMIESON

THAT the minutes of the Bushcarers Advisory Committee meeting held on the 28th July 2004 be received (copy of minutes in the Elected Members' Report/Information Bulletin).

MOTION CARRIED 13-0

General Management Services

REPORTS

14.1 STRATEGIC DEVELOPMENT

Nil.

14.2 ORGANISATIONAL DEVELOPMENT

Nil.

14.3 ECONOMIC DEVELOPMENT

Nil.

14.4 GENERAL MANAGEMENT SERVICES COMMITTEE

14.4.1 Minutes of Convention and Entertainment Centre Steering Committee

- File/Ward** : MAN 075 (Frederickstown Ward)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Manager Economic Development (J Berry)
- Summary Recommendation** : THAT the minutes of the Albany Convention and Entertainment Centre Steering Committee meeting held on 28 July 2004 be received and the Committee recommendations adopted

RECOMMENDATION

THAT Council receives the minutes of the Albany Convention and Entertainment Centre Steering Committee meeting held on 28 July 2004 (*copy of the minutes are in the Elected Members Report/Information Bulletin*) and adopts the Committee's recommendations:-

MOTION:

THAT Council endorse the final draft concept plans prepared by Peter Hunt Architect for the proposed Albany Entertainment and Convention Centre (within the Cultural Precinct) and invites written comments from the community for the period 23 August to 20 September 2004, prior to adopting a final concept plan.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR DEMARTEAU
SECONDED COUNCILLOR JAMIESON**

THAT Council receives the minutes of the Albany Convention and Entertainment Centre Steering Committee meeting held on 28 July 2004 (*copy of the minutes are in the Elected Members Report/Information Bulletin*) and adopts the Committee's recommendations:-

MOTION:

THAT Council receive the final draft concept plans prepared by Peter Hunt Architect for the proposed Albany Entertainment and Convention Centre (within the Cultural Precinct) and invites written comments from the community for the period 23 August to 20 September 2004, prior to adopting a final concept plan.

MOTION CARRIED 11-2

15.0 ELECTED MEMBERS' MONTHLY REPORT/INFORMATION BULLETIN

15.1 Elected Members' Report/Information Bulletin

DRAFT MOTION

THAT the Elected Member's Report/Information Bulletin, as circulated, be received and the contents noted.

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR WOLFE**

**THAT the Elected Member's Report/Information Bulletin, as circulated,
be received and the contents noted.**

MOTION CARRIED 13-0

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

17.0 MAYORS REPORT

"Fellow Councillors

Since my last report the following events and functions have occurred:-

In conjunction with the Department of Environment's, Naomi Arrowsmith, I collected a sample of Albany river water for the 7th International River Symposium in Brisbane. The water sample will be part of a symbolic water feature called "Our Rivers, Our Life" at the symposium to be held from 31st August to 3rd September. Local Governments from around Australia were asked to send a sample of their local river water to bring together the rivers of the nation in one symbolic water feature at the symposium. Accompanying messages from each Council are to be displayed on a "message tree" beside the water feature. National and international delegates attend the respected River Symposium annually, to examine and discuss best practice river management. Our water sample will not be tested or examined but will simply be part of the symbolic river water feature. Being part of such an exercise is an important reminder of how precious and important water is to every aspect of our daily lives. Every Council, community and individual has a role to protect catchment areas, the environment and the waterways so that adequate water resources are available in the future.

On Wednesday 21 July I had the privilege of meeting the new Japanese Consul-General, Mr Hiroyuki Ariyoshi, with the City's Manager for Economic Development, Mr Jon Berry. Mr Ariyoshi was in Albany for a two day visit to familiarise himself with the region and to look at potential trade, investment and tourism opportunities. The Consul-General was very interested to learn about the City of Albany's sister city relationship with Nichinan and the planned reciprocal signing of an agreement with Tomioka City in November this year. He encouraged initiatives such as the Japanese Exchange Student program, which fostered relationships and promoted cultural understanding between our two countries. I welcomed a group of 10 such students to Albany yesterday as part of the North Albany Senior High School exchange program.

On Friday 23 July the City hosted a Civic Reception for the Commander and Crew of the HMAS Darwin. Recently returned from Iraq, the crew of the Darwin thoroughly enjoyed the Reception and their 5 day R & R visit to Albany. A copy of the Ship’s letter of appreciation is included in the Bulletin items.

Construction commenced on the new Albany PCYC Youth Centre on Wednesday 28 July. I was privileged to be involved in the official “turning of the sod” ceremony with Senior Constable Terry Eaton, in the presence of Superintendent John Watson and representatives of the Police Federation. The Centre will provide a much-improved venue for PCYC youth programs and activities, for Southern Edge Arts activities and for vacation and after-school care programs.

A delegation of City of Albany staff and Councillors attended the Labour Business Roundtable Breakfast Briefing with the Hon. Alanah MacTiernan MLA, Minister for Planning & Infrastructure, regarding The Albany Waterfront Small Boat Harbour Project on Tuesday 3rd August. The Minister unveiled a concept design that was very different to the plans we had recently agreed to as a Council, which came as some surprise. An engineering and financial analysis of the new design will be undertaken to determine its feasibility. This should be completed within the next two months and will then be presented to Council for further consideration.

On Wednesday 4 August I was invited to look over the new section of the Albany Hospice. Called “New Horizons” the centre offers alternative treatments, such as Reiki, healing hands and relaxation therapy to patients. I was very impressed by the facility and the Hospice is to be congratulated for the wonderful service it offers in respite care to members of our community.

And finally, from August 6th to 8th I attended various forums and presentations at the Local Government Week Convention, along with Councillors Evans, Emery, Demarteau and West. The theme for Local Government Week this year was “One Voice – United, Focused and Committed”. Speakers included the Hon Dr Geoff Gallop, the Hon Tom Stephens MLC and Mr Ivan Deveson whose corporate achievements include terms as CEO of Nissan, Chairman of Channel 7 and Lord Mayor of Melbourne. There were many other notable speakers whose background and experience brought much to the Convention and certainly inspired the “One Voice” theme. The WA Local Government Association, Annual General Meeting was held on Sunday 8 August.

Thankyou.”

**MOVED COUNCILLOR SANKEY
SECONDED COUNCILLOR PAVER**

THAT the Mayor’s report be received.

MOTION CARRIED 13-0

18.0 URGENT BUSINESS APPROVED BY MAYOR OR BY DECISION OF THE MEETING

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR SANKEY**

THAT Council discuss the following late item:-

18.1 Proposed Gym upgrade – Albany Leisure & Aquatic Centre – Upgrade Stage 1.

MOTION CARRIED 12-1

18.1 Proposed Gym upgrade - Albany Leisure and Aquatic Centre – Upgrade Stage 1

File/Ward	: MAN 163 (All Wards)
Proposal/Issue	: Effects of Competition in Relation to proposed Gymnasium Upgrade at the Albany Leisure and Aquatic Centre
Subject Land/Locality	: Albany Leisure and Aquatic Centre, Barker Road Albany.
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer(s)	: Recreation Development Officer (M Weller)
Disclosure of Interest	: N/A
Previous Reference	: OCM 17/06/03 - Item 12.2.2 OCM 07/08/03 - Item 12.2.10 OCM 12/12/03 - Item 12.2.5 OCM 15/06/04- Item 12.6.2
Summary Recommendation	: That additional detailed research is completed into the effects of competition in relation to an upgrade gymnasium (Cost \$43,000).
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. At the Ordinary Council Meeting of 12th December 2003 Council adopted concept plans and master plans including a new staging order for the project.

2. The recommendation on including a gym in the initial stage of the project was as a result of advice by the project design team (Ian Howard and Associates Architects, Thompson Marquis Project Management; feedback from the 20 member council and community, key stakeholders group and research and financial modelling by City of Albany officers).
3. It was predicted that the inclusion of a gym would have the benefits of increased functionality and attendance at the centre and result in a significant return on investment, offsetting the increased aquatic deficit.
4. Financial figures indicated for Average, Best and Worst Case Scenarios, with and without the upgraded gymnasium are provided in the financial implications of this item.
5. In March 2004 the City of Albany was notified of the success of a Community Sport and Recreation Facilities Fund application for the project. The Department of Sport and Recreation granted \$1,500,000 towards the project to be claimed in the 2005/2006 and 2006/2007 financial years.
6. The amount was \$575,500 less than the requested \$2,075,500 requested leaving a shortfall for the project. Council was briefed on ways to address the shortfall including maximizing the amount of community fundraising, applying for additional funds and removing non-core elements of the project.
7. As part of this process the need to assure income streams was identified. The financial and center performance predictions were independently audited by the YMCA business consultancy section.
8. The audit involved comparison of current and predicted ALAC performance against information from 9 Australian facilities of similar size, component makeup and catchment population.
9. The report found that the performance targets of Income, Expenditure, Attendance and Net Deficit are reasonable and achievable. Potential discrepancies were analysed and minor changes made to projections. It was found however that potentially understated and overstated items balanced each other out.
10. The report significantly substantiated the predicted contribution of the Gym to centre financial performance noting that the Gym income was potentially understated and could be higher than predicted. The report also recommended the inclusion of a gym and group fitness area to ensure the achievement of predicted performance indicators.
11. Council was briefed on the project on Tuesday 23rd March and indicated that they had received communication from local gym operators, concerned that an upgraded Gymnasium at the ALAC would have an adverse effect on their business.
12. At the request of Councillors further research into the effects of competition in comparative local government areas was commissioned. The research involved contacting 11 Leisure and Aquatic centres of similar size, component makeup and catchment population throughout the southern states of Australia.

13. The comparative study addressed:-
- Scope of health and fitness components in relation to:
 - *Size*
 - *Fit out*
 - *Age / Age of upgrade*
 - *Membership base*
 - *Participation*
 - *Programming levels*
 - *Staffing requirements*
 - *Income / Expenditure*
 - *Financial impact on whole facility*
 - *Broader facility components*
 - Catchment populations
 - Number of competitors
 - Basic overview of competitors
 - *Size*
 - *Length of time in operation*
 - Management comment on the importance of the health and fitness components
 - Management comment in relation to the health and fitness business environment
14. The Research returned the following key findings:
- a) Competition
- | | |
|--|--------|
| • The mean catchment population | 34 229 |
| • The mean number of competitors (excluding sample site) | 4.75 |
| • Percentage of sites that have had 1 or more new competitor(s) since 2002 | 75% |
| • The number of sites that have had 2 new competitors since 2002 | 37.5% |
- b) The number of competitors
- The lowest range of providers (including sample site) is 3. This site is servicing a catchment population of 25 000.
 - The mean range of competitors of providers (including sample site) is 5.75.
 - The highest range of providers (including sample site) is 13. This services an estimated catchment population of 50 000.
- c) The key findings indicated that ALAC has range of providers equal to the lowest of the sample (including sample size) at 3 and ALAC's ratio of providers per catchment population (including sample site) at 1:10,333 is below the lowest in the sample
- The lowest ratio of providers per catchment (provider: catchment population) (including sample site) is 1:9 250;
 - The mean ratio of providers per catchment (including sample site) is 1:6 802;
 - The highest ratio of providers per catchment (including sample site) is 1:3 846; and
 - Most facilities noted an increase in the number of providers in the last 2 years. The providers were prominently commercial private operators, followed by local governments.
- d) The Impact of Competition
- The impacts of competition included:

- 3 responses - An initial tapering (eg 3-5%) follow by a recovery (3 – 12 months) to increased growth.
- 1 response - Zero or minimal impact
- 1 response - A decline of approximately 10% (no recovery after 12 months)
- No competitors of the sample facilities have closed their operations in any of the recent years – although a number of businesses have been sold to new proprietors.

e) Findings from Managers comments

Managers have identified it is their experience that the base market grows with a new entrant into the market (especially when associated with heavy health based advertising)

Managers have noted the promotion of membership discounting by new competitors has short – medium negative effects on their operations.

Managers have noted that a new competitor may have a negative effect if the existing operation is sub-standard in fit-out, programming or membership service.

f) Key Manager recommendations

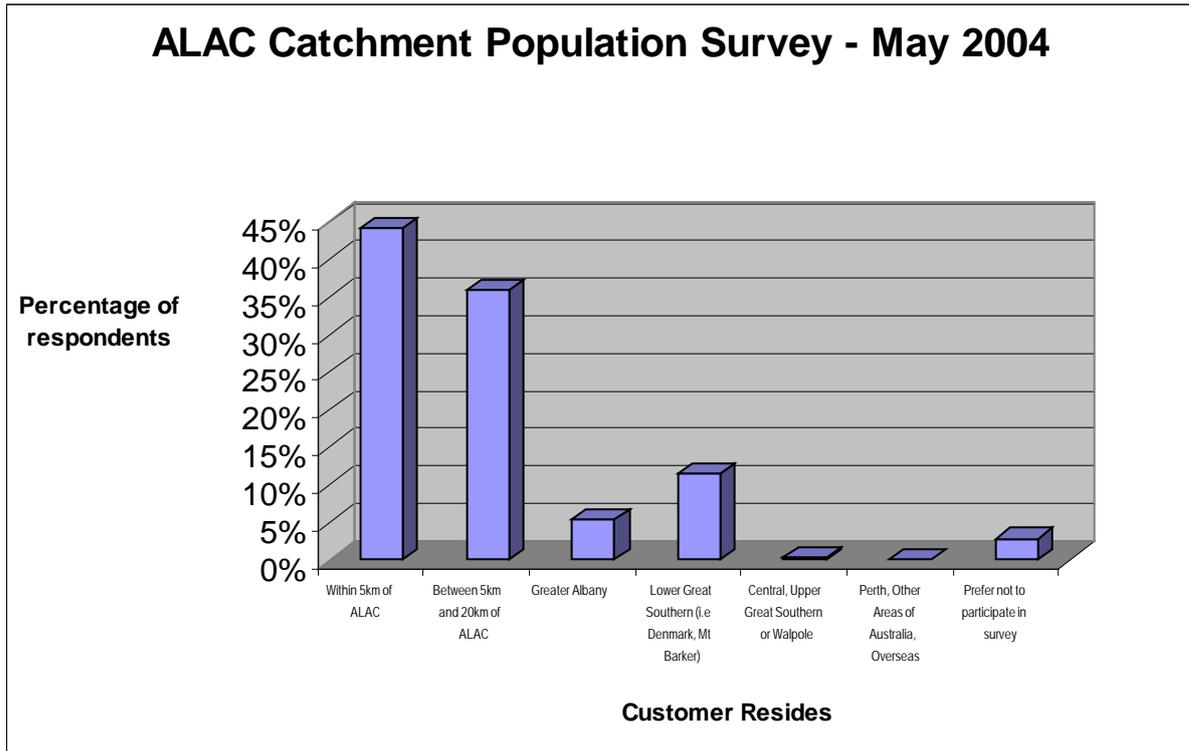
Manager, without exception, recommended in the strongest terms for the inclusion of a health and fitness club. Key reasons include:

- The ability to generate surpluses from operation
- The ability for surpluses to fund other (loss generating) items such as aquatic, development and childcare programs.
- The ability for the health and fitness programs to meet broad industry trends (recreation preferences for non time / structured activities and increase awareness of health benefits – obesity reduction) and specific community needs (over 55's, rehabilitation and safety)
- The increased participation in the facility, and the subsequent cross sale / promotional opportunities.

g) Managers further noted

- The health and fitness areas are often too small to meet community need and membership potential, necessitating further redevelopment in some cases.
- Private operators are likely to fill a gap in provision if the local government does not.
- The community face of local government is an important provider/ addresses the community market requirements of the industry.

15. The final stage of the report involved the sourcing of three case studies of local government facilities that have upgraded their sport and recreation facility through either the inclusion of a new health and fitness component, or a substantial upgrade of existing health and fitness facilities. Detailed analysis occurred in relation to changes in the competition environment of the particular catchment from pre to post health and fitness upgrades.
16. For comparative purposes research was completed to determine the current ALAC catchment population. A survey of 390 random entrants during the week 24/05/04 – 30/05/04 returned the following results.



17. Given these results, geographic modelling by City of Albany Officers and acknowledging the regional nature of the catchment draw it was determined reasonable to assume a catchment population of 31,000.
18. Following the receipt of a progress update regarding the comparative study council (Item 12.6.2 - OCM 15/06/04) were presented with several options in regard to the Gymnasium component of the upgrade. Council determined to accept “the current level of research as sufficient to make a decision on the issue and that a full briefing will be given in July/August 2004”
19. On the 3rd August 2004 Council was presented with the findings of the comparative research into the effects of competition by Mr Peter Bauchop of the YMCA of Western Australia.
20. While acknowledging the level of research undertaken councillors believed that the cultural environment of Albany was different to other Australian centres and might not be conducive to the same level of gym participation.
21. Councillors request that the option of additional detailed market research be brought before them for re-consideration as a late item at the 17th August meeting
22. The final competition report findings will be tabled at the agenda briefing session 10th August 2004.

STATUTORY REQUIREMENTS

23. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

- 24. Albany 2020 – Charting Our Course
“To plan and provide for equity of access to, and the continual development of activities within the Leisure and Aquatic Centre, which enhances the quality of life for a growing and active Community.”

“To encourage a healthy and active Community through the development of a range of recreational and cultural pursuits”
- 25. Albany Recreation Strategy

“There is access to a range of quality facilities throughout Albany”

“Future facility needs reflect the actual community needs and are confirmed/justified through the conduct of Feasibility studies that comply with the CSRFF and Feasibility study guidelines produced by MSR and have sustainable facility planning processes.”
- 26. Adopted Recommendation Ordinary Council Meeting on 12 December 2003, Item 12.2.5
“That in the event that an upgraded gymnasium is operated as a business unit of the Albany Leisure and Aquatic centre it complies fully with National Competition policy to ensure that it does not compete unfairly with local business.”

FINANCIAL IMPLICATIONS

- 27. Although no budget allocation has been provided, indicative figures indicate the completion of additional in depth Albany competition research would cost in the vicinity of \$43,000(ex GST)

STRATEGIC IMPLICATIONS

- 28. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

- 29. If an upgraded gymnasium at the ALAC had a similar effect on Albany competitors as similar facilities in similar catchment populations have on their competitors (as per research detailed above). The potential effect could range from:

Average Case	<i>Zero or minimal impact</i>
Worst Case	<i>A decline of approximately 10% (no recovery after 12 months)</i>
Best Case	<i>An initial tapering (eg 3-5%) follow by a recovery (3 – 12 months) to increased growth.</i>

- 30. Council has previously resolved to accept the current level of research as sufficient to make a decision on the issue.

31. Several market research companies have been contacted in regard to undertaking detailed demographic studies in Albany and the potential effects the inclusion of a gymnasium in the ALAC redevelopment may have on market place competitors.

The Council has indicated that further research of this aspect may be necessary.

RECOMMENDATION

THAT Council undertake additional detailed research into the direct effects of competition in relation to an upgrade gymnasium at the ALAC – Research cost \$43,000.

Voting Requirement Absolute Majority

.....

**MOVED COUNCILLOR SANKEY
SECONDED COUNCILLOR DEMARTEAU**

THAT given the level of public consultation and research already undertaken, Council proceed with the upgrade of the gymnasium component set out in the concept plan as part of the Albany Leisure and Aquatic Centre redevelopment.

MOTION CARRIED 7-6

It was requested that names be recorded:

For the Motion: Councillors Sankey, Paver, Bojcun, Evans, Barton, Demarteau and Mayor Goode.

Against the Motion: Councillors Emery, Wellington, Waterman, Williams, Jamieson and Wolfe

Reason:

- There has already been extensive public consultation on the upgrading of the gymnasium and this has been included in all concept plans for the redevelopment. In addition, all centres visited in the initial stages included a gymnasium as part of their overall operations, and the comparative studies have shown the operations of the gymnasium to be integral to the centres studied, without having an overall detrimental effect on established businesses.

Item 12.6.2 continued.

Research Options

	Research option 1	Research option 2 - greater depth
Method	Direct questioning Indication of residents viewpoint in relation to gym provision (expressed need)	Convergent Model, includes: <ul style="list-style-type: none"> • Determining customer commitment to existing choices (level of likely market cannibalism) • Indication of market fluidity • Geographical modelling • Direct Questioning Several tools aimed at achieving relevant results.
Competitor co-operation	Not Required	Will require the co-operation of existing gymnasiums as (50) members of each will be required to be interviewed. (confidentiality assured)
Sample Size	400	400
Key quotation from market research company providing quotation:	N/A	“People are unable to accurately say what they are likely or not likely to do in the future particularly when it comes to evaluating new products or services in a market research environment. This survey is not about determining whether or not people think that this is a good idea – this survey is concerned with providing an accurate estimate” Cecile Thornley – Market Equity
Cost	\$14,000	\$43,000
Officer Comment	<i>This research is likely to simply act as an opinion pole and may not return any further meaningful information as to the likely effect of competition. In a worst case this method may result in confusing the issue through false or inconclusive indications.</i>	<i>Is the research option most likely to provide further meaningful result (should council require more information to make a decision) however the expense of this research at \$43,000 is significant compared to the proposed capital expenditure of \$372,000 – \$572,000.</i>

19.0 CLOSED DOORS

Nil.

20.0 NEXT ORDINARY MEETING DATE

Tuesday 21st September 2004, 7.30pm

The meeting will be held at the Wellstead Progress Hall.

21.0 CLOSURE OF MEETING

There being no further business, the meeting closed at 9.06pm.

Confirmed as a true and correct record of proceedings.

A Goode, JP
Mayor

APPENDIX A

WRITTEN NOTICE OF DISCLOSURES OF INTEREST

Name	Item	Nature of Interest
Clr Wolfe	Item 12.8.5	Utilises the Saleyards

APPENDIX B

INTERESTS DISCLOSED DURING THE COURSE OF THE MEETING

Nil.

INTERESTS DISCLOSED BY OFFICERS

Nil.

[Agenda Item 12.1.1 refers]
[COUNCIL – 17th August 2004]



SUMMARY OF ACCOUNTS

Municipal Fund		
Cheques	totalling	189,420.49
Electronic Fund Transfer	totalling	2,836,344.22
Payroll	totalling	654,477.34
TOTAL		<u>\$3,680,242.05</u>

CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling \$3,680,242.05 was submitted to each member of the Council on 17th August 2004 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

CHIEF EXECUTIVE OFFICER
(A Hammond)

MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$3,680,242.05 which was submitted to the Council on 17th August 2004 and that the amounts are recommended to the Council for payment.

MAYOR
(A Goode JP)