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# MINUTES

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## ORDINARY MEETING OF COUNCIL

Held on Tuesday, 17<sup>th</sup> November 2009

7.00pm

City of Albany Council Chambers

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## 1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting opened at 6:59:33 PM.

## 2.0 OPENING PRAYER

Councillor Wolfe 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.”*

7:00:25 PM

## 3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

**7:00:22PM Councillor Sutton.** I have a question for my fellow councillor, Councillor David Bostock. In short terms if you could explain the reluctance to go on the internal and external committees within the Council. Thank you

**7:00:49PM Councillor Dufty.** I just wanted to make a comment. We get invited to quite a few functions, and I went to a function to say goodbye to the sisters of St Joseph, who are leaving the City. I had a wonderful time, quite a few of those sisters knew the sisters that taught my son and daughter music at Mt Barker many years ago. They were thrilled to know that the work that they did has resulted in a whole family of musicians. They laughed when I said that our daughter, who was a very good daughter, got lots of smacks over the knuckles because she wasn't as good as somebody else, but our son Anderson who was the rebel, got away with everything. It was a very wonderful function and it was a delight to go there and meet these ladies who have given their life for others, and it was something very special.

**7:02:19PM Councillor D Bostock.** Thank you Your Worship, Rate Payers of the City and fellow Councillors. Last month I spoke about the importance of representative democracy and I mentioned that people who were, had, invested interests, in this city or those who believe that they have been elected as the brains of the city didn't like that, because it threatened the power base.

I was very heartened to see the way that the press reacted to my speeches last month, really they exceeded their expectations, or my expectations of how well they would rubbish my speeches, and I must say that gives me great hope, because it seems that maybe the movers and shakers of this city are just thinking maybe my ideas could take root. The reason that I, this really is in response to Councillor Sutton, the reason that I don't want to join these committees is not because I'm lazy, I'm very happy to go on any committee, any number of committees as long as they include all councillors, or that all councillors are entitled to go and vote, and place items on the agenda.

Item 3.0 continued.

Councillor D Bostock continued.

It's not because I'm lazy, it is because I don't believe they are democratic I don't believe they fulfil any useful purpose and I would like to give you an example of that, and that is the Cat Law that we recently, well I didn't, well you, some of you recently voted for, and that was dealt by one of those committees, and there is only one councillor from each ward on them. Now in the Vancouver ward, there is a cat lover and a cat hater on the council, so if one of them goes on that committee, then if suppose it's the cat lover, then the cat lovers in the city will be over represented.

*The Mayor closed Cr Bostock's address as he had expired his 2 minutes.*

**7:04:32PM Councillor Paver.** Thank you Your Worship. I don't think it's really necessary for me to explain my position in relation to the committees, I think I have done so already in the past and it's had plenty of publicity, I will be saying a little more about that a little later in the agenda. I share Councillor Bostock's views about the nature of the committees that we have and certainly when some changes are brought about, I would be very pleased to serve again on those committees. For the moment, I'm happy that the real work is done here in council and it is in relation to the agenda that I need to spend most of my time.

**7:05:17PM Councillor Leavesley.** Thank you Mr Mayor. My first month has been very interesting and somewhat of a steep learning curve. I would like to take this opportunity to thank the staff for their help and their patience. I have attended six civic function, two half day workshops, and 11 meetings with rate payers. And with last's special council meeting I am now on 12 committees, the prospect of which I look forward to. I made the decision to stand for council, I fully appreciated the level of commitment required, however, my expectation was that the workload would be shared by all councillors, as we all know, some of our members excluded themselves from all committees.

As a board of governance, I believe we should welcome differing opinions and the committee system gives the opportunity to voice those opinions and perhaps influence others. I believe by advocating your responsibility as a councillor to be a voting member of committees you let down the people who put their trust in you by electing you to be their representative. On a more positive note, one of the civic functions I attended was the Nathan Drew Trust, for the launch for the new EPIRB system. The Drew family's ongoing commitment and achievements are to be applauded and we should be proud of the City's association with the trust.

**7:06:46PM Deputy Mayor Wellington.** I would like to thank and congratulate those Councillors that did put their names down for committees, I welcome the work that you are all prepared to do, I think we all need to contribute to the benefit of this city and I believe a major portion of that is through the committee system, I believe it works, I think it works very well, and that we get an enormous amount of information and enormous amount of insight as to what's happening in this city and failure to be part of that I think makes it very, very difficult to act in the best interest of our rate payers.

Item 3.0 continued.

**7:07:27PM Councillor Price.** Thank you Mr Mayor. I would like to join with many of my colleagues on this council, by thanking and congratulating those who have nominated for committee membership, who have nominated to work at the foundation level of many of the decisions that ultimately come to council and to have a part in progressing the debate in those specialised areas before they do come to council. On many of those committees, it also is a very welcome and enjoyable part of our role to serve with community members, it's something that I really enjoy very much and I'll lament the fact that we are not all doing it.

**7:08:17PM Councillor Hammond.** No Thank you Mayor.

**7:08:18PM Councillor J Bostock.** Thank you Mayor, Well since last week's Special Council Meeting, electing the committees, I have been subject to a lot of unwarranted criticism, with regard to my failure to nominate for a membership of committees unless of a true governance nature, that is composed of all councillors with a governance generated agenda. The criticism is centred on a misunderstanding and a mistaken belief.

- A. that I'm failing in my responsibility;
- B. that I'm not representing my constituents;
- C. that I'm not taking my fair share of the load; and
- D. I am petulant in not getting my way.

None of which is true, I am a conscientious councillor and I take my responsibility very seriously indeed, which generates my driving force to strive for improvement. I understand the majority rule and work within it. But this must not compromise ones principles or jeopardise the essence of our duty to govern this City and improve the lives of those that live here.

As a non member I can still take an active part in all committees, I simply cannot vote, thus, I can attend the present system without compromising my own understanding of representative democracy and my vote remains here in this chamber, this public chamber, where it properly belongs. Thank you."

**7:10:02PM Mayor Evans.**

#### **MAYOR'S REPORT.**

At this time I seek your patience in my report to council. The engagements over and above standing council and committee commitments and office appointments are certainly on the increase leading up to Christmas. Since the October Ordinary Council Meeting my engagements and commitments have included a cheque presentation, I do like them, a cheque presentation for the PCYC; Wine Industry forum in Denmark; community radio segment I have every Thursday; regional achievement and community awards in Perth at which Albany resident Eugene Eades received the indigenous service award and our formal congratulations have gone to Eugene.

Item 3.0 continued.

I represented Council on the Atlantic Eagle Community Fund Project, co-ordinated by the Albany Port Authority; The Mayor of Albany's sister City in Peronne in France visited Albany in a personal capacity and I was pleased to host a tour of Albany and a dinner for Mrs Valerie Coom and her family and she intends to be here Anzac day next year.

I attended the smarter than smoking Country Sports Scholarship and presentations for 2009 and was delighted that the recipients of those awards are fine young people, they are wonderful.

The St Josephs College Presentation night and I hosted and afternoon tea for the congregation of the Sisters of St Joseph of the apparition and Councillor Dufty had referred to. I also attended a memorial service for Mrs Doris Smith, wife of former Town Mayor, Harold Smith; and the ACCI 2009/10 Directory Launch; it was a real delight to be there.

I was delighted to be invited to the 86<sup>th</sup> Anniversary of the foundation of the Republic of Turkey, in Perth. This function presented an ideal opportunity to discuss and promote the Albany Peace Park Dedication in 2010 and the 2014/15 Anzac Centenary Celebrations, which the mayor of our sister city, Gallipoli, has indicated he would attend.

I attended an afternoon tea celebration for the UWA Albany Centre 10<sup>th</sup> anniversary, and later that afternoon, the city hosted a civic reception for their anniversary which was attended by His Excellency Dr Kenneth Michael, AC Governor of WA.

Whilst in Perth attending the bi-monthly library board meeting, I was also able to attend the launch of the Perth International Arts Festival Program, the role of art in place making event, and the Golden West Network Western Australian Regional Small Business Awards at which the Albany Dome Café was a runner up in the franchise business category, and Ryan Waugh Hairdressing was the winner in the 5 to 10 employees categories, and we congratulated Ryan.

The City hosted a morning tea reception for the launch of the Silent Sentry, which has been upgraded with EPIRB technology, the Nathan Drew Memorial Trust is responsible for the hard work behind this initiative, and it is to be congratulated, on their success on promoting coastal safety.

The City is pleased to have contributed to the project. And finally, the RSL remembrance day service on the 11<sup>th</sup> of November and the Albany Agricultural Cocktail Function to launch the 2009 Albany Show on the 12<sup>th</sup> of November.

There were a number of events I was unable to attend due to prior commitments and I thank the Deputy Mayor Councillor Wellington and Councillors Price and Dufty for representing council; at the Keep Albany Beautiful Awards, Councillor Dufty; Albany Residential College Award Night, Deputy Mayor Wellington; The Flag-Off for the Big Rainbow Bike Ride, Deputy Mayor Wellington had to get up early that morning; RSL Desert Mounted Corps Memorial Service, Councillor Dufty; Service and Lunch for the Sisters of St Joseph, Deputy Mayor Wellington; and RSL Mercers Memorial Service, Councillor Price.

Thank you Councillors.

Item 3.0 continued.

**ITEM 3.0 DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR DUFTY**

**THAT the Mayor's report for November 2009 be received.**

**MOTION CARRIED 12-0**

**DRAFT MOTION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR DUFTY**

**THAT Council Suspend Standing Order 3.1 – Recording of Proceedings.**

**MOTION CARRIED 12-0  
ABSOLUTE MAJORITY**

**4.0 RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME**

Nil.

**5.0 PUBLIC QUESTION AND STATEMENT TIME**

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

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

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

Item 3.0 continued.

7:17:04 PM

**Speaker 1. John O’Dea – 82 Bushby Road, Lower King**

Mr O’Dea addressed Council with the proposal to close portion of King George Street, Little Grove. Mr O’Dea noted an administrative oversight and noted the toilet was erected on King George Street road reserve, as opposed to the South Western Corner on Grove Street. Mr O’Dea requested that the toilet erected on King George Street be removed and relocated to where it was originally planned to be located. Mr O’Dea raised awareness of the area near the Wetlands at Lake Seppings proneness to flooding.

Comments in the Local Media – requested that the issues in council should be raised in house and not in public.

Quoted the November 16<sup>th</sup> Edition of Time Magazine – “\$1.3 million dollars amount paid at an auction for 238 pieces of art owned by the bankrupt Lehmann Brothers, nearly doubled the expected proceeds...”

7:20:40 PM

**Speaker 2– John Boughton, 23 Parker Street, Albany**

Mr Boughton addressed council in regards to a submission regarding Invasion of the Permit Parking Arrangements

*Noted by the CEO, Mr Richards, that it had not been received by council yet.*

Mr Boughton noted that the ‘valued areas are being invaded and when your approach someone and say do you realise you have inadvertently parked in a permit bay, they say no one was using it, or I won’t be a minute, and they pass on”. Mr Boughton stated that he has been informed that in private areas, such as Shopping Centres, you have to report the parking offence to the store manager. Mr Boughton noted the permit parking at North Road Shopping Centre, and their positioning makes them almost unusable.

7:23:00 PM

**Speaker 3 - Kim Stanton, 55 Chipana Drive, Little Grove**

Tonight I wear two hats, ex-councillor and ratepayer.

As councillor, I took my position seriously. In 2 years I attended all meetings except for last August when I went to Perth for a hip replacement. As you all know it meant that in the run-up for the election I was unable to door knock as I was on crutches till election night.

I lost my seat and it goes to show that door knocking does win votes.

However door-knocking two years ago, I found that the ordinary ratepayer does not understand just what Councillors are all about, services and lower rates being their only interest.

Item 3.0 continued.

Recently we have seen excellent advertisements on TV showing the importance and diversity of what your local Council is and does for their residents. It is time for similar TV ad's to show what makes a good councillor and what to look for when deciding on who to vote for. These ad's should be run in the lead up to a council election.

Voting should be compulsory. My Ward averaged 31% with residents ringing me later saying they had not sent their ballot papers back because of the school holidays then etc. Residents get distracted and with State voting as low as 25%, the State Govt needs to reconsider their position on compulsory voting for L/Govt.

Newly elected Cr David Bostock (my Ward) promised in his campaign leaflets that, I quote "if elected my constant endeavour will be to return the running of our city to the people by taking a leading role in the governance of the city, reduce the number of local laws and reduce the number of city staff involved in activities which are of limited significance to the people of Albany". He also promised to return the government of our city to the electors and ratepayers.

Now to the ordinary person out there, this sounds terrific, But Just how did he plan to do it? Has he forgotten that Councillors work as a team, they debate, make decisions and no single councillor can do what he just promised, without the others agreeing. And he might be able to direct the Mayor and CEO, but councillors have no jurisdiction over sacking or hiring City of Albany staff.

That leaves the question of taking a leading role in governance. Just how does Cr David Bostock plan to do this, if he does not plan to be on any committees, especially the Governance one, or continues to vote against every Agenda Item? As Cr Wellington quipped, "Looks like it will be an 8/3 vote for the next 4 years!!"

Now as a ratepayer, I am asking" Why is the Vancouver Ward not being represented on any of the big 4 Council Committees?

Cr. Paver (my other Ward Rep') also gave notice that he wouldn't be attending "committee meetings", and in the last 2 years only attended a handful, leaving me as the Ward Councillor to attend all of them, which I did.

To make matters worse, Cr Jill Bostock said she would also not be on any committees, leaving Cr Hammond to represent their Breaksea Ward on his own. This is disgraceful, because Cr Hammond works full-time and both councillor Bostock's do not. Then to add insult to injury, Cr. Jill Bostock said she would attend the committee meetings but not as a member to vote, but just to be informed. We assume that will also apply to her husband. As both Councillors continually inform us on the importance of good governance, just how do they plan to deliver this promise to their electorates, if they do not attend or vote and be involved?

What happened to the word Commitment? Why bother being a Councillor.

Item 3.0 continued.

I am continually being stopped in the street by residents wanting to know just what is going on.

Also Vancouver Ward people are saying, "Why bother voting, when you get a councillor that does not want to be there or represent you." Then they get confused when they ask me if it is legal for a husband and wife to be on Council and I tell them yes. But is it ethical they say?

What about the words - Trust and Respect. Residents of Albany trust councillors to get on and do the job they were elected for and Councillors need to show respect not only to their constituents but to each other and particularly to the City of Albany staff.

They are not your servants.

As an ex councillor and now as an ordinary ratepayer, I expect my elected councillors to get on with the job and to act for not only their Ward but for Albany as a whole and to do it with integrity.

Speech Tabled at appendix D.

Item 3.0 continued.

7:27:27 PM

**Speaker 3 - Gary Knewstubb, 12 Cliff Street, Albany**

Mr Knewstubb addressed Council in regards to spending money on the roads in Albany.

Mr Knewstubb asked for a justification for the continuing upgrade and confusion on Parade Street and the indications on Grey Street to change the kerbing boundaries.

Mr Knewstubb also noted the condition of Cliff Street, at the top on Mt Melville. Noted the only work that has been undertaken on this road was done 'the other day'.

Mr Knewstubb has previously enquired to Council with regards to the timeline on which road repairs will be started. He invited Councillors to inspect the roads and the state they are in.

Open Forum closed at 7:30:50PM

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

**Mayor** M Evans, JP

**Councillors:**

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

**Staff:**

Chief Executive Officer	P Richards
Executive Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Director Development Services	R Fenn
Executive Manager Planning Services	G Bride
Executive Manager Business Governance	S Jamieson
Minutes Secretary	K Evans

**Public Gallery and Media:**

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

**Apologies/Leave of Absence:**

Executive Manager Corporate Services	D Schober
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**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**ITEM 7.0 – DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED:**

**SECONDED:**

**THAT Council GRANT Councillor D Bostock and Councillor J Bostock a leave of absence from the December 2009 Ordinary Council meeting.**

**MOTION CARRIED 12-0**

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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

7:31:50 PM

**ITEM 8.1 - DRAFT MOTION:**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR PRICE**

**SECONDED: COUNCILLOR WOLFE**

**THAT the following minutes:**

- i) Ordinary Council Meeting held on the 20<sup>th</sup> October 2009, pending the following correction:**
- ii) That Councillor Wolfe's name is added to the record of vote for the following items:**
  - (1) Against: Items, 13.2.2 Procedural Motion, 18.1, and 18.3.**
  - (2) For: Items: 13.1.1, 13.1.2, 13.2.1, 13.2.2, 13.5.1, 14.1.2, 14.1.3, 14.11.3, 14.12.3 en bloc, 14.12.4 en bloc, 15.1.1, 15.2.1, 15.3.2, 15.4.1 en bloc, 15.4.2 Committee Rec 1&2**

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

**MOTION CARRIED 12-0**

7:32:38 PM

**9.0 DECLARATIONS OF INTEREST**

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

Name	Item Number	Nature of Interest
<b>Elected member</b>		
Councillor Hammond	13.2.1	Proximity. The nature of interest being the applicant/owner occasionally transacts business through the Albany Visitor Centre in respect to rental properties.  Councillor Hammond remained in the Chamber and participated in the debate and vote.
Councillor Leavesley	14.12.4	Proximity. The nature of interest being that Cr Leavesley is a member of the Albany Racing Club and associate member of the Albany Club.  Councillor Leavesley remained in the Chamber and participated in the debate and vote.
Councillor Price	19.1	Impartiality. The nature of interest being that Cr Price is a member of the Prince Royal Sailing Club.  Councillor Price remained in the Chamber and participated in the debate and vote.
Councillor Hammond	19.1	Impartiality. The nature of interest being that Cr Hammond is a sponsor of the Princes Royal Sailing Club.  Councillor Hammond remained in the Chamber and participated in the debate and vote.
Councillor Dufty	19.1	Impartiality. The nature of interest being that Cr Dufty is a member of the Albany Light Opera Theatre Company.  Councillor Dufty remained in the Chamber and participated in the debate and vote.
<b>Staff</b>		
Executive Director Corporate & Community Services – Mr Madigan	14.11.1 & 14.12.4	Impartiality. The nature of interest being that he is a life member of the club.

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

Nil

**11.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**12.0 ADOPTION OF RECOMMENDATIONS EN BLOC**

Nil

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# **DEVELOPMENT SERVICES**

## **Reports**

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**DEVELOPMENT SERVICES REPORTS**

**13.0 REPORTS – DEVELOPMENT SERVICES**

**13.1 DEVELOPMENT**

**ITEM NUMBER:** 13.1.1

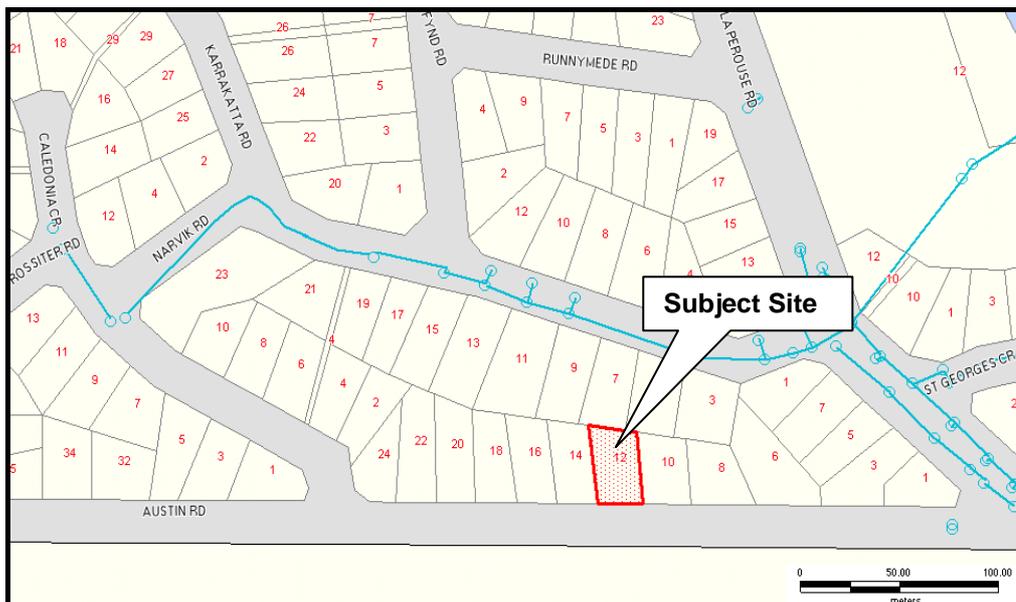
**ITEM TITLE:** DEVELOPMENT APPLICATION – ADDITIONS TO A SINGLE DWELLING – 12 AUSTIN ROAD, GOODE BEACH

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- |                                    |   |
|------------------------------------|---|
| <b>File Number or Name of Ward</b> | : A13170 (Vancouver Ward)   |
| <b>Summary of Key Issues</b>       | : Assessment of additions to a single dwelling under the performance criteria for the Residential Design Codes              |
| <b>Land Description</b>            | : Lot 80, 12 Austin Road, Goode Beach   |
| <b>Proponent</b>                   | : Michael Turner  |
| <b>Owner</b>                       | : P & E Wilkes  |
| <b>Reporting Officer(s)</b>        | : Planning Cadet (J Anderson)   |
| <b>Disclosure of Interest</b>      | : Nil   |
| <b>Previous Reference</b>          | : OCM 21/04/09 - Item 11.6.2  |
| <b>Bulletin Attachment(s)</b>      | : 1. Site Plan and Elevations<br>2. Letter of Justification<br>3. Neighbours Comments                                       |
| <b>Consulted References</b>        | : 1. Town Planning Scheme 3<br>2. Residential Design Codes<br>3. Use of Reflective Building Materials in Goode Beach Policy |
| <b>Councillor Lounge</b>           | : Nil   |

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued.

**BACKGROUND**

1. The subject land is zoned Residential within Town Planning Scheme No. 3. The application site is 830m<sup>2</sup> in area and currently contains a single dwelling. The site is located on the north side of Austin Road, Goode Beach, opposite a reserve.

**DISCUSSION**

2. This application seeks Planning Scheme Consent for additions to an existing dwelling. The additions include a bedroom, lounge and deck and have an elevated floor level due to the slope of the lot. It is to be supported on poles and in this way it does not significantly impact on the natural slope of the dunes in terms of cut and fill or excavation for foundations.
3. This proposed development falls within the Goode Beach Reflective Building Materials Policy catchment. The proponent has provided the reflectance values for one of the external finishes, being the roof. They have been unable to obtain reflectance values for the proposed windows, weatherboard or paint as the manufacturer does not carry this information. Therefore, given that the policy states that all materials must have a reflective quality of less than 50%, and the applicant has been unable to obtain this information, staff have been unable to proceed with this application and therefore seek Council's direction.
4. The materials used within the additions are to match existing development on the site. The roof is proposed to be colorbond in "Deep Ocean". The walls are proposed to be constructed out of weatherboard cladding and painted in a matt classic cream to match the existing dwelling. The development also includes several windows.
5. The applicant has successfully been able to provide the reflective quality of the roof (the actual reflective quality of Deep Ocean is 25%), which meets the requirements of the policy and is therefore classified as a low reflective building material under the policy.
6. The neighbours to the east and west have both been consulted and have no objections to the materials being used. The proponent has provided justification for the use of the windows and the classic cream paint.
7. Also as part of this application, the adjoining landowners to the east were consulted due to an overlooking deck and an over height wall. The proposed deck requires a 500mm overlooking relaxation. A portion of the wall on the eastern side exceeds the permitted 6.0m height set out under table 3 of the Residential Design Codes. Although it exceeds the permitted wall height by 400mm, the roof line is well below the permitted 9.0m (maximum height of roof line is 7.3m). The neighbours have no objections to either relaxation. The proposal meets all other required setbacks and elements as set out under the Residential Design Codes.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued.

8. Staff consider the balcony will not give rise to overlooking or privacy issues from the proposed additions and with the adjoining landowners not objecting, the proposal is considered acceptable.
9. Although the proposed dwelling has a wall height of 6.5m due to the slope of the lot, the dwelling will have a maximum ridge height of 7.3m which falls well below the permitted 9.0m. Accordingly, it is staff's opinion that the design satisfies the Residential Design Code performance criteria and will not be significantly intrusive in the surrounding landscape setting by reason of its bulk, scale and massing.
10. The policy on reflective materials has set assessment criteria for determining highly reflective building materials. Although the proposal achieves parts of this, it is impossible to assess compliance with some of the proposed materials. Also, it is difficult to assess whether it would create a nuisance and it is difficult to predict if it will present a hazard.
11. Although staff are of the opinion that the use of windows and the use of matt paint finish is acceptable in this instance, it cannot be determined if it complies with the Council's "Use of Reflective Materials in Goode Beach" policy. The colour finish can be controlled by condition and Councillors are requested to make a determination if this is appropriate. Staff recommend that Council undertake a revision of the existing policy.

**PUBLIC CONSULTATION / ENGAGEMENT**

12. Refer to paragraphs 6 to 9 above.

**GOVERNMENT CONSULTATION**

13. Not applicable.

**STATUTORY IMPLICATIONS**

14. The land is zoned "Residential" in Town Planning Scheme No.3, whereby a single house is a permitted use. The policy provisions applicable to this site require compliance with materials having a reflectance value of less than 50%.

**FINANCIAL IMPLICATIONS**

15. Should the proponent lodge an appeal with SAT over any of the proposed conditions or a decision by Council to refuse the application, some legal costs would be applicable.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

16. Not applicable

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued.

**POLICY IMPLICATIONS**

17. At its meeting dated 21 April 2009, Council resolved to adopt the policy entitled 'Use of Reflective Building Materials in Goode Beach'. The policy was primarily introduced to preserve the amenity of the area by avoiding the use of highly reflective materials within the Goode Beach area.
18. The Policy included provisions to ensure that development had a solar reflectance value of less than 50%, and that all applications within this area would need to provide the solar reflectance value of all materials proposed as part of a development.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

19. Council has the option to refuse the proposal, however this may prompt the proponent to lodge an appeal with the State Administrative Tribunal. This would have associated cost implications for the Council.

**SUMMARY CONCLUSION**

20. The application proposes additions to an existing single residential house.
21. This proposed development falls within the area that the Use of Reflective Building Materials in Goode Beach policy applies. The proponent has been unable to obtain reflectance values for the proposed windows, weatherboard or paint and given that the policy states that all materials must have a reflective quality of less than 50%, staff have been unable to determine whether the development satisfies the requirements of Council's policy.
22. The use of the "classic cream" colour paint, to match the existing dwelling, as well as windows proposed within the development are considered acceptable.
23. Staff recommend that Council support the proposal and agree to undertake a revision of the existing policy.

**ITEM NUMBER 13.1.1 - OFFICER RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MATLA**

**SECONDED: COUNCILLOR PRICE**

**THAT Council ISSUES a Notice of Planning Scheme Consent for a 'Single House (extensions)' at Lot 80, 12 Austin Road, Goode Beach.**

**MOTION CARRIED 12-0**

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued.

**ITEM NUMBER 13.1.1 - OFFICER RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR MATLA**

**THAT Staff amend the existing “Use of Reflective Building Materials in Goode Beach” policy to require the restrictions on the reflective quality of materials used within the policy area to apply to roofs only.**

**MOTION CARRIED 12-0**

**DEVELOPMENT SERVICES REPORTS**

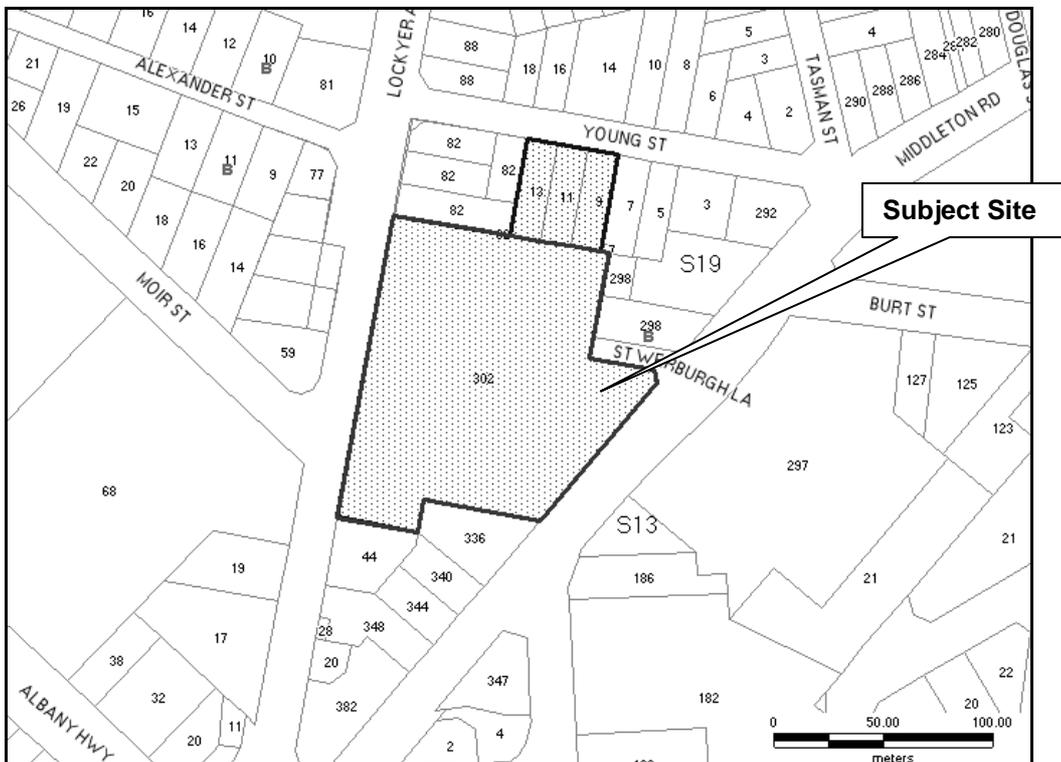
**ITEM NUMBER:** 13.1.2  
**ITEM TITLE:** DEVELOPMENT APPLICATION – PROPOSED MULTIPLE SIGNAGE (NEW CORPORATE BRANDING) – 302-324 MIDDLETON ROAD, CENTENNIAL PARK

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : A163987 (Frederickstown Ward)
- Summary of Key Issues** : Signage proposed in excess of Council Policy
- Land Description** : Dog Rock Shopping Centre 302-324 Middleton Road, Centennial Park
- Proponent** : Ken Paterson Architects on behalf of Woolworths
- Owner** : Cockles Pty Ltd
- Reporting Officer(s)** : Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Application for Planning Scheme Consent
- Consulted References** : 1. Town Planning Scheme 1A  
2. Local Planning Policy – Signs, Hoardings and Billposting
- Councillor Lounge** : Colour Elevations illustrating signage locations

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued.

**BACKGROUND**

1. The application site is the Dog Rock Shopping Centre, more specifically the principal tenant of the shopping centre – Woolworths. The site is just over 14,400m<sup>2</sup> in area and is located between Middleton Road and Lockyer Avenue. The land is zoned “Central Area” within Town Planning Scheme 1A.
2. The Local Planning Policy – Signs, Hoardings and Billposting sets the objectives and scope of Council control over advertisements. Signs complying with the specifications contained in Table 1 of the policy are exempt from requiring specific planning scheme consent. Additional requirements and stipulations are set down within the policy and some discretion for acceptable deviation can be exercised.
3. The application is presented to Council as the number and area of coverage of advertisements exceeds that stated in the policy.

**DISCUSSION**

4. The application seeks Planning Scheme Consent for multiple signs on the renovated Woolworths store within the Dog Rock Shopping Centre. The signage proposed is to replace and upgrade the dated Woolworths red, white and green signage to align with the new corporate branding.
5. Much of the signage proposed is a straight replacement for existing approved signage, but the signage on the north and west facades involve re-positioning and larger scale signs. This, in staff’s opinion goes way beyond the Council policy and an acceptable deviation from the policy.
6. The Council Policy on Signs, Hoarding and Billposting is clear at Section 4, where regarding overall signage, it states “*No more than four (4) signs shall be located on each building, or in the case of a multi-tenanted building no more than two (2) signs per tenancy up to an overall maximum of ten (10) signs, inclusive of signage attached to a building’s roof, verandah or other architectural feature (does not include pylon signs or any other sign not attached to building).*”
7. As previously stated, the existing signage has been approved and it exceeds this element of the policy. Any further signage needs to be considered in terms of acceptable deviation as defined in the policy;

*‘The local government may exercise its discretion to approve a deviation from the specific standards subject to the applicant demonstrating that the likely affect of the location, height, bulk, scale, orientation and appearance of the advertisement will not: a) conflict with or detrimentally affect the amenity of the locality; b) interfere with traffic safety.’*

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued.

8. The signage under the verandah canopy facing the car park to the north, on the doors and within the building are direct replacements and are not considered an issue. The signage has already been approved and the content of the signage can be altered without requiring further consent. The signage on the doors is to be altered from Woolworths to 'Welcome' with the Woolworths branding over the door being altered to 'Albany Dog Rock'. This is acceptable as the generic branding is being reduced. The proponent has argued this is a reduction in the amount of advertising. Whilst this is true in relation to Woolworths changing to 'Welcome' on the doors, the sign above the door Albany Dog Rock is a direct reference to the store name 'Albany Dog Rock Woolworths'. The reduced amount of advertising advanced by the proponent is not fully accepted on this basis.
9. The Woolworths logo is present on two sides of the tower above the shopping centre and is visible from Middleton Road. This is also proposed for a direct replacement to the new branding, which again is not considered to be an issue.
10. There is also the three-sided pylon sign located within the car park close to Lockyer Avenue. This sign was erected some time in the 1970's and stands just over 9m tall. This pylon sign does not accord with the Council policy for pylon signs in terms of the height of the sign face, length of sign face, area of sign face and its overall height all exceeding the policy allowance. However, the sign pre-dates any Council policy and the policy cannot be applied retrospectively just because of a proposed change of sign content.
11. The main wall signage is where most changes are proposed. The dated high level signage on the north, west and south elevations measure 8.1m<sup>2</sup>, 22.5m<sup>2</sup> and 8.1m<sup>2</sup> respectively. These are intended to be replaced with two signs, one Woolworths and one Woolworths Liquor on both the north and west walls. The northern wall signs would face the car park and the western wall signs would face Lockyer Avenue (at the roundabout with the junction with Moir Street) and would be directly visible from Moir Street.
12. The proposed sign for Woolworths on each wall is 2.5m high and 11.7m long, equating to 29.25m<sup>2</sup>. The new sign for Woolworths Liquor on each wall is 2.5m high and 3.2m long, equating to 8.0m<sup>2</sup>. These four new signs represent an area of advertisement covering 74.5m<sup>2</sup> to replace the previous 38.7m<sup>2</sup> or an increase of 35.8m<sup>2</sup> of the face area of advertisements.
13. The policy relating to Horizontal Signs states the acceptable dimensions as a sign height for the face being 1.2 where the sign is mounted below a height of 7.5m from ground level or a height of 1.6m where it is over 7.5m from ground level. These proposed signs are to be mounted between 4.2m and 4.8m from ground level. Being mounted at this height, the proposed signs are more than double the acceptable height permitted in the Council policy.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued.

14. The length of the sign is not an issue under the policy, subject to it being set in 600mm from the edge of the building. However, the maximum area of the sign face is limited to 8m<sup>2</sup> per Horizontal Sign. Also only one horizontal sign is allowed per building facade, or if a multi-tenanted building, one sign per tenancy. Therefore under the policy, Woolworths should be restricted to 2 signs up to 8m<sup>2</sup> each for these two facades (a total of 16m<sup>2</sup>). They already enjoy an existing display area of 38.7m<sup>2</sup> of signage and are now requesting this area be relaxed further to 74.5m<sup>2</sup>.
15. Although vastly beyond the extent of signage permitted under the Council Policy, the proposed signs are proportional to the scale of the renovated building when viewed in isolation. However, in staff's opinion the additional surface area of signage, together with the number of signs contributes to an overall proliferation of signage with a detrimental impact on the wider area.
16. It is considered reasonable in this instance to allow the proponent the same sign face area that they currently have on the north, west and south walls of the building.

**PUBLIC CONSULTATION / ENGAGEMENT**

17. Not applicable.

**GOVERNMENT CONSULTATION**

18. Not applicable.

**STATUTORY IMPLICATIONS**

19. The land is zoned "Central Area" in Town Planning Scheme 1A (TPS 1A) and is an existing commercial property within the Central Business District. It is accepted that commercial properties in a Town Centre location have advertising requirements and competing signage needs. The Local Planning Policy – Signs, Hoardings and Billposting recognises this and introduces parameters and allowances to permit all businesses a certain amount of external advertisement. The policy also allows some flexibility of the general principles through the 'Acceptable Deviation' that an applicant can apply for relaxation under. This clause requires the applicant to demonstrate that the likely impacts are acceptable.

**FINANCIAL IMPLICATIONS**

20. Should the proponent lodge an appeal with SAT over a decision by Council to refuse the application or any proposed conditions, some legal costs would be applicable.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

21. Not applicable.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued.

**POLICY IMPLICATIONS**

22. This particular site already has signage beyond the policy allowance and the proposal seeks further relaxation. A decision on such a request would not necessarily set an adverse precedent as each case is judged on its merits and the scale of the building involved is different on every occasion. It may however give rise to a similar proposal and request from the owners of similar businesses to increase the extent of their external signage.
23. A positive recommendation to this proposal may give rise to increased requests for ever increasing deviation from the policy. This could ultimately undermine the value of the policy.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

24. Council has three options in relation to the horizontal signs that are outside of Council's policy requirements, being:
  - i) To approve the proposed horizontal signage as applied for subject to standard conditions (ie. 74.5m<sup>2</sup>);
  - ii) To refuse the signage, or restrict via a condition of planning scheme consent that the extent of horizontal signage is not larger than the previous area associated with the horizontal signage on the north, west and south walls of the building (ie. 38.7m<sup>2</sup>); or
  - iii) To refuse the signage, or condition the planning scheme consent regarding the horizontal signage on the north and west elevations be limited to the maximum area under Council's policy (ie. 16m<sup>2</sup>).

**SUMMARY CONCLUSION**

25. The application proposes replacement signage in the new corporate image for the Woolworths supermarket at Dog Rock Shopping Centre. The land is zoned 'Central Area' with the existing commercial building on it and a large car park to the north.
26. Much of the signage is a direct replacement of like for like size but in the new Woolworths corporate branding. However, two large Horizontal signs are proposed on both the north and west walls of the building. These increase the overall horizontal signage surface area significantly (almost double the previous extent), with individual signs being more than double the height permitted under the Council Policy.
27. Although the proposed signage exceeds the size and number permitted under the Council policy, they are in proportion to the scale of the renovated building. They would contribute significantly to a general proliferation of signage for the major tenant on Dog Rock Shopping Centre.
28. In conclusion, staff recommend that the existing signage area for the horizontal signage on the north, southern and western walls of 38.7m<sup>2</sup> not be increased.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued.

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

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

**THAT Council ISSUE a Notice of Planning Scheme Consent for 'Woolworth's Multiple Signage' at Albany Dog Rock Shopping Centre 302-324 Middleton Road, Centennial Park subject to the following conditions:**

- i) the accumulative area associated with the horizontal signs proposed on the north, west and south elevations of the building be restricted in area to 38.7m<sup>2</sup>, representing the extent of horizontal signage, prior to the recent renovations, with maximum signage heights of 1.2 metres being applied;**
- ii) any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Council;**
- iii) any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition; and**
- iv) no advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of any road traffic sign or so as otherwise to render hazardous the use of any public road.**

**MOTION CARRIED 11-1**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors J Bostock, Hammond, Price, Leavesley, D Bostock, Wolfe, Dufty, Sutton and Matla.

**Against the Motion:** Councillor Paver

**DEVELOPMENT SERVICES REPORTS**

**ITEM NUMBER: 13.1.3**  
**ITEM TITLE: DEVELOPMENT APPLICATION – RECONSIDERATION OF CONDITION IMPOSED ON APPROVAL FOR PROPOSED OFFICE – 149-153 YORK STREET, ALBANY**

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

<b>File Number or Name of Ward</b>	: A106238 (Frederickstown Ward)
<b>Summary of Key Issues</b>	: Impact of loss of tree on setting of adjacent State Registered Heritage Place
<b>Land Description</b>	: 149-153 York Street, Albany
<b>Proponent</b>	: Howard & Heaver Architects
<b>Owner</b>	: The Bunbury Diocesan Trustees
<b>Reporting Officer(s)</b>	: Planning Officer (T Wenbourne)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 21/04/09 Item 11.1.2
<b>Bulletin Attachment Reference</b>	: 1. Request for reconsideration of Condition B2 2. Arboricultural Report 3. Heritage Council Consultation Response
<b>Consulted References</b>	: 1. Town Planning Scheme 1A 2. Albany Local Planning Strategy (ALPS)
<b>Councillor Lounge</b>	: Nil

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.1.3 continued.

**BACKGROUND**

1. The application for an office development in the grounds to the rear of the St John's Church Hall was referred to Council at its April 2009 meeting. The application was approved subject to a number of conditions.
2. One condition was imposed on the approval by Council was to protect and retain both the English Oak tree and the gum tree. The condition read: 'Within the canopy spread of the gum tree and English Oak tree a 'No Dig' method of construction shall be implemented to avoid damage to the trees' root system'.
3. The proponent now requests Council reconsider this condition insofar as it relates to the Gum Tree only, to allow the Gum Tree to be removed.
4. The application is presented to Council as the proponent has made a written request for reconsideration of the condition. As the original decision was made by Council, following discussion over retaining the trees, the reconsideration must also be referred to Council for determination.

**DISCUSSION**

5. At the time of submission of the application the proponent intended to remove the gum tree. Concern was raised by staff at the proposed loss of amenity contributed by this tree to the general setting of the heritage listed group of buildings. This concern was echoed by the Heritage Council of WA's (HCWA) Great Southern Regional Heritage Advisor.
6. An informal assessment of the gum tree by Council's horticultural staff at the time found the tree to be sound, although it was noted it could benefit from a crown reduction on the side facing the proposed building as the tree is heavily weighted to the north.
7. With the tree being healthy, not posing an imminent risk and in the officer's opinion contributing significantly to the overall amenity and setting of the heritage group of buildings; the proponent was advised of the desire to retain the gum tree including a re-design of the building if this proved necessary. The proponent responded at that time that they would work with whatever outcome arises. On this basis it was agreed the tree would be retained and it be protected by a suitable condition.
8. The proponent has now provided an arboricultural report on the gum tree and requested that the condition be varied to allow the gum tree to be removed and replaced with a more suitable species for the space available.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.3 continued.

9. The arboriculture report identifies the tree as being healthy and sound, having high amenity value. It states that with industry best practice management procedures it would withstand the worst effects of the proposed construction. It also identifies the high ongoing costs associated with the management of the tree, the potential for it to continue to grow, the detrimental impact of it shading the English Oak tree and the increasing risk it will pose. The report concludes the tree should be removed and replaced with a species more suitable for the space.
10. The arboriculture report was forwarded to the HCWA for comment. The response received is that the proposed removal of the tree is supported.
11. The proponent claims the tree should be removed to assist in the growth of the English Oak tree and to assist the building program. A compelling argument has not been presented to support removal of the gum tree. The church grounds, the St John's Church group of buildings and the trees are intensively maintained and this tree could be included in the management regime. With best practice construction techniques and continued ongoing management of the tree, it should not pose a significantly greater risk in the short to medium term. Ongoing monitoring of the tree can be undertaken and the future of the tree can be reconsidered should circumstances change. This request appears to be centred on the ongoing financial burden that the retention of the tree imposes; it is more cost effective to remove this potential maintenance liability into the future.
12. Staff are concerned that, whilst the retention of the tree was originally supported by the proponent, when the issue was raised by staff early in the assessment process, its retention is now considered a burden to the development.

**PUBLIC CONSULTATION / ENGAGEMENT**

13. Not applicable.

**GOVERNMENT CONSULTATION**

14. Consultation with the HCWA has been undertaken. The HCWA has agreed to the removal of the gum tree.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

16. Not applicable.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.3 continued.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

17. This item directly relates to the following elements from the Albany local Planning Strategy (ALPS):

6.3.3 Heritage, Planning Objective: *“To protect and enhance Albany’s heritage assets.”*

**POLICY IMPLICATIONS**

18. Not applicable.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

19. Council can agree to the removal of the gum tree and require a replacement to be planted of a species to be agreed with officers. This would involve amending the condition of approval inasmuch as it relates to the gum tree. The condition would still be effective for the English Oak tree.

**SUMMARY CONCLUSION**

20. The proponents have requested amendment of a condition protecting two trees onsite to allow for the removal of a gum tree. They have provided an arboricultural report and advanced their claims supporting removal of the gum tree.
21. The arboricultural report details that the tree is currently healthy and staff believe the growth and potential future impacts of the tree can be adequately and successfully managed, although it is recognised this comes at a cost. The tree contributes positively to the setting and amenity of the heritage listed group of buildings, and accordingly it is staff’s opinion that the request should be refused.

**ITEM NUMBER 13.1.3 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council REFUSES the request to amend condition B2 of Planning Scheme Consent P285371 for an ‘Office’ at 149-153 York Street, Albany and advises that the gum tree should be retained on site.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.3 continued.

**ALTERNATE MOTION BY COUNCILLOR WELLINGTON**

**ITEM NUMBER: 13.1.3**  
**ITEM TITLE: DEVELOPMENT APPLICATION – RECONSIDERATION OF  
CONDITION IMPOSED ON APPROVAL FOR PROPOSED OFFICE  
– 149–153 YORK STREET, ALBANY**

**DATE & TIME RECEIVED:** Tuesday, 10/11/09 at 5.00pm

7:35:50 PM

**ITEM 13.1.3 - ALTERNATE MOTION BY COUNCILLOR WELLINGTON  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WELLINGTON  
SECONDED: COUNCILLOR DUFTY**

**THAT Council, pursuant to Section 7.9(e) of the City of Albany Town Planning Scheme 1A resolves to amend condition B2 of Planning Consent P285371 for an ‘office’ at 149-153 York Street, Albany to read:**

**“Within the canopy spread of the English Oak tree a ‘No Dig’ method of construction shall be implemented to avoid damage to the tree’s root system and the Gum Tree shall be replaced with an advanced suitable replacement tree.”**

**MOTION CARRIED 12-0**

**Councillors Reason:** The report indicates that the gum tree can be removed and WA Heritage Council approval has been obtained to remove that tree. By removing reference to the gum tree in condition B2 it will allow for the tree to be removed and replaced with an alternate tree, grown to an advanced state, that will complement the English Oak tree.

**OFFICERS REPORT**

**Author:** Executive Director Development Services (R Fenn)

**STATUTORY IMPLICATIONS:** No Change.

**POLICY IMPLICATIONS:** No Change.

**FINANCIAL IMPLICATIONS:** No Change.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:** No Change.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:** No Change

**COMMENT:** This motion is consistent with paragraph 19 of the report.

**DEVELOPMENT SERVICES REPORTS**

**13.2 DEVELOPMENT POLICY**

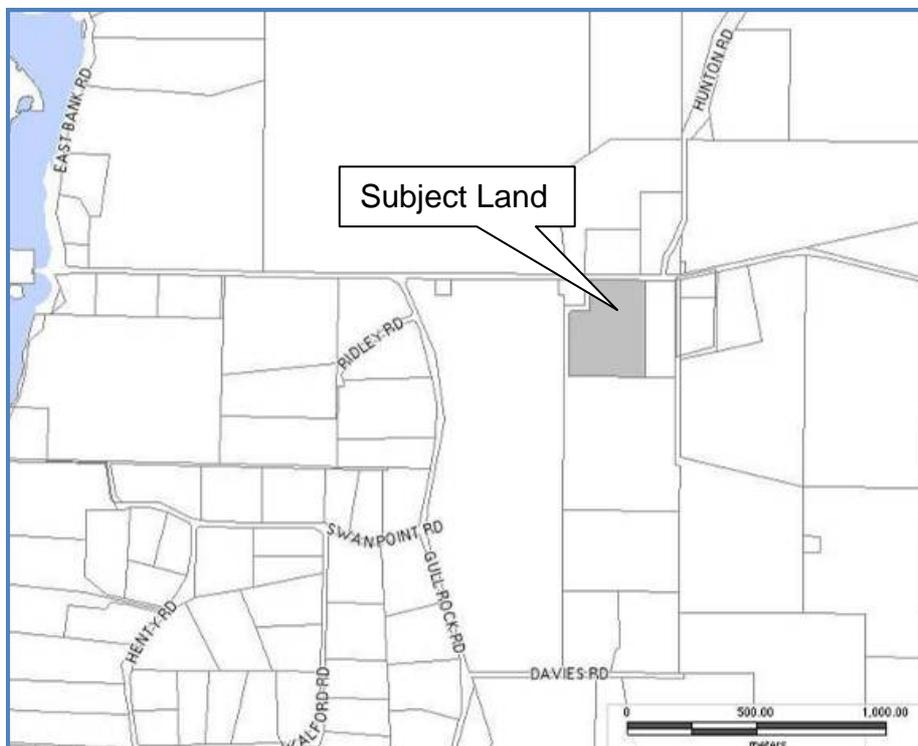
**ITEM NUMBER:** 13.2.1  
**ITEM TITLE:** SCHEME AMENDMENT REQUEST – LOT 30 NANARUP ROAD, KALGAN

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : SAR 144 (Kalgan Ward)
- Summary of Key Issues** : Consider a SAR proposal to rezone Lot 30 (522) Nanarup Road from ‘Special Site – Caravan Park’ to ‘Special Rural’ and ‘Special Site – Holiday Accommodation’.
- Land Description** : Lot 30 Nanarup Road, Kalgan
- Proponent** : Harley Survey Group
- Owner** : Mr & Mrs J Eyre
- Reporting Officer(s)** : Planning Officer (C McMurtrie)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : 1. Scheme Amendment Request document  
2. Copy of agency submissions
- Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy SPP1 & SPP 3  
2. Albany Local Planning Strategy
- Councillor Lounge** : Nil

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

**BACKGROUND**

1. Scheme Amendment Request (SAR) 140 has been submitted for Council to assess the potential of the following proposal:
  - Rezoning a portion of Lot 30 Nanarup Road, surrounding the existing house (Section 'A' on the indicative Development Guide Plan), from 'Special Site' to 'Special Rural', allowing for the existing house and a single cottage to be subdivided and included in the adjacent Special Rural Area No. 9, with the cottage reverting to ancillary accommodation or similar; and
  - Rezoning the remainder of the property (Section 'B') from 'Special Site – Caravan Park' (CVP) to 'Special Site – Holiday Accommodation' (HA) to allow for its more realistic redevelopment with a total of 6 cottages and caretakers' dwelling.
2. Council is now required to determine its support, or otherwise, for the SAR proposal, as detailed in the Bulletin.

**DISCUSSION**

3. The lot covers an area of 10.1ha and lies to the south of Nanarup Road, approximately 2km east of the Kalgan River. The land slopes upward to the south-east, gradually getting steeper as it reaches the southern lot boundary. Although much of the land has been cleared, a substantial stand of remnant native vegetation extends across the lot from the mid-point on the western boundary to the east and south, spreading across the lot at its southern end.
4. A dwelling stands at the south-western corner of the lot, with four associated holiday cottages scattered loosely across the lot towards the north-east. An access leg that forms part of Lot 11, leaves Nanarup Road between Lot 30 and Lot 9 (Lower Kalgan Hall) and carries a right of carriageway providing access to the subject lot at two separate points.
5. The land to the west and south of the subject lot forms part of Special Rural Area No. 9, while the land to the north and east is zoned 'Rural'. The area has been identified as being suitable for 'Future Urban' development in the Albany Local Planning Strategy (ALPS). While the proposal is to create a small addition to Special Rural Area No. 9 and a Special Site for holiday accommodation, these would be extremely low-density developments that would not prejudice the future development potential of the land to a full urban standard, in keeping with the objectives of Section 8.3.4 of the ALPS.
6. The Department of Environment and Conservation has highlighted that the proposed boundary between Sections 'A' and 'B' would have a potentially detrimental impact upon the remnant native vegetation covering part of the block. It has been suggested that moving this boundary by approximately 25m to the east would limit the impact on the remnant vegetation. While this would require the indicative layout of the Special Site to be reworked slightly, staff are supportive of this measure.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

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

**PUBLIC CONSULTATION/ENGAGEMENT**

8. Not applicable.

**GOVERNMENT CONSULTATION**

9. The SAR was referred to WA Gas Networks, Telstra, Water Corporation, Western Power, the Department of Health, the Department of Environment and Conservation, Fire and Emergency Services Authority (FESA) and the Department of Planning. No responses were received from WA Gas Networks, Western Power, the Department of Health and FESA. The other Departments responded as follows:

**Telstra:**

Telstra has no objection to the proposal.

**Water Corporation:**

*“There is an existing major water supply main in Nanarup Road. However, it should not be assumed that a water service will be available to new lots created... while the Water Corporation has no objection to this proposal, the proponent should be advised to discuss with the Corporation the possibility of providing additional water service connections”.*

**Department of Planning:**

Given the proximity of the land to existing Special Rural Area No. 9, Department of Planning has no objection to the principle of this proposal, *“subject to appropriate demonstration of land capability, drainage management, vegetation protection and any other requirements applicable to the proposed zonings.*

*The modifications to the Subdivision Guide Plan for Special Rural Zone No. 9 (to include a portion of Lot 522) should also address the following access issues:*

- *The status of the access leg to adjoining Lot 11 – i.e. whether this should be ceded as a public right of way or road reserve; and*
- *the suitability or otherwise of the existing point designated for access/egress onto Gull Rock Road”.*

**Department of Environment and Conservation:**

*“The Albany office of the Department of Environment and Conservation (DEC) has considered this request based on the basis of a desktop/aerial photographic assessment and general knowledge of the locality setting. The proposal document appears to be very thorough and overall presents a sound case for the proposed zoning and forward planning changes.*

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

*However, it is noted that the southern portion of the proposed boundary between proposed Sections A and B truncates approximately 195m of remnant native vegetation. If that portion of boundary could be moved 25m to the east it would reduce the truncation distance to only 35m at the southern end. This would necessitate some minor adjustments to the proposed location of Chalet 4 and the rear driveway to (existing) Chalet 5, but would potentially reduce future impacts upon native vegetation significantly”.*

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

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

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

- *Not supporting satellite settlements.*
- *Minimising the development footprint on the landscape to help protect biodiversity and the environment.*
- *Providing greater housing choice.*
- *Reducing government expenditure on servicing current and future populations.*

15. Section 8.3.2 – *Urban Lot Consolidation and Staged Incremental Development* sets the following Strategic Objective:

*“Support the consolidation of serviced urban areas and facilitate staged fully-serviced incremental-development nodes.”*

## DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

The ALPS states that *“the benefits of incrementally-staged urban development are that it will:*

- *Establish a more sustainable urban form by minimising the development footprint and better protecting the environment.*
- *Manage growth to make it continuous, minimising urban sprawl or creation of disjointed communities.*
- *Retain agricultural land for productive uses.*
- *Maximise the use of existing infrastructure, services and facilities.*

*The ALPS supports incrementally-staged urban expansion based on comprehensive precinct and structure planning. The progressive development of the Future Urban areas has been classified into five Development Priority stages. The extent to which Future Urban areas are developed within the lifetime of the ALPS will be determined largely by population growth, employment opportunities, availability of infrastructure to service growth and the ability of the development and housing industry to satisfy market demand.*

*The Priority 5 classification for Lower King and Kalgan is based on current growth projections and staged urban development proceeding with associated supporting infrastructure and services. Priority 5 areas have been identified in the ALPS to protect them from further fragmented development that may prejudice their potential for future long-term urban development”.*

16. Section 8.3.4 – *Protection of Future Urban Land* sets the following Strategic Objective:

*“Protect future fully-serviced urban areas from inappropriate land uses, subdivision and development”.*

The draft ALPS further states that: *“Future fully-serviced urban areas of Albany must be protected. Planning for these areas needs to accommodate urban growth within, and hopefully beyond, the timeframe of this strategy or to facilitate urban growth above current estimates. These areas have been identified in the ALPS as Future Residential-Urban Priority Development.*

*Urban growth must be planned for beyond the existing major development fronts (Priority 1 areas) in McKail, Yakamia and Bayonet Head. Apart from more detailed planning, measures need to be put in place to retain potential urban development areas as large landholdings and prevent inappropriate land uses, subdivision and development.*

17. Section 8.3.4 – *Rural Living* sets the following Strategic Objective:

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

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

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

- *Avoid the development of productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid future and potential long-term urban areas.*

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

18. Overall, the proposal is considered to be consistent with the various Strategic Objectives and aims set out in the ALPS.

**POLICY IMPLICATIONS**

19. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP’s) that apply to the Scheme Amendment Request. Any Amendment to the Town Planning Scheme would require assessment by the WAPC to ensure consistency with the following State and Regional Policies:

20. **SPP 1 – State Planning Framework**

The Policy establishes State-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

21. **SPP 3 – Urban Growth and Settlement**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

Some of the key policy objectives in SPP 3 are as follows:

- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*

The proposal is consistent with the key policy measures identified in SPP 3.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

22. Council has the following options in relation to this item, which are:
- To support the SAR proposal without modifications;
  - To support the SAR proposal with modifications; or
  - To reject the SAR proposal.
23. The SAR process is not a statutory process under any planning legislation. It is used by the City (and other adjoining Local Governments in the region) as a precursor to the formal scheme amendment process. It is designed to provide the proponent with a simple and informal assessment of a proposal to gauge the views and comments of the City and other Government agencies on the merits and likely support to be expected.
24. Should Council support the SAR proposal, it will progress to a formal scheme amendment; the amendment undergoes a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. All scheme amendments require the endorsement of the WA Planning Commission and approval from the Minister for Planning.
25. If Council were to reject the SAR proposal, the proponent would have the following options:
- To not proceed beyond the SAR proposal;
  - To lodge a formal scheme amendment and request consideration by Council, irrespective of the outcome of the SAR.

**SUMMARY CONCLUSION**

26. The proposal seeks to create a small addition to Special Rural Area No. 9 and a Special Site for holiday accommodation, acknowledging the current level of development on the land. It is considered that these would be extremely low-density developments and would not prejudice the future development potential of the land to a full urban standard, in keeping with the objectives of Section 8.3.4 of the draft ALPS.
27. Overall, the SAR is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS.
28. In conclusion, it is recommended that the SAR be supported subject to any subsequent Scheme Amendment documentation incorporating the realignment of the proposed boundary between Sections 'A' and 'B' in the interests of preserving remnant native vegetation, addressing the access issues highlighted by the Department of Planning and appropriately demonstrating land capability, drainage management, vegetation protection and any other requirements applicable to the proposed zonings.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued.

7:40:22 PM

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

**MOVED: COUNCILLOR MATLA  
SECONDED: COUNCILLOR PRICE**

**THAT Council ADVISE the proponent that it is prepared to entertain the submission of a formal Scheme Amendment to rezone Lot 30 Nanarup Road from 'Special Site – Caravan Park' to 'Special Site – Holiday Accommodation' subject to the following matters being addressed:**

- i) the Development Guide Plan being modified to relocate the proposed boundary between Sections 'A' and 'B' to the east in order to protect remnant native vegetation;**
- ii) a detailed land capability report being prepared; and**
- iii) the Subdivision Guide Plan for Special Rural Zone No. 9 being modified to include a portion of Lot 522 and to address the following access issues:**
  - The status of the access leg to adjoining lot 11; and**
  - The suitability or otherwise of the existing point designated for access/egress onto Gull Road.**

**MOTION CARRIED 10-2**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Paver, Wolfe, Dufty, Sutton and Matla.

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

**DEVELOPMENT SERVICES REPORTS**

**ITEM NUMBER:** 13.2.2  
**ITEM TITLE:** INITIATION OF SCHEME AMENDMENT – LOTS 50 to 54, 17 & 18 HOME ROAD AND LOT 16 BRAMWELL ROAD, ROBINSON

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : AMD 287 (Vancouver Ward)
- Summary of Key Issues** : Scheme Amendment proposing to Rezone various Lots in Robinson locality from the Residential Development and Rural to the Special Rural Zone.
- Land Description** : Lots 50 to 54, 17 & 18 Home Road and Lot 16 Bramwell Road, Robinson
- Proponent** : Ayton Baesjou Planning
- Owner** : Various Owners
- Reporting Officer(s)** : Coordinator Statutory Planning (J Van Der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 18/03/08 SAR 129
- Bulletin Attachment(s)** : Amendment Document
- Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1; SPP2 and SPP 3  
 2. Lower Great Southern Strategy  
 3. Albany Local Planning Strategy
- Councillor Lounge** : OCM Item – Scheme Amendment Request

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued.

**BACKGROUND**

1. The City has received an application from Ayton Baesjou Planning (planning consultants) seeking to amend Town Planning Scheme No. 3 by:
  - i) Rezoning Lots 50 to 54, 17 & 18 Home Road, Robinson from the “Rural” Zone to the “Special Rural” Zone; and
  - ii) Rezoning Lot 16 Bramwell Road, Robinson from the “Residential Development” and ‘Rural ‘Zones to the ‘Special Rural ‘Zone.
2. The successful completion of the proposed Scheme Amendment will rezone the eight subject lots to the Special Rural zone and provide for the creation of a maximum of 18 lots. The minimum average lot size allowable would be one hectare and any development would have to be in accordance with the proposed special provisions for the area.
3. The subject land is located within an area earmarked for “Rural Residential” uses within the Albany Local Planning Strategy (ALPS) adopted by Council.
4. A Scheme Amendment Request (SAR) was considered and supported at Council’s Ordinary Meeting of June 2008.

**DISCUSSION**

5. Existing lot sizes in the subject area range between 2.2ha and 3.3ha and are mainly used for rural residential purposes with a dwelling constructed on each lot; Lot 18 has an additional ancillary dwelling upon it.
6. The lots contain a mix of parkland cleared vegetation and open pasture with stables and other small scale lifestyle improvements.
7. The subject area is located between “Allmore Park” to the west zoned for “Special Rural” purposes and lots fronting Frenchman Bay to the east (zoned for “Residential Development”). The subject lots are used for rural retreat purposes but under their current zoning of “Rural”, a range of much more intensive uses are potentially capable of being developed on the lots. Land to the north and south of the precinct is zoned “Rural” and those lots are also used for rural retreat purposes.
8. The land is within the Priority 3 Area of the South Coast Water Reserve. Subject to land capability constraints, subdivision to a minimum of 1ha is a compatible use.
9. The land is located within the proclaimed Albany Groundwater Area. Licences are required for domestic, stock and household garden use.
10. The land is not deep sewered. There are no plans in place by the Water Corporation to connect this area to the reticulated sewerage system.
11. The subject area is identified within the Albany Local Planning Strategy (ALPS) for rural residential use.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued.

12. At its Ordinary Council Meeting of 17 June 2008 Council resolved to support the submission of a formal scheme amendment application for the subject lots on condition that the following matters be addressed:
  - i) a fauna and flora assessment;
  - ii) a land capability assessment and drainage management to determine, among others, siting and management of wastewater disposal systems;
  - iii) an identification of servicing needs and infrastructure requirements to accommodate future subdivision. In particular, opportunities to upgrade the Telstra network be explored through means such as developers contributions etc;
  - iv) a Precinct Concept Plan to illustrate, among others, how Planning for Bushfire Protection is to be applied and remnant vegetation protected where possible; and
  - v) the amendment to include all lots within the precinct.
13. In response to the above, the amendment document discusses and includes:
  - i) an initial fauna and flora assessment (included in the land capability report);
  - ii) a detailed land capability & geotechnical assessment with recommendations prepared by Landform Research consultants in October 2009 (included as an appendix to the document);
  - iii) servicing requirements, including information on telecommunication infrastructure;
  - iv) an opportunities and constraints plan and a resultant subdivision guide plan with all proposed lot sizes being larger than 1 hectare; and
  - v) a fire management plan.
14. The proposed zoning of “Special Rural” is consistent with the predominant land use and zoning within the area.
15. This area of land bounded by Home, Bramwell and Harding Roads forms an obvious and discreet planning unit.
16. The land is located close to the Albany City Centre and close to amenity and recreation areas.
17. The proposal is within an area identified for rural residential purposes and is considered in accordance with the strategic direction of the City as documented in the ALPS. ALPS furthermore recommends the densification and infill of developed areas.
18. Staff believe the amendment document addresses all the pertinent issues to be considered and therefore recommends that the amendment be initiated for public and state government consultation.

**PUBLIC CONSULTATION/ENGAGEMENT**

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

Item 13.2.2 continued.

**DEVELOPMENT SERVICES REPORTS**

**GOVERNMENT CONSULTATION**

20. Should Council initiate the amendment, it will be referred to all relevant government agencies for comment.

**STATUTORY IMPLICATIONS**

21. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
22. Council's resolution under Regulation 25(i)(c) of the *Town Planning Regulations 1967* is required to amend the Scheme.
23. 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.
24. 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.
25. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

27. The Western Australian Planning Commission has prepared the Lower Great Southern Strategy to guide land use planning decisions within the region. The scheme amendment is consistent with the actions identified in the Lower Great Southern Strategy as detailed below:

*“Rural residential development should be consolidated in local planning strategies and located close to existing settlements rather than being randomly dispersed throughout rural areas.”*

28. The subject area is located within an area shown for rural residential uses within the Albany Local Planning Strategy (ALPS) adopted by Council.
29. The proposal is also in accordance with the strategic direction of the City as documented in the ALPS which promotes the densification and infill of developed areas, as detailed below:

*“ALPS recommends not supporting further subdivision of “greenfield” (undeveloped) rural land for rural residential development and that any subdivision of that type should be restricted to existing rural residential areas (infill development) and around townsites with suitable services.”*

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued.

*8.3.5 Rural Living*

*The ALPS supports the infill development and subdivision of existing zoning and Council-initiated rezoning of Special Residential and Special Rural land in the City's current Town Planning Schemes."*

**POLICY IMPLICATIONS**

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

31. **SPP 1 – State Planning Framework**

The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

The *proposal* is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and is therefore in line with SPP1.

32. **SPP 2 – Environment and Natural Resources Policy**

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

The objectives of SPP 2 are:

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

The proposal includes environmental information and a subdivision guide plan. The amendment will be forwarded to the Environmental Protection Agency (EPA) and the Department of Environment and Conservation (DEC) for comment and advice.

33. **SPP 3 – Urban Growth and Settlement – Draft**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued.

The key policy measures in SPP 3 that apply to this proposal:

- Managing rural residential growth such that it is located and designed in a sustainable manner which integrates with an overall pattern of settlement and reduces any potential negative impacts such as conflict with traditional rural uses, ensures services can be provided economically and does not occupy areas suitable for urban developments.

The amendment proposal is consistent with the key policy measures identified in SPP 3 as the subject area is located within an area shown for Rural Residential purposes within the Albany Local Planning Strategy (ALPS) adopted by Council.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

34. Council has the following options in relation to this item, which are:
  - To resolve to initiate the scheme amendment (with or without modifications);
  - To resolve to not initiate the scheme amendment.
35. A Town Planning Scheme amendment initiated by resolution of Council is to be referred to the Environmental Protection Authority (EPA) for assessment of its environmental impacts.
36. Advertising of an amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.

**SUMMARY CONCLUSION**

37. It is recommended that the proposed scheme amendment be initiated by Council on the basis that the rezoning will formalise and facilitate the infill development of an area currently used for rural residential purposes and will therefore result in a more efficient use of the land.
38. This rezoning and proposed densification is also considered consistent with the actions and objectives associated with the ALPS and the LGSS.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued.

**ITEM NUMBER 13.2.2 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DUFTY**

**SECONDED: COUNCILLOR PRICE**

**THAT Council in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(1)(c) of the Town Planning Regulations 1967 resolves to INITIATE Amendment No. 287 to Town Planning Scheme No. 3 by:**

- i) rezoning Lots 50, 51, 52, 53, 54, 17 & 18 Home Road, Robinson from the Rural Zone to the Special Rural Zone;**
- ii) rezoning Lot 16 Bramwell Road, Robinson from the Residential Development and Rural Zones to the Special Rural Zone;**
- iii) amending the Scheme Maps accordingly; and**
- iv) incorporating Special Rural Zone No. 39 within Schedule 1 of the Scheme.**

**MOTION CARRIED 10-2**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Paver, Wolfe, Dufty, Sutton and Matla.

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

**DEVELOPMENT SERVICES REPORTS**

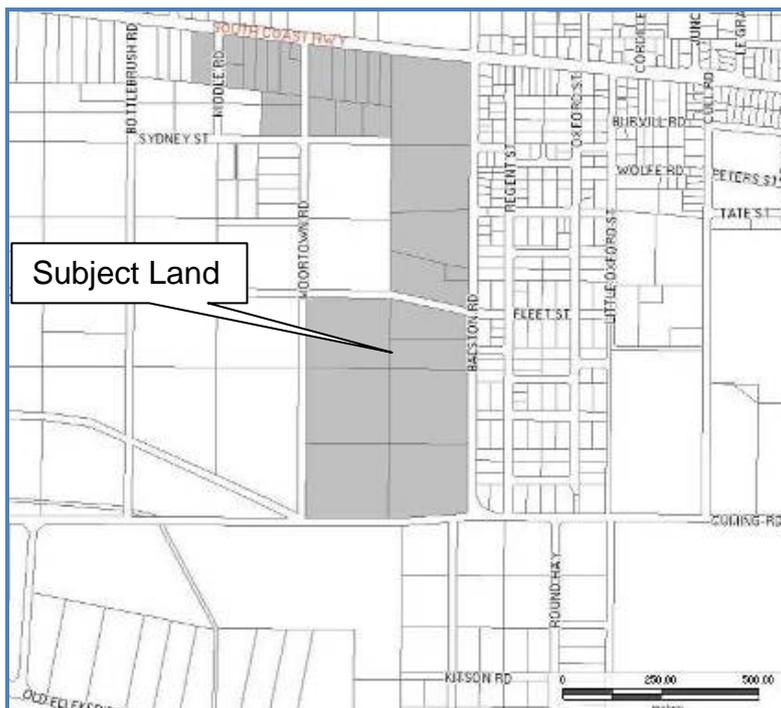
**ITEM NUMBER:** 13.2.3  
**ITEM TITLE:** INITIATION OF SCHEME AMENDMENT – REZONING OF VARIOUS LOTS AT SOUTH COAST HIGHWAY, BALSTON ROAD, CUMING ROAD, MOORTOWN ROAD, MIDDLETON STREET AND SYDNEY STREET, GLEDHOW

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : AMD 296 (West Ward)  
**Summary of Key Issues** : Determine whether to initiate the proposed Town Planning Scheme Amendment to rezone various lots in Gledhow from the ‘Rural’ zone and ‘Public Purposes’ reserve to the ‘Residential Development’ zone.  
**Land Description** : Lots 2, 3, 5, 7 to 16 South Coast Highway, Lots 1, 2, 5, 6, 7, 26, 27 and 85 Balston Road, Lots 24 and 25 Cuming Road, Lots 10, 20 and 23 Moortown Road, Lot 4 Middle Street and Lots 17, 18, 19 and 21 Sydney Street, Gledhow  
**Proponent** : Ayton Baesjou Planning  
**Owner** : Various owners  
**Reporting Officer(s)** : Planning Officer (C McMurtrie)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 18/08/08 (SAR 135)  
**Bulletin Attachment(s)** : Amendment Document  
**Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy SPP1 & SPP 3  
 2. Lower Great Southern Strategy  
 3. Albany Local Planning Strategy  
**Councillor Lounge** : 1. OCM Item – Scheme Amendment Request  
 2. Amending document – Appendix A

**Maps and Diagrams:**



## DEVELOPMENT SERVICES REPORTS

Item 13.2.3 continued.

**BACKGROUND**

1. Amendment 296 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning various lots fronting South Coast Highway, Balston Road, Cuming Road, Moortown Road, Middle Street and Sydney Street, Gledhow from the 'Rural' zone and 'Public Purposes' reserve to the 'Residential Development' zone.
2. A Scheme Amendment Request (SAR 135) was reported to the August 2008 Council Meeting. Council resolved to advise the proponent that:
  - i) *in accordance with ALPS, Council supports the completion of the proposed comprehensive Structure Plan for the development area and will provide assistance to the consultants as indicated in the report;*
  - ii) *that whilst ALPS shows all of Gledhow as 'Future Urban' uses over the medium-term, it will only support the proposed rezoning of the land east of Moortown Road which is within the existing Water Corporation deep sewerage catchment to the 'Residential Development' zone at this stage; and*
  - iii) *that any application for a formal scheme amendment will require the following matters to be addressed:*
    - *preparation of a Structure Plan to guide the design and densities to be promoted;*
    - *assessment and protection of remnant vegetation;*
    - *land capability assessment for housing/road construction;*
    - *land suitability assessment;*
    - *servicing requirements (including provision of deep sewerage to the lots);*
    - *impacts from surrounding land uses/buffers;*
    - *fire protection requirements;*
    - *cost sharing arrangements; and*
    - *any special planning controls recommended for inclusion within the Scheme.*
3. The matters outlined above have all been broadly addressed in the amending document. An opportunities and constraints plan has been provided in lieu of a structure plan which is the appropriate level of detail required at this stage of the process. A detailed Structure Plan will be required to be completed and assessed by Council prior to any subdivision or development occurring within the subject land, should the "Residential Development" zone be put in place. The Land Capability and Geotechnical Assessment undertaken by Landform Research, which accompanies the amending document, recommends that further work is also required in respect of the assessment and protection of remnant vegetation, which will inform the structure plan.

**DISCUSSION**

4. The subject land lies primarily to the south side of South Coast Highway, extending from Balston Road to the east to Lot 5 South Coast Highway, to the western side of Middle Street. It extends to Cuming Road in the south, encompassing the majority of the land between Balston Road to the east and Moortown Road to the west, and includes Lots 19-21 Moortown Road and 17 and 18 Sydney Street. However, Lots 8 and 9 Moortown Road are **not** covered by the proposal.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.3 continued.

5. The 31 lots covered by the proposal range in size from 1204m<sup>2</sup> to 4ha, with the smaller lots primarily located along South Coast Highway. Overall, a land area of approximately 45.4ha is included in the proposal. All lots have been developed with residences and associated outbuildings, with the exception of Lots 10 and 19 Moortown Road. Additionally, all are in private ownership and under a 'Rural' zoning within TPS3, with the exception of Lot 10 Moortown Road, which is Crown Land vested in the Department of Housing and Works and Reserved for 'Public Purposes'.
6. Councillors will note that while Lot 10 Moortown Road is designated as a 'Public Purposes' reserve and recognised as such in the amending document, it is not included in the description of the proposal. It is therefore recommended that the amending document be modified to reflect this.
7. The majority of the subject land has been cleared to some extent, with the exception of Lots 10 and 19 Moortown Road and Lots 26 and 27 Balston Road, which are still covered by significant amounts of remnant native vegetation. The *Land Capability and Geotechnical Assessment* recommends that a spring survey be undertaken to establish the quality of the remnant vegetation and to identify any priority species. The extent of vegetation to be conserved as public open space will need to be addressed as part of a future Structure Plan
8. The topography is generally level or gently sloping over most of the subject land to the north, reaching a high point of 55m AHD, where a ridge runs across Lot 23 Moortown Road and Lot 27 Balston Road, before dropping off steeply (approximately a 1:8 slope) to a low point of 20m AHD at Cuming Road.
9. In terms of surrounding land uses, a 'Residential' zoning covers the land adjacent to the eastern and northern extents of the subject area, while the land to the west is predominantly zoned 'Rural', with the exception of a small 'Special Residential' zoned development, a lot that is designated a 'Public Purposes' reserve and two heavily vegetated lots which are designated as 'Parks and Recreation' reserves. To the south of Cuming Road, the land is zoned for 'Light Industry', but is currently primarily undeveloped.
10. The draft Albany Local Planning Strategy (ALPS) identifies the subject land as 'Future Urban', with a short to medium-term development priority coding. This is intended to *"protect future fully serviced urban areas from inappropriate land uses, subdivision and development"*.
11. Overall, the amendment is consistent with the strategic intent of the Lower Great Southern Strategy (LGSS) and the ALPS. Furthermore, the amending documents adequately address the matters raised by Council at the SAR stage.

**PUBLIC CONSULTATION/ENGAGEMENT**

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

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.3 continued.

**GOVERNMENT CONSULTATION**

13. Should Council initiate the amendment and the EPA decides not to assess the proposal, the amendment will be referred to all relevant Government agencies for comment.

**STATUTORY IMPLICATIONS**

14. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
15. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
16. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
17. 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.
18. A resolution to amend a Town Planning Scheme amendment should not be construed to mean that final approval will be granted to that amendment.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

20. Council's decision on the Scheme amendment must also be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
21. Section 8.3.1 – Strategic Settlement Direction sets the following Strategic Objective:

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

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

- *Not supporting satellite settlements.*
- *Minimising the development footprint on the landscape to help protect biodiversity and the environment.*
- *Promoting energy conservation.*
- *Providing greater housing choice.*
- *Minimising journey length from home to work/school/services and encouraging the use of public transport, cycling and walking.*
- *Reducing government expenditure on servicing current and future populations.*

## DEVELOPMENT SERVICES REPORTS

Item 13.2.3 continued.

22. Section 8.3.2 – *Urban Lot Consolidation and Staged Incremental Development* sets the following Strategic Objective:

*“Support the consolidation of serviced urban areas and facilitate staged fully-serviced incremental-development nodes.”*

The ALPS states that *“the benefits of incrementally-staged urban development are that it will:*

- *Establish a more sustainable urban form by minimising the development footprint and better protecting the environment.*
- *Manage growth to make it continuous, minimising urban sprawl or creation of disjointed communities.*
- *Retain agricultural land for productive uses.*
- *Maximise the use of existing infrastructure, services and facilities.*
- *Minimise distances and travel time between homes and education, retail, community and recreation services.*
- *Retain the current high levels of accessibility to the Albany City Centre.*
- *Promote greater participation in public and alternate transport options.*

*The ALPS supports incrementally-staged urban expansion based on comprehensive precinct and structure planning. The progressive development of the Future Urban areas has been classified into five Development Priority stages. The extent to which Future Urban areas are developed within the lifetime of the ALPS will be determined largely by population growth, employment opportunities, availability of infrastructure to service growth and the ability of the development and housing industry to satisfy market demand.*

*Priority 3 areas are logical extensions of the Priority 2 locations and/or existing urban areas and include parts of McKail, Gledhow, Warrenup, Walmsley and Big Grove. Priority 3 areas are expected to be rezoned with local structure planning undertaken in the near future. These areas are capable of producing lots within the medium-term”.*

23. Overall, the proposal is considered to be consistent with the various Strategic Objectives and aims set out in the ALPS.

## POLICY IMPLICATIONS

24. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP's) that apply to the scheme amendment. Any amendment to the Town Planning Scheme will be assessed by the WAPC to ensure consistency with the following State and Regional Policies.
25. **SPP 1 – State Planning Framework**  
The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.3 continued.

The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

**SPP 3 – Urban Growth and Settlement**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The key policy objectives in SPP 3 that apply to this proposal are:

- *To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*
- *To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*
- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

The amendment proposal is consistent with the key policy measures identified in SPP 3.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

## DEVELOPMENT SERVICES REPORTS

Item 13.2.3 continued.

### SUMMARY CONCLUSION

29. The proposed re-zoning will allow a Structure Plan to be prepared, to guide the future development of the area, in keeping with the objectives of the draft ALPS. Staff would therefore recommend that the proposed Scheme Amendment be initiated by Council. The inclusion of this area into the available development pool does not mean it will be subdivided in the near future. It simply moves the area one stage closer to being able to be subdivided.

#### ITEM NUMBER 13.2.3 – OFFICER RECOMMENDATION

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR PRICE**

**THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* and *Regulation 25(1)(c) of the Town Planning Regulations 1967* resolves to **INITIATE WITH MODIFICATIONS** (being the correct reference to the zoning of Lot 10 Moortown Road) Amendment No. 296 to Town Planning Scheme No. 3 as follows:**

- a) transferring the following properties from the ‘Rural’ zone to the ‘Residential Development’ zone:
- Lots 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 South Coast Highway;
  - Lots 1, 2, 5, 6, 7, 26, 27, 85 Balston Road;
  - Lots 24 and 25 Cuming Road;
  - Lots 20 and 23 Moortown Road;
  - Lot 4 Middle Street; and
  - Lots 17, 18, 19 and 21 Sydney Street.
- b) transferring the following property from the ‘Public Purposes’ reserve to the ‘Residential Development’ zone:
- Lot 10 Moortown Road.

and

- c) amending the Scheme Maps accordingly.

**MOTION CARRIED 9-3**

#### Record of Vote:

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla.

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

**DEVELOPMENT SERVICES REPORTS**

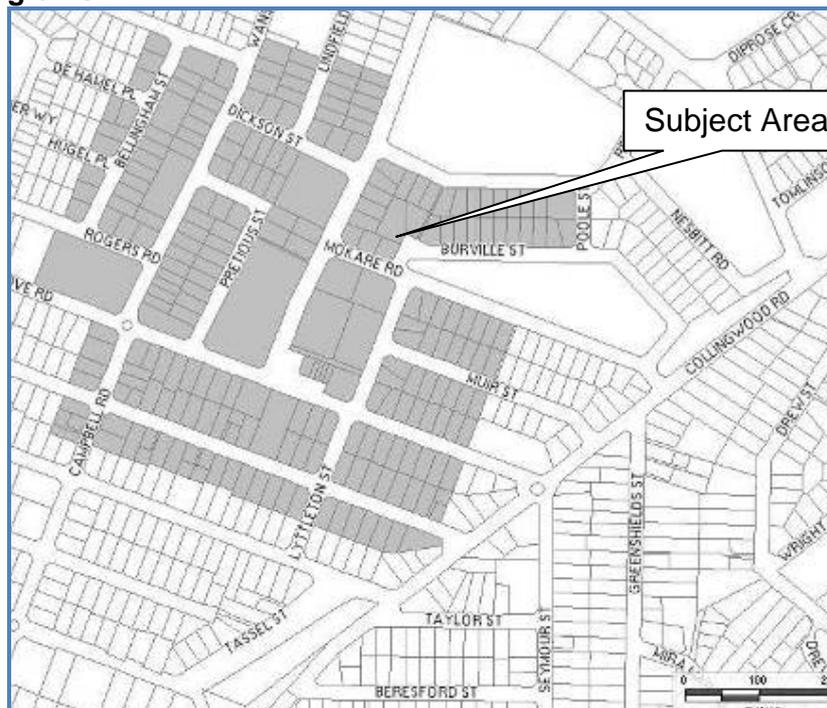
**ITEM NUMBER:** 13.2.4  
**ITEM TITLE:** FINAL APPROVAL OF SCHEME AMENDMENT – ESTABLISHING A ‘SPECIAL SITE’ FOR THE SPENCER PARK NEIGHBOURHOOD PRECINCT, SPENCER PARK

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : AMD 171 (Breaksea Ward)
- Summary of Key Issues** : Consider the submissions received from the public consultation period and determine whether to grant final approval of the amendment to establish a ‘Special Site’ for the Spencer Park Neighbourhood Centre Precinct
- Land Description** : Various lots
- Proponent** : Ayton Baesjou Planning
- Owner** : Various owners
- Reporting Officer(s)** : Planning Officer (C McMurtrie)
- Disclosure of Interest** : Nil
- Previous Reference** : Amendment No. 154 (related proposal)  
OCM 19/05/09 – Item 11.2.1
- Bulletin Attachment(s)** : 1. Amendment Document  
2. Copy of Submissions  
3. Schedule of Submissions
- Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy (SPP’s) SPP1 & SPP 3  
2. Albany Local Planning Strategy
- Councillor Lounge** : 1. OCM Item – Scheme Amendment Initiation report  
2. Spencer Park Urban Design Study Final Report (April 2009)  
1. Spencer Park – Hardie Road Precinct – Indicative Precinct Plan (April 2009)

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

**BACKGROUND**

1. In September 2006, a Scheme Amendment (No. 154) to change the R-Code densities of Lots 9-12, 29 and 30 Pretious Street, Lots 27, 28 and 68 Hardie Road, Lot 69 Nind Street and Lot 8 Wansborough Street, Spencer Park from R20 to R40 was supported by Council. The proposal was subsequently granted final approval by the Minister for Planning and Infrastructure in May 2007 and Gazetted in July 2007. This has, to some extent, established the basic principle of increasing the density of the 'Residential' zoned land in Spencer Park, on which this proposal is based.
2. This amendment seeks to adjust the development control provisions in Town Planning Scheme (TPS) No.1A by establishing a 'Special Site' covering the Spencer Park Neighbourhood Centre Precinct, which would modify the R-code densities and uses allowed within the Special Site area.
3. This concept originated from the *Spencer Park Urban Design Study* that was prepared by Mackay Urban Design on behalf of the Department of Housing in March 2008 and builds upon the principle established by Amendment 154. The proposed boundary for the Special Site area was decided upon in consultation with City staff, taking into account the following criteria:
  - Walking distance from core commercial facilities;
  - maintaining similar density coding on both sides of a street;
  - acknowledging potential for infill as well as redevelopment; and
  - confining the extent of rezoning initially to facilitate a more intensive redevelopment.
4. Successful completion of the amendment would facilitate the redevelopment of the commercial area around Hardie Road to create a mixed-use neighbourhood centre, while also enabling higher-density residential development to take place in the surrounding locality. This project would form part of the Department of Housing's 'New Living' urban renewal programme, which is already proving successful in a number of other locations in Western Australia.
5. The programme was established to ensure the consolidation and redevelopment of a number of highly visible areas of Department of Housing's responsibility, with the following key objectives:
  - The reduction of high concentrations of public housing;
  - the refurbishment of houses for sale to both the public and existing tenants;
  - better land utilisation through the re-subdivision/refurbishment of public rental housing;
  - infrastructure enhancements (upgrading of streetscapes and open space); and
  - community development.
6. At present there are eight projects underway in the Perth metropolitan area and a further nine in the regions, while projects in Ashfield, Armadale, Langford, Lockridge, Karawara, Eastern Horizons (Midland, Midvale, Middle Swan, Swan View and Koongamia) and Kwinana (Calista, Medina, Parmelia and Orelia) have already been completed.
7. The proposed Scheme amendment was initiated by Council in May 2009 and was subsequently referred to the Environmental Protection Authority and Western Australian Planning Commission prior to public advertising.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

**DISCUSSION**

8. The proposal aims to regenerate the existing Spencer Park commercial centre and its environs by establishing a framework that allows both the Department of Housing and the private sector to develop vacant land and redevelop existing properties to a higher density and with a greater mix of land uses than was previously permitted.
9. An increase in building density and mix of land uses (residences, shops, offices, etc.) should strengthen the role of the existing commercial centre as a focus for the community and ultimately lead to the creation of a neighbourhood centre with a broad range of amenities and a greater sense of place.
10. The schedule of provisions proposed for the Special Site set out the minimum controls required for the following aspects of development:
  - Permitted land uses;
  - plot ratio (floor area to site area ratio);
  - building height;
  - setbacks;
  - vehicle access;
  - on-site car parking requirements;
  - landscaping requirements; and
  - built form design requirements.
11. Following the creation of the Special Site over the subject land, a set of Precinct Plans will be required for each of the precincts identified in the schedule of provisions. These Precinct Plans will introduce an additional level of detail, controls and guidelines specific to the proposed uses and character of each precinct.
12. The amending document has acknowledged the various infrastructure requirements for more intensive development within the locality. However, following the referral of the amendment to various Government agencies for comment, Telstra, while fully supporting the proposal, has highlighted the inadequacy of the existing telecommunications network in Spencer Park. The age of this infrastructure means that it is composed of buried cables, as opposed to the more modern underground conduit, which has capacity for additional services to be added simply by threading new cables through it.
13. Telstra also commented that developer contributions may be required at the subdivision/development stage to help fund a network upgrade and suggested that it may be possible to combine the project with undergrounding of the power network. This would be dependent on Western Power's willingness to undertake such work, though it would seem pertinent, given the proposed higher density development, reduced setbacks and streetscape improvements. This issue could be further addressed during the preparation of Precinct Plans and subsequent subdivision/development.
14. The amending document and one of the submissions received during public advertising touch on the need for improvements to the road network in the locality. Traffic management will be considered in more detail during the preparation of Precinct Plans, in order to address any potential conflicts.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

15. Overall, the amendment is consistent with contemporary planning principles and State policies that deal with growth and development. In addition, it is part of a State Government initiative to consolidate and redevelop areas of existing and former public housing.

**PUBLIC CONSULTATION/ENGAGEMENT**

16. The amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 13 August 2009 to 24 September 2009 by placement of sign on-site, direct referral to affected and adjoining/nearby landowners, relevant State Government agencies and advertisement in the local newspaper.
17. A total of fifteen (15) written submissions were received as attached. The submissions received are summarised and discussed with a recommendation for each submission in the Schedule of Submissions in the Bulletin.

**GOVERNMENT CONSULTATION**

18. The amendment documents were initially referred to the Environmental Protection Authority (EPA) as required by the *Planning and Development Act 2005* for environmental assessment. The EPA has advised that the amendment has been assessed and does not require further formal assessment.
19. The amendment was also referred to WA Gas Networks, Telstra, Water Corporation, Western Power, Department of Education and Training, Fire and Emergency Services Authority (FESA), Main Roads WA (Great Southern Region) and Albany Police for assessment and comment.
20. Responses were received from WA Gas Networks, Telstra, Water Corporation, Western Power, Department of Education and Training and Main Roads WA and are summarised in the Schedule of Submissions.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

24. Council's decision on the Scheme Amendment must be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

25. ALPS section 5.2 – *Commerce* contains the following Planning Principle:  
*“Albany to remain the commercial/retail regional centre of the Lower Great Southern, supported by neighbourhood and local centres within the City”.*

It expands on this principle by stating that:

*“As the regional centre of the Great Southern, Albany will continue to provide services for a broad range of activities including retailing, administration, government and social, cultural, tourist-related and inner-city residential living needs. The regional centre is supported by neighbourhood centres catering for bulk shopping, residential service needs, office accommodation and medical and welfare services. Local centres provide smaller-scale shopping, convenience retailing and service needs”.*

26. Section 5.2.2 – *Other business activity* sets the following Planning Objective:

*“Provide appropriate locations for establishing and growing business activity”.*

The following action is then identified for neighbourhood centres, in order to meet the Planning Objective:

*“Encourage through precinct and structure plans in the LPS1 development of smaller offices and consulting rooms within neighbourhood centres”.*

27. Section 8.3.3 – *Urban Infill* sets the following Strategic Objective:  
*“Support urban infill development based on compatibility of land uses and infrastructure capacity.”*

The ALPS expands on this by stating that *“urban infill development complements the urban-consolidation strategy and aims to maximise the use of existing residential and other types of land no longer economically viable.*

*It is also expected that the Albany City Centre and urban neighbourhood centres will support new medium-density (R30 to R40) residential developments. Development will occur initially on small parcels of vacant land or as redevelopments of older housing. The increased residential densities will cater for smaller households, such as accommodation for seniors.*

*Some key issues associated with urban infill are land-use compatibility, availability and the capacity of existing services – particularly sewers and drainage – to facilitate development. Other infill factors to be addressed include existing lot sizes, achieving quality design, provision of enough of public open space, security and transport access. The key to successful infill is establishment of the most appropriate implementation mechanisms for specific developments, which can be statutory or non-statutory. In the past, rigid guided development schemes in Albany’s urban area have not been successful because they have been responsible for slow rate of development and uptake”.*

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

To achieve the Strategic Objective, a series of actions have been identified:

- *Prepare precinct and local structure plans to determine housing densities and land use, provide for servicing infrastructure and resolve development issues to integrate urban infill within existing built-up and less-densely developed surrounding areas in consultation with service providers and other stakeholders.*
- *Provide in the LPS1 for a variety of residential densities, with higher densities located around the CBD, neighbourhood and local centres.*
- *Develop planning, development and design guidelines and establish criteria that need to be addressed for urban infill projects to achieve high-quality outcomes.*

28. Section 8.6.2 – Housing sets the following Strategic Objective:  
*“Facilitate a diversity of housing to align with future population and social needs.”*

In view of this Objective, the ALPS recommends that *“housing choice be facilitated by providing for a greater variety of residential housing densities – higher around the CBD and neighbourhood and local centres”* and identifies the following action required to achieve this goal:

*“Encourage a greater variety of housing choice in fully-serviced urban areas by providing in the LPS1 for a range of residential housing densities”.*

29. Overall, the proposal is considered to be consistent with the various strategic objectives and aims and the necessary actions set out in the ALPS.

**POLICY IMPLICATIONS**

30. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP’s) that apply to the Scheme Amendment. Any Amendment to the Town Planning Scheme will be assessed by the WAPC to ensure consistency with the following State and Regional Policies:

31. **SPP 1 – State Planning Framework**

The Policy establishes State-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

32. **SPP 3 – Urban Growth and Settlement**

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The key policy objectives in SPP 3 that apply to this proposal are:

- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

- *To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*
- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

The policy further details key requirements for sustainable communities:

- *Variety and choice in the size, type and affordability of housing to support a range of household sizes, ages and incomes and which is responsive to housing demand and preferences;*
- *affordable land for housing and affordable housing products in both greenfield and brownfield locations to ensure the housing needs of all the community can be met including those with special needs;*
- *making the most efficient use of land in existing urban areas through the use of vacant and under-utilised land and buildings, and higher densities where these can be achieved without detriment to neighbourhood character and heritage values; the cost-effective use of urban land and buildings, schools and community services, infrastructure systems and established neighbourhoods; and promoting and encouraging urban development that is consistent with the efficient use of energy;*
- *supporting higher residential densities in the most accessible locations, such as, in and around town and neighbourhood centres, high frequency public transport nodes and interchanges, major tertiary institutions and hospitals, and adjacent to high amenity areas such as foreshores and parks;*
- *clustering retail, employment, recreational and other activities which attract large numbers of people in existing and proposed activity centres at major public transport nodes so as to reduce the need to travel, encourage non-car modes and create attractive, high amenity mixed use urban centres;*
- *access for all to employment, health, education, shops, leisure and community facilities by locating new development so as to be accessible by foot, bicycle or public transport rather than having to depend on access by car (whilst recognising the convenience of car travel for some trips and the limited potential to provide alternatives in rural and remote locations);*
- *good urban design which creates and enhances community identity, sense of place, liveability and social interaction in new and existing neighbourhoods; and*
- *a focus on building partnerships between State and local government, service providers, industry groups, developers, businesses and the community in the planning and design of cities, towns and rural settlements.*

The amendment proposal is consistent with the key policy measures identified in SPP 3.

33. The subject land is also covered by the City of Albany *Residential Design Code Policy 2007*, Section 5.0 – *Suburban Centres*.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

34. The Policy sets out the following objectives for Suburban Centres:
- *To strengthen existing and potential nodes within the suburbs to provide active and vibrant local centres.*
  - *To encourage the provision of a range of additional facilities and services within easy reach of the local community.*
  - *To create greater opportunities for social interaction.*
  - *To improve the passive surveillance of the public domain.*
  - *To encourage a more diverse range of housing.*

It also sets out the following 'Land Use Aspiration':

- *To provide a mixed use area around commercially zoned land to facilitate the flexible expansion of local centres.*
35. The proposal is considered to be in keeping with the objectives and land use aspiration contained within the policy. The further requirement for Precinct Plans to be prepared will ensure that specific and detailed design objectives are adequately met.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

38. The proposed re-zoning will facilitate the redevelopment of the commercial area around Hardie Road to create a mixed-use neighbourhood centre, while also enabling higher-density residential development to take place in the surrounding locality, which is in accordance with the objectives of the draft ALPS. Staff therefore recommend that the proposed Scheme Amendment be adopted by Council with modifications.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.4 continued.

**ITEM NUMBER 13.2.4 – OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR WELLINGTON**

- i) **THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* and regulation 25(1)(c) of the *Town Planning Regulations 1967* resolves to ADOPT WITH MODIFICATIONS Amendment No. 171 to Town Planning Scheme No. 1A as follows:**
- a) **establish a ‘Special Site’ as provided for by Clauses 3.7 to 3.8 for a ‘Hardie Street Precinct’ and delineate this ‘Special Site’ as S44 on the Scheme Map;**
  - b) **change the Residential Design Code density of areas within the proposed Special Site (S44) from R20 and R40 to R40, R60 and R80 as listed in the proposed Appendix II and indicated on the Scheme Amendment ‘Proposed Zoning’ map; and**
  - c) **modify the uses permitted in the existing zones or reserves comprising the Special Site by introducing additional specifications for site S44 in the Schedule to be set out in Appendix II.**

**AND**

- ii) **THAT Council RECEIVE the Schedule of Submissions and ADOPTS the officer’s recommendation to either dismiss, uphold or note each individual submission as contained within the Schedule of Submissions.**

**MOTION CARRIED 9-3**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla.

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

**DEVELOPMENT SERVICES REPORTS**

**13.3 HEALTH, BUILDING & RANGERS**

Nil

**13.4 EMERGENCY MANAGEMENT**

Nil

**13.5 DEVELOPMENT SERVICE COMMITTEES**

Nil

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# **CORPORATE & COMMUNITY SERVICES Reports**

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**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.1 FINANCE – CORPORATE & COMMUNITY SERVICES**

**ITEM NUMBER:** 14.1.1

**ITEM TITLE:** LIST OF ACCOUNTS FOR PAYMENT

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

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

**BACKGROUND**

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

**DISCUSSION**

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

Municipal Fund			
Trust	Totalling		\$2,155.00
Cheques	Totalling		\$70,047.80
Electronic Fund transfer	Totalling	\$2,534,292.19	
Credit Cards	Totalling		\$15,416.52
Payroll	Totalling		<u>\$788,236.22</u>
	<b>Total</b>		<b>\$3,410,147.73</b>

4. As at the 2<sup>nd</sup> November 2009, the total outstanding creditors, stands at \$129,791.09
5. Cancelled cheques – 25854, 25796, 24853, 25150, 25718, 25820 and 25909.

**PUBLIC CONSULTATION / ENGAGEMENT**

6. Nil

**GOVERNMENT CONSULTATION**

7. Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued.

**STATUTORY IMPLICATIONS**

8. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the Municipal Fund or a Trust Fund if the Local Government had delegated the function to the Chief Executive Officer or alternatively authorises payment in advance.
9. The Chief Executive Officer has delegated authority to authorise payments.
10. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments should be presented to Council meetings and recorded in the minutes.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision:***

*Nil*

***Priority Goals and Objectives:***

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

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

***City of Albany Mission and Values Statement:***

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

14. Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued.

**SUMMARY CONCLUSION**

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

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

**MOVED: COUNCILLOR MATLA  
SECONDED: COUNCILLOR WOLFE**

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

**MOTION CARRIED 12-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER:** 14.1.2  
**ITEM TITLE:** FINANCIAL ACTIVITY STATEMENT – 31 October 2009

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : FIN 040 (All Wards)  
**Summary of Key Points** : Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 October 2009  
**Reporting Officer(s)** : Finance Manager (P Wignall)  
**Disclosure of Interest** : Nil  
**Previous Reference** : N/A  
**Bulletin Attachment(s)** : Nil

**BACKGROUND**

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

**DISCUSSION**

4. The Statement of Financial Activity for the period ending 31 October 2009 has been prepared and is listed below.
5. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**STATEMENT OF FINANCIAL ACTIVITY – AS AT 31 October 2009**

6. See appendix 1 to report item 14.1.2

**CITY OF ALBANY - BALANCE SHEET**

7. See appendix 2 to report item 14.1.2

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**CITY OF ALBANY – INCOME STATEMENT**

8. See appendix 3 to report item 14.1.2

**INVESTMENT SUMMARY & COMMENT**

9. See appendix 4 to report item 14.1.2.

**PUBLIC CONSULTATION / ENGAGEMENT**

10. Nil

**GOVERNMENT CONSULTATION**

11. Nil

**STATUTORY IMPLICATIONS**

12. Section 34 of the Local Government (Financial Management) Regulations 1996 provides:

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**FINANCIAL IMPLICATIONS**

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

<b>Section of Financial Activity Statement</b>	<b>Reason for Variation</b>	<b>Total Amount of Variation</b>
<b>Operating Revenue</b>	Operating grants, subsidies and contributions are above budget mainly due to the timing of monies received from FESA	\$117,677
	Other Revenue is higher than budget due to timing	\$162,620
<b>Operating Expenditure</b>	Materials and Contracts expenditure is under Budget due to timing	\$606,367
	Other Expenses are over budget due to timing	\$130,068
<b>Capital Revenue</b>	Non operating grants, subsidies and contributions are above budget due mainly to a timing difference on receipts for Roads to Recovery	\$342,564
<b>Capital Expenditure</b>	No material variances	

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**Priority Goals and Objectives:**

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

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

**POLICY IMPLICATIONS**

15. The City’s 2009/10 Annual Budget applies to this item, as it provides a set of parameters that guides the City’s financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2009/10 budget parameters and any major variations are due to timing issues only, it is recommended that the Statement of Financial Activity be received.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

16. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Nil

**SUMMARY CONCLUSION**

18. Nil

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

**MOVED: COUNCILLOR MATLA  
SECONDED: COUNCILLOR PRICE**

**THAT the Financial Activity Statement for the period ending 31 October 2009 be  
RECEIVED.**

**MOTION CARRIED 12-0**

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 1

## STATEMENT OF FINANCIAL ACTIVITY – YEAR TO DATE

31 OCTOBER 2009

	Actual Year to Date 31-Oct-09	Current Budget Year to Date 31-Oct-09	Current Budget vs Actual Variance
<b>REVENUE</b>			
Operating Grants, Subsidies and Cont	831,633	713,956	117,677
Fees and Charges	2,445,513	2,340,171	105,342
Service Charges	2,994,349	2,996,718	-2,369
Interest Earnings	163,396	203,347	-39,951
Other Revenue	329,466	166,846	162,620
	<b>6,764,356</b>	<b>6,421,038</b>	<b>343,318</b>
<b>EXPENDITURE</b>			
Employee Costs	4,243,377	4,466,064	-222,687
Materials and Contracts	2,679,871	3,286,238	-606,367
Utility Charges	373,952	373,005	947
Interest Expenses	2,540	-26,917	29,457
Insurance Expenses	491,802	404,625	87,177
Other Expenditure	194,717	64,649	130,068
Depreciation	3,702,597	3,907,765	-205,168
	<b>11,688,856</b>	<b>12,475,429</b>	<b>-786,573</b>
<b>Adjustment for Non-cash Revenue and Expenditure:</b>			
Depreciation	<b>-3,702,597</b>	<b>-3,907,765</b>	<b>205,168</b>
<b>CAPITAL REVENUE</b>			
Non-Operating Grants, Subsidies and Cont	1,718,877	1,376,313	342,564
Proceeds from asset disposals	1,455	1,455	-0
Proceeds from New Loans	0	0	0
Self-Supporting Loan Principal Revenue	2,750	24,569	-21,819
Transfers from Reserves (Restricted Assets)	5,119,329	6,423,491	-1,304,162
	<b>6,842,411</b>	<b>7,825,828</b>	<b>-983,417</b>
<b>CAPITAL EXPENDITURE</b>			
Purchase Plant, Equipment and Infrastructure	3,088,678	2,959,883	128,795
Repayment of Loans	113,415	109,360	4,055
Transfers to Reserves (Restricted Assets)	33,315	0	33,315
	<b>3,235,408</b>	<b>3,069,243</b>	<b>166,165</b>
Estimated Surplus B/fwd			
ADD Net Current Assets July 1 B/fwd	<b>-1,400,897</b>	n/a	n/a
LESS Net Current Assets Year to Date	<b>22,388,266</b>	n/a	n/a
Amount Raised from Rates	<b>-21,404,063</b>	<b>-21,220,638</b>	<b>-183,425</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 2

## BALANCE SHEET – AS AT 31 OCTOBER 2009

	Actual 31-Oct-09	Budget 30-Jun-10	Actual 30-Jun-09
<b>CURRENT ASSETS</b>			
Cash - Municipal	16,733,664	776,514	670,852
Restricted cash (Trust)	1,758,540	1,976,788	1,987,438
Reserve Funds - Financial Assets	1,056,636	0	1,056,636
Reserve Funds - Other	2,080,710	2,647,383	7,166,524
Receivables & Other	8,236,612	1,600,000	2,920,527
Investment Land	(0)	0	(0)
Stock on hand	926,233	780,000	1,033,538
	<b>30,792,394</b>	<b>7,780,685</b>	<b>14,835,515</b>
<b>CURRENT LIABILITIES</b>			
Borrowings	974,482	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	1,948,076	2,200,000	2,027,992
Trust Liabilities	1,701,617	1,778,124	1,930,516
Creditors prov & accruals	1,702,233	3,000,000	4,183,228
	<b>6,326,408</b>	<b>8,208,124</b>	<b>9,229,633</b>
<b>NET CURRENT ASSETS</b>	<b>24,465,986</b>	<b>(427,439)</b>	<b>5,605,882</b>
<b>NON CURRENT ASSETS</b>			
Receivables	106,774	152,865	152,865
Pensioners Deferred Rates	292,616	265,945	292,616
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	61,110,155	131,774,682	59,088,605
Infrastructure Assets	192,269,578	197,134,056	194,913,456
Local Govt House Shares	19,501	19,501	19,501
	<b>255,948,623</b>	<b>331,497,049</b>	<b>256,617,042</b>
<b>NON CURRENT LIABILITIES</b>			
Borrowings	20,796,675	19,566,675	20,796,675
Creditors & Provisions	259,838	262,000	259,838
	<b>21,056,513</b>	<b>19,828,675</b>	<b>21,056,513</b>
<b>NET ASSETS</b>	<b>259,358,097</b>	<b>311,240,935</b>	<b>241,166,411</b>
<b>EQUITY</b>			
Accumulated Surplus	235,625,462	289,818,918	212,345,514
Reserves	4,958,002	2,647,383	10,046,263
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	<b>259,358,097</b>	<b>311,240,935</b>	<b>241,166,411</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 3

**INCOME STATEMENT FOR THE PERIOD ENDED  
31 OCTOBER 2009**

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
<b>INCOME</b>			
Rates	21,404,063	21,346,462	19,277,114
Grants & Subsidies	673,398	3,069,252	4,051,358
Contributions, Reimb & Donations	158,235	362,187	408,897
Fees & Charges	2,445,513	7,294,973	7,330,604
Service Charges	2,994,349	2,996,718	2,698,198
Interest Earned	163,396	547,200	658,167
Other Revenue / Income	330,586	401,500	528,759
	<b>28,169,539</b>	<b>36,018,292</b>	<b>34,953,096</b>
<b>EXPENDITURE</b>			
Employee Costs	4,243,377	14,039,923	13,754,262
Utilities	373,952	1,311,912	903,193
Interest Expenses	2,540	1,179,588	1,322,148
Depreciation on non current assets	3,702,597	11,818,000	10,634,812
Contracts & materials	2,688,078	11,628,876	11,509,923
Insurance expenses	491,802	453,863	410,959
Other Expenses	195,837	(128,769)	11,553
	<b>11,698,184</b>	<b>40,303,393</b>	<b>38,546,850</b>
<b>Change in net assets from operations</b>	<b>16,471,355</b>	<b>(4,285,101)</b>	<b>(3,593,753)</b>
Grants and Subsidies - non-operating	1,715,067	70,066,581	6,497,507
Contributions Reimbursements and Donations - non-operating	3,810	5,175,706	4,738,136
Profit/Loss on Asset Disposals	1,455	(32,000)	61,301
Fair value - Investments adjustment	0	1,987,226	(307,263)
	<b>18,191,686</b>	<b>72,912,412</b>	<b>7,395,928</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 4

**PORTFOLIO VALUATION - MARKET VALUE**  
**31 OCTOBER 2009**

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value	Market Value	Market Value	Market Value	Latest Monthly Variation
				Jul-09	Aug-09	Sep-09	Oct-09	
<b>MUNICIPAL ACCOUNT</b>								
ANZ	1/08/2009	1,000,000	3.55%	1,000,000				
Bendigo	30/11/2009	1,000,000	4.40%		1,000,000	1,000,000	1,000,000	
ANZ	29/12/2009	1,000,000	4.55%		1,000,000	1,000,000	1,000,000	
Bankwest	28/01/2010	1,000,000	4.40%		1,000,000	1,000,000	1,000,000	
Westpac	27/02/2010	1,000,000	4.60%		1,000,000	1,000,000	1,000,000	
ANZ	18/10/2009	2,000,000	3.90%			2,000,000		
Bankwest	17/11/2009	1,500,000	4.00%			1,500,000	1,500,000	
Westpac	17/11/2009	1,500,000	4.20%			1,500,000	1,500,000	
Westpac	17/12/2009	1,000,000	4.40%			1,000,000	1,000,000	
NAB	17/12/2009	1,000,000	4.23%			1,000,000	1,000,000	
Bendigo	17/12/2009	2,000,000	4.35%			2,000,000	2,000,000	
ANZ	20/11/2009	2,000,000	4.30%				2,000,000	
Bankwest	20/12/2009	1,500,000	4.60%				1,500,000	
				<b>1,000,000</b>	<b>4,000,000</b>	<b>13,000,000</b>	<b>14,500,000</b>	n/a
<b>RESERVES ACCOUNT</b>								
Bendigo	22/12/2009	500,000	4.30%	500,000	500,000	500,000	500,000	
NAB	2/02/2010	1,000,000	4.47%	1,000,000	1,000,000	1,000,000	1,000,000	
		<b>1,500,000</b>		<b>1,500,000</b>	<b>1,500,000</b>	<b>1,500,000</b>	<b>1,500,000</b>	n/a

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 4

**PORTFOLIO VALUATION - MARKET VALUE**  
**31 OCTOBER 2009**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.2 – ADMINISTRATION**

**ITEM NUMBER:** 14.2.1  
**ITEM TITLE:** ANNUAL ELECTORS MEETING

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : FIN047 (All Wards)  
**Summary of Key Points** : Council request to set a date for the Annual Electors Meeting.  
**Reporting Officer(s)** : Manager Finance (P Wignall)  
**Disclosure of Interest** : Nil  
**Previous Reference** : N/A  
**Bulletin Attachment(s)** : Nil.

**BACKGROUND**

1. Council is required to convene an Annual Meeting of Electors each year and publicly advertise its intention of holding such a meeting

**STATUTORY REQUIREMENTS**

2. Section 5.27 of the Local Government Act 1995 requires that a General Meeting of the electors of a district be held once every financial year, not more than 56 days after the Local Government accepts the annual report for the previous financial year, and any other nominated general business.
3. The Chief Executive Officer is required to give at least 14 days local public notice of an electors meeting.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

7. It is proposed that the Annual Meeting of Electors for the City of Albany be held at 6:00pm on Thursday 17<sup>th</sup> December 2008 in the Council Chambers in the City's North Road Office and that the meeting be advertised locally.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.2.1 continued.

**ITEM 14.2.1 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR PRICE  
SECONDED: COUNCILLOR WOLFE**

**THAT Council:**

- i) in accordance with the requirements of Section 5.27 of the Local Government Act, an Annual General Meeting of Electors be held in the Council Chambers of the City's North Road Office at 6:00pm on the 17<sup>th</sup> December 2009, for the purpose of receiving the 2008-2009 Annual Report of the City of Albany and other General Business as listed; and**
- ii) local public notice of the Annual General Meeting of Electors be published no less than 14 days prior to the date of the meeting.**

**MOTION CARRIED 12-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.3 – LIBRARY SERVICES**

Nil

**14.4 – DAY CARE CENTRE**

Nil

**14.5 – TOWN HALL**

Nil

**14.6 – RECREATION SERVICES**

Nil

**14.7 - ECONOMIC DEVELOPMENT**

Nil

**14.8 - TOURISM & VISITORS CENTRE**

Nil

**14.9 – AIRPORT MANAGEMENT**

Nil

**14.10 – CONTRACT MANAGEMENT**

Nil

**14.11 – PROPERTY MANAGEMENT**

**ITEM NUMBER:** 14.11.1

**ITEM TITLE:** GRANT NEW LEASE FOR THE KING RIVER HORSE & PONY CLUB INC.

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

- File Number or Name of Ward** : PRO 215 (Kalgan Ward)
- Summary of Key Points** : Request for a new lease on portion of Reserve 1189 for the King River Horse & Pony Club Inc. for the purpose of recreation for a term of 21 years commencing 1 January 2010
- Land Description** : Portion of Reserve 1189, Lot 8026 on Deposited Plan 194420 located on Pony Club Road, Willyung
- Proponent** : King River Horse & Pony Club Inc.
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council’s Policy - Property Management - Leases
- Maps and Diagrams:** :



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**BACKGROUND**

1. Reserve 1189 is under a Management Order issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of recreation for a term not exceeding 21 years.
2. The King River Horse & Pony Club Inc. lease is situated on approximately 11 hectares of Reserve 1189 located on Lot 8026 Pony Club Road, Willyung.
3. The lease for a term of 21 years commenced on 1 January 1989 expiring 31 December 2009, with rental being \$10.00 per annum.
4. A written request has been received from the King River Horse & Pony Club Inc. for a new lease commencing 1 January 2010 over the area it currently occupies on portion of Reserve 1189.
5. The King River Horse & Pony Club Inc. was established in 1961 and has been operating on this reserve under lease with the Shire of Albany since 1964.

**DISCUSSION**

6. The King River Horse & Pony Club Inc. through its activities promotes all kinds of approved sport connected with horses and riding. The Club provides riding instruction, coordinates competition events and monthly rally's and works in conjunction with the riding for disabled.
7. The Club has developed and maintains all of the buildings, infrastructure and grounds in this location.
8. Should the proposed new lease be granted, the Club has indicated their commitment to upgrading the facilities and grounds including bringing the existing cross-country course up to competition best standard.
9. It is proposed the new lease be for a period of 21 years, commencing on 1 January 2010 with an annual rental of \$580.00 plus GST being equivalent to Minimum Land Rate as set by Council per annum.
10. Council's Policy - Property Management - Leases currently allows community benefit leases on Crown land where the buildings do not belong to Council, a nominal rental of \$10.00 per annum plus GST with all building and infrastructure maintenance to be at no cost to Council.
11. The review of Council's Policy - Property Management - Leases may recommend amending the rental structures applied to community benefit leases on Crown land where the buildings do not belong to Council, be the equivalent to Minimum Land Rate as set by Council per annum. All building and infrastructure maintenance is to be at no cost to Council.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**PUBLIC CONSULTATION / ENGAGEMENT**

12. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
13. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
14. Section 30 of the Local Government Act (Functions and General) Regulations 1996 deals with dispositions to which the advertising requirements of section 3.58 of the Act does not apply. Section (2) (b) (i) states that Section 3.58 of the Act is exempt if:  
*(b) The land is disposed of to a body, whether incorporated or not –  
(i) the object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature;*
15. The King River Horse & Pony Club Inc. is a recreational organisation and therefore exempt from the advertising requirements of Section 3.58 of the Local Government Act 1995.

**GOVERNMENT CONSULTATION**

16. Nil.

**STATUTORY IMPLICATIONS**

17. Section 18 (1) of the Land Administration Act 1997 states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on crown land.
18. As this is Crown land, under a Management Order issued to the City of Albany for the purpose of camping and recreation, Ministerial approval will be required.
19. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.

**FINANCIAL IMPLICATIONS**

20. All costs associated with the preparation of the documentation will be borne by the proponent.
21. The rental proposed is \$580.00 plus GST per annum being equivalent to Minimum Land rate as set by Council per annum.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**“Community Vision:**

*Nil.*

**Priority Goals and Objectives:**

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

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

**City of Albany Mission Statement:**

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

**POLICY IMPLICATIONS**

23. The recommendation is consistent with Council’s Policy – Property Management – Leases adopted in 2007 with the exception of the rental being levied.
24. This policy currently allows rental for Crown land without Council owned buildings, for the purpose of a community benefit lease be determined at \$10.00 per annum in return for which the association will provide all buildings and infrastructure, the cost of which is covered by the association. Building and infrastructure maintenance is to be at no cost to Council.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

25. Council has the following options in relation to this item, which are:
- a. Approve the request for a new lease, or
  - b. Decline the request.
26. Should Council not support the request for a new lease to the King River Horse & Pony Club Inc., they would have to find an alternative location and relocate all buildings and infrastructure to continue providing this facility for the community.

**SUMMARY CONCLUSION**

27. In view of the service provided to the community by King River Horse & Pony Club Inc. at no cost to Council, the proposed request for a new lease is recommended.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

7:44:53 PM

**ITEM 14.11 1 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT – SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR DUFTY**

**THAT Council subject to section 3.58 of the Local Government Act 1995 and section 18 of the Land Administration Act 1997 GRANTS a new lease to the King River Horse & Pony Club Inc. for the purpose of recreation on portion of Reserve 1189, the lease to include terms and conditions being in compliance with Council's Policy – Property Management – Leases, and:**

- i) the lease term being 21 years commencing on 1 January 2010;**
- ii) the rental being \$580.00 plus GST per annum being equivalent to Minimum Land Rate as set by Council per annum; and**
- iii) all costs associated with the development and implementation of the new lease be met by the proponent.**

**MOTION CARRIED 12-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE**

**ITEM NUMBER:** 14.12.1  
**ITEM TITLE:** SENIORS ADVISORY COMMITTEE MEETING MINUTES – 15 OCTOBER 2009

**File Number or Name of Ward** : MAN 131 (All Wards)  
**Summary of Key Points** : Receive the minutes of the Seniors Advisory Committee.  
**Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee meeting minutes – 15 October 2009

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.1 - COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MATLA**

**SECONDED: COUNCILLOR DUFTY**

**THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 15 October 2009 be RECEIVED.**

**MOTION CARRIED 11-1**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, J Bostock, Paver, Wolfe, Dufty, Sutton and Matla.

**Against the Motion:** Councillor D Bostock,

**CORPORATE & COMMUNITY SERVICES REPORTS**

**Item 14.12.2 has been withdrawn from the Agenda. The meeting will now be conducted on the 08 Dec 09.**

**ITEM NUMBER: 14.12.2**

**ITEM TITLE: AUDIT COMMITTEE MEETING MINUTES – 16 NOVEMBER 2009**

**File Number or Name of Ward** : FIN 020 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Manager – Finance (P Wignall)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Minute will be circulated under separate cover after the Committee meeting.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Audit Committee held on Monday 16 November 2009 be RECEIVED.

ITEM WITHDRAWN FROM AGENDA

**Item 14.12.2 has been withdrawn from the Agenda. The meeting will now be conducted on the 08 Dec 09.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.3**  
**ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES – 14 OCTOBER 2009**

**File Number or Name of Ward** : REL 164 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Manager Economic Development (J Berry)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Minutes of meeting held on 14 October 2009

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.3 – COMMITTEE RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the UNCONFIRMED minutes of the 2014/15 ANZAC Centenary Strategy Committee held on Wednesday 14 October 2009 be RECEIVED.**

**MOTION CARRIED 11-1**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, J Bostock, Paver, Wolfe, Dufty, Sutton and Matla.

**Against the Motion:** Councillor D Bostock,

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.3 - COMMITTEE RECOMMENDATION 2**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE**  
**SECONDED: COUNCILLOR PRICE**

**THAT in relation to the possible formation of a Board, the City is to INVESTIGATE board structures, and all associated details, including (but not limited to): membership, terms of reference, delegations, resourcing, and sources of funding.**

**MOTION CARRIED 12-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.4**  
**ITEM TITLE: COMMUNITY FINANCIAL ASSISTANCE COMMITTEE SPECIAL MEETING MINUTES – 9 OCTOBER 2009**

**File Number or Name of Ward** : FIN 022 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director of Corporate & Community Services (WP Madigan)  
**Disclosure of Interest** : Mayor M Evans, JP  
Cr D Price  
Executive Manager, Community Services  
(D Schober)  
**Bulletin Attachment(s)** : Minutes of meeting held on 9 October 2009

**ITEM 14.12.4 – DRAFT MOTION**

**MOVED: COUNCILLOR PRICE**  
**SECONDED: COUNCILLOR MATLA**

**THAT recommendations 1, 2 and 3 be moved En Bloc.**

**MOTION CARRIED 12-0**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.4 - COMMITTEE RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Community Financial Assistance Committee held on Friday 9 October 2009 be RECEIVED.**

**MOTION CARRIED EN BLOC**

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.12.4 continued.

**COUNCIL'S ROLE: EXECUTIVE FUNCTION****ITEM 14.12.4 - COMMITTEE RECOMMENDATION 2****VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the recommendation for the level of subsidies for the organisations detailed above be laid on the table until validated by staff, as to which applicants are businesses or not for profit organisations. If they are a business 0% subsidy will apply.**

<b>Assess</b>	<b>Billing Name</b>	<b>Total Subsidy</b>
A104446	Senior Citizens Centre	\$6,512.51
A116479	North Albany Football club	\$4,299.77
A124369	Albany Girl Guides Assn	\$2,011.59
A130471	Albany Maritime Foundation	\$4,497.91
A133873	Albany Athletics Group	\$2,363.61
A136770	Albany Golf Club	\$17,727.11
A140446	Albany Model Railway	\$1,741.63
A14758	Albany Harness Racing Club Inc	\$5,531.86
A14780	Albany Italian Club	\$2,061.88
A149179	Albany Club Inc (1932)	\$6,537.66
A155029	Emu Point Sporting Club	\$3,671.15
A156611	Albany Light Opera & Theatre Company	\$1,569.04
A157843	Spectrum Theatre Inc	\$2,301.26
A161280	Albany Bowling Club	\$3,570.57
A161537	Albany Bridge Club Inc	\$2,413.90
A162430	Jaycees Whaleworld (museum & shed only)	\$3,303.52
A171336	Albany Sprint Kart Club	\$799.26
A174427	Albany Equestrian Centre	\$8,951.56
A176287	Stirling Club Inc	\$7,543.45
A179378	Albany Boating & Offshore Fishing Club	\$2,212.75
A185660	Albany Taoist Tai Chi Society	\$2,301.26
A187399	Albany Speedway Club	\$1,204.01
A204721	Albany Model Aero Club	\$1,986.44
A204735	Albany Enterprise Group	\$4,916.32
A30213	City of Albany Band Inc	\$1,483.55
A50479	Merrifield Park Tennis Club	\$804.63
A5879	Lower King Community Kindergarten	\$2,401.33
A6037	King River Recreation Centre	\$3,329.18
A64785	South Coast Country Music Club Inc	\$614.81
A64799	Riverview Country Club	\$1,961.30
A64820	Princess Royal Sailing Club	\$7,090.84
A64866	WA Veteran Car Club	\$1,740.02
A64947	Albany Rowing Club	\$2,428.99
A65539	Green Range Country Club	\$2,873.55
A65999	King River Horse & Pony Club	\$3,027.44
A6791	Albany Racing Club Inc	\$3,168.25
A74354	Scout Assoc of WA	\$1,388.00
A74368	Lawley Park Tennis Club	\$864.48
A79732	Albany Play Group Incorporated	\$739.26
A82145	Albany Kindergarten	\$1,332.68
A84446	Middleton Beach Bowling Club	\$4,314.85
A92223	Railways Football Club	\$3,087.79
A92354	Royals Football Club	\$2,831.31
A96087	Great Southern Soccer Assoc	\$2,599.98
A96429	TS Vancouver Naval Cadets	\$1,760.14
A97368	Albany Women's Institute	\$784.52
		\$150,656.90

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.12.4 continued.

**AND**

**THAT staff determine which organisations have a bar or the ability to raise money through a bar service, have a 10% reduction to the subsidy applied**

**MOTION CARRIED EN BLOC**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.4 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the application for Financial Assistance from the Albany Playgroup Association Inc be reconsidered in the second round of the Community Financial Assistance for 2009/2010.**

**MOTION CARRIED EN BLOC**

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# **WORKS & SERVICES Reports**

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**WORKS & SERVICES REPORTS**

**15.0 REPORTS – WORKS & SERVICES**

**15.1 WASTE MANAGEMENT**

Nil

**WORKS & SERVICES REPORTS****15.2 CAPITAL WORKS**

**ITEM NUMBER:** 15.2.1  
**ITEM TITLE:** C09016 – SUPPLY & DELIVERY OF 4WD TRACTOR

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : C09016 (All Wards)  
**Summary of Key Points** : Award tender to C&C Machinery  
**Land Description** : Nil  
**Proponent** : Nil  
**Owner** : City of Albany  
**Reporting Officer(s)** : Depot Services Co-ordinator (J Harbach)  
**Disclosure of Interest** : Nil  
**Previous Reference** : Nil  
**Bulletin Attachment(s)** : Nil  
**Consulted References** : Nil  
**Councillors Lounge** : Nil  
**Maps and Diagrams** : Nil

**BACKGROUND**

- At its meeting held 18<sup>th</sup> June 2002, Council adopted the Asset Replacement Program – Plant. This strategy is reviewed on an annual basis to determine optimal replacement and maintenance of each individual item of plant. Whilst the plant strategy program has been temporarily suspended, Council approved the replacement purchase of a tractor that has reached the optimum time for replacement.

**DISCUSSION**

- Tenders were called for the supply and delivery of a 4WD tractor suitable for use on Council’s road slashing program to replace Council’s current McCormick100 Tractor P74 – A52613.
- 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:

<b>Criteria</b>	<b>% Weight</b>
Cost	50%
Technical Compliance & Operational Suitability	40%
Reliability	10%
<b>TOTAL</b>	<b>100%</b>

- The following table summarizes those two submissions received by the close of the tender period. A total of eight sets of documents were downloaded from the internet.

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued

<b>TENDERER</b>	<b>SUBMITTED NET PRICE (Inc. GST)</b>	<b>WEIGHTING</b>
<b>C&amp;C Machinery – Massey Ferguson 7465V</b>	<b>\$134,420.00</b>	<b>597.5</b>
Howard Machinery – John Deere 6530 - Premium	\$144,134.10	559
Howard Machinery – John Deere 6530 – Standard	\$113,490.30	520
C&C Machinery – Massey Ferguson 6455	\$117,040.00	506.5
C&C Machinery – Massey Ferguson 6465	\$127,930.00	503
C&C Machinery – Massey Ferguson 5465	\$120,230.00	494

5. Both suppliers have provided submissions that complied with the specifications requested, however the Massey Ferguson 7465V and the John Deere 6530 Premium tractors were determined to be the more appropriate models of the tractors offered that meet Council's requirements. Council has been operating tractors with power reach arms and front slashers fitted for the last five years. During this time, it has been determined that the larger model tractors have been better able to withstand the constant weight and force of the tractor operating with the reach arm at full extension.
6. The larger machine offered by C&C Machinery has a wheel track of between 2550 – 3200mm which provides greater stability to the operator whilst the tractor is in operation. The John Deere model submitted by Howard Machinery only offers a wheel track of 1818mm.
7. The Massey Ferguson tractors provide good service accessibility for both mechanics and plant operators for servicing and pre-start checks.
8. The warranty provided on the Massey Ferguson tractor is 2years/3000 hours as compared to 2years/2000 hours on the John Deere models.
9. The variable speed transmission on the Massey Ferguson 7465V tractor allows speeds of between 0.1 – 40km/hour, enabling the operator to vary his slashing speed dependant on the denseness and level of vegetation required to be slashed.

**PUBLIC CONSULTATION / ENGAGEMENT**

10. A request for tenders was published in the West Australian on Wednesday 30<sup>th</sup> September 2009 and the Albany Advertiser on 1<sup>st</sup> October 2009 and Albany Extra on 2<sup>nd</sup> October 2009.

**GOVERNMENT CONSULTATION**

11. There is no government consultation related to this item.

**STATUTORY IMPLICATIONS**

12. Regulation 11 of the Local Government (Functions and General) Regulations 1996 requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

13. Regulation 18 of the Local Government (Functions and General) Regulations 1996 outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
14. Regulation 19 requires Council to advise each tenderer is writing the result of Council's decision.

**FINANCIAL IMPLICATIONS**

15. Funds of \$134,420.00 (including GST) are available in the major plant replacement budget 2009/2010 for the purchase of this 4WD Tractor.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“Priority Goals and Objectives:*

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

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

*City of Albany Mission Statement:*

*At the City of Albany we provide best value in applying council and community resources and apply Council funds carefully.”*

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

19. The City has undergone a competitive process in line with the relevant legislation and established policies. The submission from C&C Machinery for the Massey Ferguson 7465V Tractor is regarded as the most advantageous offer to Council.

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

**ITEM NUMBER: 15.2.1 – OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY.**

**MOVED: COUNCILLOR PRICE  
SECONDED: COUNCILLOR DUFTY**

**THAT Council AWARD the tender from C&C Machinery for the Supply & Delivery of a Massey Ferguson 7465V Tractor at a nett cost to Council of \$134,420.00 (including GST).**

**MOTION CARRIED 12-0**

**WORKS & SERVICES REPORTS**

**ITEM NUMBER:** 15.2.2  
**ITEM TITLE:** C09015 – SUPPLY & DELIVERY OF CONCRETE DRAINAGE PRODUCTS

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : C09015 (All Wards)  
**Summary of Key Points** : That Council accepts the tender for supply and delivery of concrete drainage products from Ball Concrete and MJB Industries Pty Ltd.  
**Land Description** : Nil  
**Proponent** : Nil  
**Owner** : City of Albany  
**Reporting Officer(s)** : Depot Services Co-ordinator (J Harbach)  
**Disclosure of Interest** : Nil  
**Previous Reference** : Nil  
**Bulletin Attachment(s)** : Nil  
**Consulted References** : Nil  
**Councillors Lounge** : Nil  
**Maps and Diagrams** : Nil

**BACKGROUND**

1. The supply and delivery of concrete drainage products for the next 12 months will exceed \$100,000.00. In order for Council to maintain the current level of commitment for these works, Council is required to tender this service.

**DISCUSSION**

2. Tenders were called for the supply and delivery of concrete drainage products to the City of Albany on an 'as required' basis.
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:

<b>Criteria</b>	<b>% Weight</b>
Cost	60
Technical Compliance & Experience	20
Quality Accreditation	20
<b>TOTAL</b>	<b>100%</b>

4. The following table summarizes those three submissions received by the close of the tender period. A total of twelve sets of documents were downloaded from the internet.

**WORKS & SERVICES REPORTS**

Item 15.2.2 continued.

5. A complete list of concrete drainage products were supplied in nine product categories. Tenderers were required to submit a schedule of rates costing each item, the projected total amount for each product was then calculated to give a lump sum total for assessment.
6. Tenders were assessed overall against weighted criteria. Each product line was evaluated separately and the results are listed as follows.

**Reinforced Concrete Pipes**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>517.21</b>
MJB Industries	487.79
Icon Septech # (no pricing supplied)	80

**Box Culvert Bases**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>586.79</b>
MJB Industries	418.21
Icon Septech # (no pricing supplied)	80

**Precast Headwalls**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>539.68</b>
MJB Industries	443
Icon Septech	402.32

**Chambers/Cylinders**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>684.98</b>
MJB Industries	414.63
Icon Septech	285.39

**Soakwells**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
MJB Industries	<b>772.48</b>
Icon Septech	612.94
Ball Concrete	599.57

**Chamber/Cylinder Bases**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>520.86</b>
MJB Industries	455.78
Icon Septech	408.36

**Grates**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>472.34</b>
MJB Industries	456.35
Icon Septech	456.31

**WORKS & SERVICES REPORTS**

Item 15.2.2 continued.

**Covers**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
MJB Industries	<b>498.34</b>
Ball Concrete	353.25
Icon Septech	260.83

**Other Items**

<b>Tenders Submitted</b>	<b>Total Weighted Score</b>
Ball Concrete	<b>571.46</b>
MJB Industries	417.45
Icon Septech	396.09

7. The tender required evidence of quality accreditation. All three tenderers stated that they were quality accredited however little or no documentation was provided to validate their claims. Ball Concrete are the Albany agent for Rocla products who are a quality accredited company. Council have previously used Rocla products and the quality and delivery timeframes have been satisfactory.
8. MJB Industries Pty Ltd has provided concrete drainage products to Council in the past and to date the quality and delivery timeframes have been satisfactory.

**PUBLIC CONSULTATION / ENGAGEMENT**

9. A request for tenders was published in the West Australian on Wednesday 30<sup>th</sup> September 2009 and the Albany Advertiser on 1<sup>st</sup> October 2009 and Albany Extra on 2<sup>nd</sup> October 2009.

**GOVERNMENT CONSULTATION**

10. There is no government consultation related to this item.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

14. Funding for the purchase of concrete drainage products is included in the overall road construction and routine maintenance programs. These drainage products are purchased on an 'as required basis. The tendered prices are within those allocations.

**WORKS & SERVICES REPORTS**

Item 15.2.2 continued

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“Priority Goals and Objectives:*

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

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

*City of Albany Mission Statement:*

*At the City of Albany we provide best value in applying council and community resources and apply Council funds carefully.”*

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

18. The City has undergone a competitive process in line with the relevant legislation and established policies. The submissions from Ball Concrete and MJB Industries are regarded as the most advantageous offers to Council.

**ITEM NUMBER 15.2.2 – OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE**

**SECONDED: COUNCILLOR MATLA**

**THAT Council:**

- i) **AWARD the tender for the Supply and Delivery of Reinforced Concrete Pipes, Box Culvert Bases, Precast Headwalls, Chambers/Cylinders, Chamber/Cylinder Bases, Grates and Other Drainage Items to Ball Concrete; and**
- ii) **AWARD the tender for the Supply and Delivery of Soakwells and Covers to MJB Industries.**

**MOTION CARRIED 12-0**

**WORKS & SERVICES REPORTS**

**ITEM NUMBER:** 15.2.3  
**ITEM TITLE:** CONTRACT C09019 – TENDER FOR RECONSTRUCTION AND WIDENING OF 2.3 KM OF LOWER DENMARK ROAD IN KRONKUP

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : DES 028 (West Ward)  
**Summary of Key Points** : The acceptance of a tender for the reconstruction and widening of Lower Denmark Road in Kronkup.  
The re-allocation of funding from the construction of section of Mueller to this project.  
**Land Description** : Road reserve for Lower Denmark Rd  
**Proponent** : City of Albany  
**Owner** : City of Albany  
**Reporting Officer(s)** : Engineer Asset Planning (G Hoey) and Manager City Assets (P Brown)  
**Disclosure of Interest** : Nil  
**Previous Reference** : Nil  
**Councillors Lounge** : Nil.  
**Bulletin Attachment(s)** : Tender Review and Evaluation Report  
**Maps and Diagrams** : Nil.

**BACKGROUND**

1. Tenders were called for the reconstruction and widening of approximately 2.3 km of Lower Denmark Rd
2. The request for tenders was advertised in the West Australian on 7 October 2009, in the Albany Advertiser on 8 October 2009 and the Albany Extra on 9 October 2009.
3. Opus International Consultants are acting as the design consultant and Superintendent of this contract on behalf of the City.
4. Five tenders were received. Graham Steele, of Opus reviewed the tenders for compliance and accuracy, and Graham Steele and Graeme Hoey evaluated the tenders. The review and evaluation report is attached.

**DISCUSSION**

5. The five tenders received were:

<b>TENDERER</b>	<b>PRICE – EX GST</b>
<b>Tricoast Holdings</b>	<b>\$690,758</b>
Palmer Earthmoving	\$771,619
Great Southern Sands	\$825,509
AD Contractors	\$861,075
Mako Civil	\$1,039,700

6. The tenders were evaluated and Tricoast Holdings was rated to be the preferred tenderer.

**WORKS & SERVICES REPORTS**

Item 15.2.3 continued

7. Tricoast Holdings did not include approximately \$10,000 worth of line marking and signage work in its price.

**TENDER EVALUATION**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***"Governance:***

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

14. The scope of the project could be reduced so that the budget allocation of \$711,000 is not exceeded. This would result in a reduction in the Regional Roads Group funding allocation for the project. It would also not achieve best value for money from the very competitive tender result.
15. The funding for this project could be increased by reallocating funds from the Mueller Rd project. There is not enough time to construct that project this financial year. Design for that project could be carried out this financial year using the remainder of the funding.
16. The price of the preferred tender represents very good value for money. Accepting the full scope of works would almost certainly provide better value for money than reducing the scope.
17. There are no legal implications relating to this item.

**WORKS & SERVICES REPORTS**

Item 15.2.3 continued

**FINANCIAL IMPLICATIONS**

- 18. The amount of \$711,000 is budgeted in the 2009/10 capital works program for this project. This is insufficient to carry out the full scope of the project
- 19. It is recommended that the following funding reallocation be made:

Budgeted for Lower Denmark Rd project	\$711,000
Committed - Consultants fees	\$87,000
Available for construction	\$624,000
Preferred tenderer sum	\$691,000
Items omitted from the preferred tender	\$10,000
Contingency	\$35,000
Shortfall	\$112,000
Reallocated from Mueller Rd	\$112,000
Available for design of Mueller Rd	\$78,000

- 20. This project has Regional Roads Group Project funding of \$474,000, representing 2/3 of the total budgeted amount of \$711,000.
- 21. If the full scope of the works were not undertaken this year, the Regional Roads Group would require a proportional reduction in their allocation.

**SUMMARY CONCLUSION**

- 22. The Tricoast Holdings tender submission scored the highest total points of all the required evaluation criteria for the Reconstruction and Widening of Lower Denmark Road. That tender should be accepted.
- 23. The tender amount would cause a budget shortfall of \$112,000 in this project. It is recommended that this short fall be met by reallocating funds from the Mueller Rd project.

[7:50:49 PM](#)

**ITEM NUMBER 15.2.3 – OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

**THAT Council:**

- i) **REALLOCATES \$112,000 from the Mueller Road project (2009/10 Budget) to the Lower Denmark Road project; and**
- ii) **ACCEPTS the tender from Tricoast Holdings for \$759,833.80 including GST.**

**MOTION CARRIED 12-0**  
**ABSOLUTE MAJORITY**

**WORKS & SERVICES REPORTS**

**ITEM NUMBER: 15.2.4**  
**ITEM TITLE: ADOPTION OF GRAFFITI MANAGEMENT POLICY**

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

<b>File Number or Name of Ward</b>	: MAN 270 (All Wards)
<b>Summary of Key Points</b>	: Adoption of Graffiti Management Policy
<b>Land Description</b>	: All wards
<b>Proponent</b>	: Nil
<b>Owner</b>	: Nil
<b>Reporting Officer(s)</b>	: Project Procurement Officer (W Male)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Nil
<b>Bulletin Attachment(s)</b>	: Draft Graffiti Management Policy
<b>Consulted References</b>	: Nil.
<b>Councillors Lounge</b>	: Nil.
<b>Maps and Diagrams</b>	: Nil.

**BACKGROUND**

1. Previously Graffiti Management within the municipality has been undertaken on an adhoc basis by a number of different officers, who had a vested interest in reducing graffiti within the City. The Graffiti Management Policy outlines key targets for graffiti management for the future.

**DISCUSSION**

2. Over the past two years graffiti management was the responsibility of the Depot Trades personnel who attend graffiti incidents as they are reported through customer service. Additionally a number of officers of Council had meetings to ensure available funding was sort, to combat graffiti within the community. A structure for combating graffiti needed addressing, so a graffiti management policy is needed for future direction.
3. The City's Graffiti Management Policy is based on the following principals:
  - The need for a holistic program that considers a broad range of community interests including removal of graffiti from private property;
  - Community concerns about graffiti and owner/occupier rights to graffiti free assets;
  - That the community needs a legitimate means by which to display artistic expression and notices of community interest for the purpose of social, political and environmental comment;
  - The careful management of the placement of posters and notices on any City public and private assets;
  - Ensuring graffiti management strategies are efficient and cost effective;
  - The importance of community consultation and solutions relating to graffiti and programs for youth;

**WORKS & SERVICES REPORTS**

Item 15.2.4 continued

- The need to involve all departments within Council and key government agencies regarding innovations to deter graffiti by way of design and planning concepts; and
  - Optimise the four key elements to minimise the impact of graffiti; these elements include prevention, continual removal, prosecution and education.
4. The Graffiti Management Policy includes detail of strategies to tackle graffiti now and into the future.

**PUBLIC CONSULTATION / ENGAGEMENT**

5. There is no requirement for public consultation.

**GOVERNMENT CONSULTATION**

6. Graffiti Management Policies were reviewed from across the Local Government Sector.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“Priority Goals and Objectives:*

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

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

*City of Albany Mission Statement:*

*At the City of Albany we provide best value in applying council and community resources and apply Council funds carefully.”*

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

11. There are no alternate options or legal implications related to this item.

**WORKS & SERVICES REPORTS**

Item 15.2.4 continued

**SUMMARY CONCLUSION**

12. That the Council adopts the Graffiti Management Policy as detailed within the Information Bulletin.

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

**MOVED: COUNCILLOR PRICE  
SECONDED: COUNCILLOR MATLA**

**THAT Council ADOPTS the Graffiti Management Policy.**

**MOTION CARRIED 12-0**

**WORKS & SERVICES REPORTS**

**ITEM NUMBER: 15.2.5**  
**ITEM TITLE: ADOPTION OF REVISED PURCHASING, PLANT AND VEHICLE POLICIES**

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

<b>File Number or Name of Ward</b>	:	REL188 & REL189 (All Wards)
<b>Summary of Key Points</b>	:	Adoption of the revised Plant and Vehicle Fleet Policy Adoption of the revised Purchasing Policy
<b>Land Description</b>	:	All wards
<b>Proponent</b>	:	Nil
<b>Owner</b>	:	Nil
<b>Reporting Officer(s)</b>	:	Project Procurement Officer (W Male)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Bulletin Attachment(s)</b>	:	Draft Plant and Vehicle Policy Draft Purchasing Policy

**BACKGROUND**

1. At the Asset Management and City Services Policy and Strategy Committee held on 25<sup>TH</sup> September 2009 the draft policy on plant and vehicles and the revised draft purchasing policy, which outlines the key targets for environmental and sustainable procurement of plant and fleet vehicles for the future, were presented.
2. Over the past 12 months Council has adopted two waste management strategies, which impact on the City's general purchasing and the purchasing of plant and equipment.

**DISCUSSION**

3. Council has purchased a number of new passenger vehicles in line with the Passenger Vehicle Fleet Policy adopted by Council on the 15 July 2008. However, the stringent environmental guidelines identified in that policy limited some local dealers from being able to supply vehicles.
4. Plant and vehicle replacement strategies must be driven by budgetary constraints, fit for purpose specifications and environmental considerations. Therefore the revised plant and vehicle policy aims to:
  - ensure purchases are appropriate and fit for purpose;
  - promote best value for money purchasing, by encouraging local suppliers and maintenance/servicing providers to tender; and
  - ensure environmental and sustainable principles of procurement are considered.

**WORKS & SERVICES REPORTS**

Item 15.2.5 continued.

**PUBLIC CONSULTATION / ENGAGEMENT**

13. Draft policies were advertised for public comment on 27 October 2009, closing on 17 November 2009.
14. All submission received will be presented to Council for consideration.

**GOVERNMENT CONSULTATION**

15. Nil

**STATUTORY IMPLICATIONS**

16. Part 4 of the Local Government (Functions and General) Regulations 1996 governs the procurement of goods and services.
17. It is a statutory requirement for local governments to have a purchasing policy for amounts under the \$100 000 tender threshold.

**FINANCIAL IMPLICATIONS**

18. Nil

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*Priority Goals and Objectives:*

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

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

*City of Albany Mission Statement:*

*At the City of Albany we provide best value in applying council and community resources and apply Council funds carefully.”*

**POLICY IMPLICATIONS**

20. The following policies will require to be rescinded:

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

21. Nil

**WORKS & SERVICES REPORTS**

Item 15.2.5 continued.

**SUMMARY CONCLUSION**

22. That the Council adopts the revised Purchasing, Plant and Vehicle Policy's as tabled.

[7:52:10 PM](#)

**ITEM 15.2.5 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR DUFTY**

**THAT Council:**

- i) **RESCIND Council Policy – Purchasing Policy (Tenders & Quotes) adopted 20 May 2008;**
- ii) **RESCIND Council Policy – Passenger Vehicle Fleet adopted 15 July 2008; and**
- iii) **ADOPT the revised Council Policy – Purchasing Policy, pending no objections are received during the public consultation period.**
- iv) **ADOPT the new Council Policy – Plant and Vehicle Fleet Policy, pending no objections are received during the public consultation period.**

**MOTION CARRIED 11-1  
ABSOLUTE MAJORITY**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, J Bostock, D Bostock, Wolfe, Dufty, Sutton and Matla.

**Against the Motion:** Councillor Paver

**WORKS & SERVICES REPORTS**

**15.3 RESERVES, PLANNING & MANAGEMENT**

Nil

**15.4 WORKS & SERVICES COMMITTEES**

Nil

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**GENERAL MANAGEMENT  
SERVICES  
Reports**

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**GENERAL MANAGEMENT SERVICES REPORTS**

**16.1 CORPORATE GOVERNANCE**

**ITEM NUMBER:** 16.1.1

**ITEM TITLE:** EXTRAORDINARY ELECTION – KALGAN WARD VACANCY

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

<b>File Number or Name of Ward</b>	:	MAN 016 (Kalgan Ward)
<b>Summary of Key Points</b>	:	Agree to conduct the extraordinary election by postal vote.  Confirm the proposed extraordinary election schedule.
<b>Proponent</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Executive Manager Business Governance (S Jamieson)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous References:</b>	:	OCM 17/03/09 Item 14.4.1 OCM 18/11/08 Item 18.1 OCM 15/06/06 Item 12.2.1 OCM 20/02/07 Item 14.4.1
<b>Bulletin Attachment(s)</b>	:	Nil

**BACKGROUND**

1. As a result of Councillor Buegge's resignation on the 17<sup>th</sup> September 2009 a vacancy now exists for the Kalgan Ward.
2. The Executive Manager Business Governance contacted the Western Australian Electoral Commission (WAEC) to seek approval for the vacancy to be included in the 20 Oct 09 Ordinary Local Government Elections, however the cut off date for nominations was the 26<sup>th</sup> August 2009.
3. The current agreement with the WAEC to conduct a postal election on behalf of the City expired on the 20 Oct 09. Therefore, in order to have the WAEC conduct the extraordinary election, the following two motions need to be passed by absolute majority.
  - **Declare**, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
  - **Decide**, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.1 continued.

**DISCUSSION**

4. The Electoral Commissioner is responsible for conducting postal elections in Western Australia and conducts elections on request under the Local Government Act 1995.
5. By making the Electoral Commissioner responsible for these elections, the City of Albany can ensure that the election is conducted independently and with impartiality.
6. Postal elections are more convenient for electors and typically achieve a higher rate of voter participation.
7. Advantages for Local Government to have the election conducted by the WAEC:
  - a. Ensures that all statutory requirements are fulfilled, noting that it is not the core business of the CEO to run elections.
  - b. A full election report (including statistics) is prepared by the Electoral Commission for presentation to Council.
  - c. The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner.
  - d. Materials and equipment used in the processes meet contemporary electoral standards.

**PUBLIC CONSULTATION/ENGAGEMENT**

8. There is no requirement to conduct public consultation for this item.

**GOVERNMENT CONSULTATION**

9. The Executive Manager Business Governance contacted the WAEC to ascertain the election process time line.
10. The WAEC proposed time line is based on a proposed polling date of Thursday 25 Feb 10. The proposed electoral schedule follows this report.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.1 continued.

**STATUTORY IMPLICATIONS**

11. Section 4.61 of the Local Government Act 1995, states in part as follows:

***“4.61. Choice of methods of conducting the election***

*(1) The election can be conducted as a —*

*“postal election” which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or*

*“voting in person election” which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.*

*(2) The local government may decide\* to conduct the election as a postal election.*

***\* Absolute majority required.***

12. Section 4.20 (4) of the Act states as follows:

*(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

***\*Absolute majority required.’***

13. There is no option under the *Local Government Act 1995* to have the vacancy remained unfilled. The only case is if the district does not have wards and at least 80% representation is still held. This is not the case for the City of Albany. This has been confirmed with the WAEC and the Dept of Local Government.

**FINANCIAL IMPLICATIONS**

14. The cost of an extraordinary election is approximately \$17 000 dollars.

15. The estimated cost for the WAEC to conduct the election is \$15,000 including GST which is based on the following assumptions:

- 3,900 electors;
- Response rate of approximately 50%; and
- Count to be conducted in Albany.

16. Costs not incorporated in the estimate include (approx \$ 2000):

- Non-statutory (i.e. additional advertising in community newspapers and promotional advertising);
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
- One local government staff member to work in the polling place on Election Day.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.1 continued.

17. The cost of running the extraordinary election has not been budgeted for.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision:***

*Nil*

***Priority Goals and Objectives:***

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

***City of Albany Mission Statement:***

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

**POLICY IMPLICATIONS**

19. There are no policy implications related to this item; however there is a legislative requirement.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

20. **Option One.** "postal election" which is an election at which the method of casting votes is to be posting or delivering them to an electoral officer on or before election day; or

21. **Option Two.** "voting in person election" which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

22. The preferred option is Option One as:

- a. The running of elections is not the core business of the Chief Executive Officer;  
and
- b. Having the election run by the WAEC will ensure statutory compliance is met.

**SUMMARY CONCLUSION**

23. The Kalgan Ward has Council representation.

24. The proposed extraordinary election polling date is Saturday 28 Feb 2010, allows enough time for the electoral requirements to be complied with, and does not conflict with the December and New Year holiday period.

25. A postal election is the preferred option.

[7:53:39 PM](#)

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.1 continued.

**ITEM NUMBER 16.1.1– OFFICER RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

**THAT Council:**

- i) DECLARE, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the extraordinary election;**
- ii) DECIDE, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election;**
- iii) ALLOCATE \$17,000 to conduct the election and that this amount is subject to the next quarterly review; and**
- iv) CONFIRM the suggested polling date; being Thursday 25<sup>th</sup> February 2010.**

**MOTION CARRIED 12-0  
ABSOLUTE MAJORITY**

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.1 continued.



WESTERN AUSTRALIAN  
Electoral Commission

**ELECTION TIMETABLE**  
**Local Government Extraordinary Election 25 February 2010**

Days to Polling Day	Local Government Act	References to Act/Regs	Day	Date
80	Last day for agreement of Electoral Commissioner to conduct postal election.	LGA 4.20 (2)(3)(4)	Mon	7/12/2009
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Mon	7/12/2009
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Thu	17/12/2009
70	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments.	LGA 4.39(2)	Thu	17/12/2009
to	<b>Preferred date Wednesday 23 December 2009</b>		to	to
56			Thu	31/12/2009
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day. <b>Preferred date Wednesday 6 January 2010</b>	LGA 4.47(1)	Thu	31/12/2009
50	Close roll 5.00 pm	LGA 4.39(1)	Wed	6/01/2010
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Mon	11/01/2010
44	<b>Nominations Open</b> First day for candidates to lodge completed nomination paper, in the prescribed form, with the Returning Officer. Nominations period is open for 8 days.	LGA 4.49(a)	Tue	<b>12/01/2010</b>
38	If a candidate's nomination is withdrawn not later than 4.00 pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Mon	18/01/2010
37	<b>Close of Nominations</b> 4.00 pm on the 37th day before election day.	LGA 4.49(a)	Tue	<b>19/01/2010</b>
36	CEO to prepare an owners & occupiers roll for the election. Electoral Commissioner to prepare residents roll.	LGA 4.41(1) LGA 4.40(2)	Wed	20/01/2010
24	Lodgement of election packages with Australia Post. Week Commencing	Approx	Mon	1/02/2010
22	The preparation of any consolidated roll under subregulation (1) be completed on or before 22nd day before election day.	Reg. 18(2)	Wed	3/02/2010
19	Last day for the Returning Officer to give Statewide public notice of the election. <b>Preferred date Wednesday 27 January 2010</b>	LGA 4.64(1)	Sat	6/02/2010
3	Commence processing returned election packages	Approx	Mon	22/02/2010
0	<b>Election Day</b> Close of poll 6.00 pm	LGA 4.7	Thu	<b>25/02/2010</b>

Post Election Day	Post Declaration	References to Act/Regs		Date
5	Election result advertisement.	LGA 4.77	Tue	2/03/2010
14	Report to Minister. The report relating to an election under section 4.79 is to be provided to the Minister within 14 days after the declaration of the result of the election.	Reg.81	Thu	11/03/2010
28	An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.	LGA 4.81(1)	Thu	25/03/2010

**GENERAL MANAGEMENT SERVICES REPORTS**

**ITEM NUMBER:** 16.1.2  
**ITEM TITLE:** ANNUAL REVIEW OF COUNCIL DELEGATIONS – DEVELOPMENT APPROVALS

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : MAN 122 (All Wards)  
**Summary of Key Issues** : To review delegations for development approvals  
**Land Description** : N/A  
**Proponent** : City of Albany  
**Owner** : N/A  
**Reporting Officer(s)** : Executive Manager – Planning & Councillor Liaison (G Bride)  
Executive Manager – Business Governance (S Jamieson)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 18/03/08 – Item 14.4.2  
OCM 21/07/09 – Item 16.2.1  
**Bulletin Attachment(s)** : Planning Processes Policy  
Delegations – Schedule 1 – Town Planning Scheme 1A  
Delegations – Schedule 2 – Town Planning Scheme 3  
**Consulted References** : Nil  
**Councillor Lounge** : Nil  
**Maps and Diagrams:** N/A

**BACKGROUND**

1. Once each year the delegations provided to officers are to be reviewed by Council with the ability for the delegation to be revoked, amended or renewed. The current delegations were reviewed in March 2008.
2. The delegations are provided through the provisions of the City’s Town Planning Schemes and relate to matters under the Planning and Development Act 2005. Both Schemes provide for delegations to be made to Committees of Council or directly to staff.
3. Council at it’s meeting held on 21 July 2009 adopted the Planning Processes Policy which effectively guides the delegation path for development applications at the City. This Policy replaced the monetary staff delegation of \$1.5 million.

**DISCUSSION**

4. A review of the Town Planning delegations for development approvals has been conducted, and it is felt the delegations should continue, as they deliver a more efficient and effective service to the City’s customers.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.2 continued.

5. Since the previous delegations were endorsed by Council no textual changes have been made to either scheme; therefore, the same delegations as existing have been proposed.
6. The Chief Executive Officer proposes to delegate decision making to individual staff based upon their experience and capabilities. By delegating the various functions under the Local Government Act, the CEO can modify or withdraw the authority, without further referral to Council, if the performance of an individual officer does not meet organisational standards.
7. Currently the CEO has 6 levels of sub-delegation to staff, with Level 1 extending to the Executive Director, down to level 6, for the Building Inspection Officer.

**PUBLIC CONSULTATION / ENGAGEMENT**

8. Consultation processes for planning applications are defined in the Scheme and in Council's Planning Processes Policy.

**GOVERNMENT CONSULTATION**

9. Not applicable.

**STATUTORY IMPLICATIONS**

10. Section 7.22 of the City of Albany Town Planning Scheme No. 1A and Section 6.10 of the City of Albany Town Planning Scheme No. 3 establish the mechanisms for Council to delegate decision-making. The wording in the two documents is slightly different however they both provide that Council can delegate at any time and the delegation must be reviewed annually.
11. Section 5.42 of the Local Government Act also allows Council to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of its duties under the Local Government Act. The Chief Executive Officer can then administratively arrange, pursuant to Section 5.44 of the Local Government Act, to allow another person to perform the required function. This method is the most appropriate one for Council to use, as it allows the CEO to change a delegation within 24 hours if needed, as opposed to specifying via the agenda process which can take up to six weeks to present an item to Council.

**FINANCIAL IMPLICATIONS**

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

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.1.2 continued.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

13. Not applicable

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

15. Council has the option to amend specific delegations to the CEO as presented.

**SUMMARY CONCLUSION**

16. The adoption of the delegations will ensure Council is fulfilling it's obligations to delegate staff on an annual basis.

**ITEM NUMBER – 16.1.2 OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR PRICE**

**SECONDED: COUNCILLOR MATLA**

**THAT Council:**

- i) pursuant to clause 7.22 of the City of Albany Town Planning Scheme No 1A, delegate to the Chief Executive Officer those functions specified in Schedule 1 in the Elected Members Report/Information Bulletin as they relate to Town Planning Scheme No 1A, subject to the specified parameters;**
- ii) pursuant to clause 6.10 of the City of Albany Town Planning Scheme No 3 delegate to the Chief Executive Officer those functions specified in Schedule 2 in the Elected Members Report/Information Bulletin as they relate to Town Planning Scheme No 3, subject to the specified parameters; and**
- iii) in accordance with the provisions of section 5.44 of the Local Government Act 1995, the Chief Executive Officer be authorised to sub-delegate those functions in part (i) and (ii) above.**

**MOTION CARRIED 9-3  
ABSOLUTE MAJORITY**

**Record of Vote:**

**For the Motion:** Mayor Evans, Councillors Hammond, Wellington, Price, Leavesley, Dufty, Wolfe, Sutton and Matla.

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

**GENERAL MANAGEMENT SERVICES REPORTS**

**16.2 GENERAL MANAGEMENT SERVICES COMMITTEE**

Nil

**17.0 ADOPTION OF THE INFORMATION BULLETIN**

**ITEM 17.0 - DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR MATLA**

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

**MOTION CARRIED 12-0**

## 18.0 MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

**ITEM NUMBER:** 18.1  
**ITEM TITLE:** NOTICE OF MOTION - FUTURE PLANNING SCHEME AMENDMENTS  
**COUNCILLOR:** Cr D Bostock  
**RECEIVED:** OCM 20<sup>th</sup> October 2009

7:55:58 PM

**ITEM 18.1 NOTICE OF MOTION – CR D BOSTOCK**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR D BOSTOCK**  
**SECONDED: COUNCILLOR J BOSTOCK**

**THAT no further planning scheme amendments be considered by Council or staff.**  
**MOTION LOST 2-10**  
**ABSOLUTE MAJORITY**

### Record of Vote

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

**Against the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Paver, Leavesley, Wolfe, Dufty, Sutton, Matla, Hammond and Price.

### **Councillor's Reason:**

Scheme amendments are time consuming and costly for both councillors and employees. We have a brand new and comprehensive planning scheme before State Government, also prepared at considerable trouble and expense so, provided our forward planning has been properly conducted, there will no longer be any necessity for amendments in the foreseeable future. Thus the city is now in a position to save councillors time, allowing them to concentrate on their primary roles of directing the activities of the staff, monitoring their performance and addressing the concerns of the electorate.

## **OFFICERS REPORT**

**Author:** Executive Director Development Services (R Fenn)

## **STATUTORY IMPLICATIONS**

1. Section 75(b) of the Planning and Development Act 2005 states that;  
*“A local government may amend a local planning scheme with reference to any land within its district ..... by an amendment proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.”*

Item 18.1 continued

2. Regulation 13(1) of the Town Planning Regulations requires that;  
*“On completion of the preparation of the Scheme documents pursuant to the provisions of these regulations, the local government shall –*
  - (a) *If it resolves to proceed with the Scheme, adopt the proposed scheme in accordance with the Act; or*
  - (b) *If it resolves not to proceed with the Scheme, notify the Commission in writing of that resolution.”*
3. Regulation 7 also states: *“Where in pursuance of Section 18 of the Act (access to information held by the WAPC) the Minister orders a local government to prepare and adopt a Scheme, the provisions of these regulations shall, so far as the same are consistent and applicable, apply to the Scheme prepared or adopted by the local government in compliance with that order as though that local government had passed a resolution to prepare, or as the case may be, adopt a Scheme.”*
4. The decision to initiate a scheme amendment (similar process to the preparation of a Scheme, as set out in the Regulations) remains with a local government and there is a statutory obligation to determine whether an amendment should proceed or not. If Council decides that an amendment should not proceed, it is required to notify the WAPC of that decision. If the amendment is considered by the Minister to warrant his intervention, he can “order” a local government to progress that amendment; it is unlikely the Minister would intervene in a local town planning matter, but that power remains available to him if the amendment has greater state significance.
5. The creation of a “blanket restriction” on any future amendments is at odds with administrative law principles, given the land owner has the capacity (under Section 75(b)) to submit amendment documents for consideration.

#### **POLICY IMPLICATIONS**

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

#### **FINANCIAL IMPLICATIONS**

7. When the City of Albany Local Planning Scheme 1 (LPS1) is placed on public exhibition, seeking submissions on that document, the costs to landowners and planning consultants of progressing amendments to the existing Town Planning Schemes 1A and 3 (that will be revoked on the Gazettal of LPS1) becomes a clear commercial decision. If the proposed amendment cannot be processed within the timeframe taken to introduce the LPS1, the landowner will be faced with an identical cost and loss of time to then introduce an amendment to the LPS1 to introduce the required zone / development standards.
8. Council’s fee for it to consider a Scheme Amendment Request is \$600 (non refundable). If the proponent decides to progress to the stage of lodging a scheme amendment, further fees apply in addition to any costs paid to the planning consultant. For a minor application, Council receives a fee of \$2,500 and for major applications it increases to \$3,500.

Item 18.1 continued

9. The major planning consultancy firms in Albany have already approached City staff on the potential impacts of the phasing out of Schemes 1A and 3 and the introduction of LPS1 and they indicated they will work with their clients to assist in expediting that transition. They have voiced some concern over the processes that will be employed on those matters where Council has agreed to a Scheme Amendment Request and the planning consultant is producing the amendment document (at their client's expense) in anticipation of them being initiated over coming months.

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

10. The process involved in transitioning from an inappropriately zoned land parcel to an occupied building can take between four (4) and ten (10) years to complete; that process can be expanded further if there are servicing or environmental constraints that need to be overcome. Whilst there appears to be large tracts of land already zoned and planned in Albany for a plethora of uses, recent experience has shown that much of that land is constrained and is unable to be quickly brought onto the market.
11. Most Australian cities have historically had a "land bank" of appropriately zoned / vacant lots for developers to utilise, but that supply has dropped to seriously low levels. Shrinking the development options has reduced competition, increased the cost to consumers and often forced businesses to consider developments in areas where their land use activity is less desirable.

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

12. Whilst the motion is soundly based, in terms of the principles it sets out to achieve, the legislation requires Council to receive a scheme amendment prepared by a land owner and to give that application due consideration. Staff would be required to process those applications and to bring them before Council.

### **COMMENT**

13. The LPS1 does not propose to introduce a radical change in land zoning across the District. Had it decided to do so, a single lot could have generated an EPA requirement for the entire Scheme to be subject to formal environmental assessment; that process would have added years to the time taken to implement the Scheme and it would have cost hundreds of thousands of ratepayer dollars to resolve.
14. A series of amendments are currently being considered by the City, the WAPC and the Minister which warrant closer environmental scrutiny and those amendments are being handled in parallel with all the planning processes being undertaken to introduce a new Scheme for the District. If a single amendment cannot be approved by the Minister, following advertising and review by the EPA and the WAPC, that application fails and the land remains in its current zoning (or the zoning proposed in

Item 18.1 continued

the LPS1). If however, a land parcel is inappropriately zoned in the current schemes, maintaining a limited amendment process will allow exceptional zoning anomalies to be review under the normal statutory processes; those anomalies can then flow into LPS1 at the final approval stage (if the amendment is gazetted in the interim) or it can form part of an omnibus amendment to “pick up” approved changes to zonings that occur during the final stages of introducing LPS1.

15. The period between the phasing out of an existing town planning scheme(s) and the introduction of its replacement is a challenge for all local governments to manage. Information flows in the “void” between the Council giving its final approval to the amendment and it coming into operation (as a Gazette Notice) are non-existent and the timeline can grow very quickly. This uncertainty creates a desire amongst developers to proceed with a “patch” to the existing scheme, when it is more appropriate to consider their development under the new land use control regime.
16. Staff have already advised the local planning consultants that they are unlikely to gain staff support for future Scheme Amendment Requests for Schemes 1A and 3 (other than where there is a major anomaly brought about by the wording of the Scheme) and that new amendments should be limited to those applications where Council has previously considered Scheme Amendment Requests. The threshold that will be applied to consultants in their reports on the reasons for introducing further scheme amendments will increasingly tightened and staff will report to Council accordingly on the practical implications of embarking on new amendments. Staff cannot support a blanket prohibition by Council on considering Scheme Amendments (a moratorium) over the intervening period, and feel that there are processes already in place to achieve the outcome sought by Councillor Bostock.

**ITEM NUMBER: 18.2**  
**ITEM TITLE: NOTICE OF MOTION – LEGAL ADVICE**  
**COUNCILLOR: Cr J Bostock**  
**RECEIVED: OCM 20<sup>th</sup> October 2009**

ITEM 18.2 NOTICE OF MOTION – CR J BOSTOCK  
THAT:

- i) when legal advice regarding any Council matter is required by an elected member, that member is to personally instruct our retained solicitor; and
- ii) notices of all requests for legal advice from any solicitor, including those from Councillors and employees shall be in writing, detailing the background, reasoning and questions asked and reported to Mayor and all Councillors on a monthly basis.

**Councillor's Reason:**

If an employee instructs the solicitor on behalf of a Council member, even with the best intentions there is inevitably a risk that the message will be distorted because of the arms length nature of the instruction.

It is important that Council is kept informed of legal issues affecting the City.

*8:10:34 PM Councillor J Bostock requested the notice of motion be amended and presented in two parts for clarity.*

**ITEM 18.2 NOTICE OF MOTION 1 – CR J BOSTOCK**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR J BOSTOCK**  
**SECONDED: COUNCILLOR PAVER**

**THAT when legal advice regarding any Council matter is required by an elected member, that member is to personally instruct our retained solicitor.**

**MOTION LOST 3-9**

**Record of Vote:**

**For the Motion:** Councillors D Bostock, J Bostock and Paver.

**Against the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla

**ITEM 18.2 NOTICE OF MOTION 2 – CR J BOSTOCK**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR J BOSTOCK**  
**SECONDED: COUNCILLOR PAVER**

**THAT all requests for legal advice by the City of Albany except for matters concerning human resources shall be in writing, detailing the facts and questions asked. Copies of the same shall be simultaneously provided to Councillors under confidential cover.**

**MOTION LOST 3-9**

**Record of Vote**

**For the Motion:** Councillors D Bostock, J Bostock and Paver.

**Against the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla

**ITEM NUMBER:** 18.3  
**ITEM TITLE:** NOTICE OF MOTION – CR PAVER - ACCESS TO INFORMATION  
**COUNCILLOR:** Cr R Paver  
**RECEIVED:** OCM 20<sup>th</sup> October 2009

8:23:38 PM

ITEM 18.3 NOTICE OF MOTION 1 – CR R PAVER

Whenever Councillors, collectively or individually, in the proper exercise of their roles and responsibilities, seek access to information from the CEO or staff, the information requested shall be provided within a reasonable time and Councillors shall not be denied access to the information they seek because in the opinion of the CEO or the Mayor it relates to an operational or a confidential matter or a matter that they are disposed to refer to the CCC.

**Councillor's Reason:**

Councillors cannot fulfil their roles and responsibilities without access to information that is held by staff. This information needs to be readily supplied within a reasonable time.

*Councillor Paver requested an amendment to his original notice of motion to Council.*

ITEM 18.3 AMENDED NOTICE OF MOTION 1 BY CR R PAVER

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

*Cr Paver's tabled address detailed at appendix D.*

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: MAYOR EVANS**

**SECONDED: COUNCILLOR MATLA**

**THAT the motion be laid on the table until the December 2009 meeting of Council.**

**MOTION CARRIED 9-3  
ABSOLUTE MAJORITY**

**Record of Vote:**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Duffy, Sutton and Matla

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

**Mayor's Reason:**

The amendment is a substantial departure from the original motion; legal advice may need to be sought.

*8:29:48PM – CEO noted an adverse reflection - Cr Paver*

**ITEM NUMBER:** 18.4  
**ITEM TITLE:** NOTICE OF MOTION – CR PAVER - ROLE OF COMMITTEES  
**COUNCILLOR:** Cr R Paver  
**RECEIVED:** OCM 20<sup>th</sup> October 2009

*8:38:12 PM Councillor Price noted an adverse reflection - Councillor J Bostock*

**ITEM 18.4 NOTICE OF MOTION 2 – CR R PAVER**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR PAVER**  
**SECONDED: COUNCILLOR J BOSTOCK**

**Unless a resolution of Council provides expressly otherwise, the business of the four committees shall be confined to the consideration of existing and proposed strategies, policies and local laws, and no recommendations concerning other matters shall be made by these committees to Council.**

**MOTION LOST 3-9**

**Record of Vote**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla

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

**Councillor's Reason:**

The four internal standing committees were established (without delegated decision making powers) to consider and make recommendations on strategies, policies and local laws. This limited jurisdiction is transgressed whenever a committee, without the express authority of Council, deals with other matters.

**ITEM NUMBER:** 18.5  
**ITEM TITLE:** NOTICE OF MOTION – CR PAVER - COUNCIL MINUTES  
**COUNCILLOR:** Cr R Paver  
**RECEIVED:** OCM 20<sup>th</sup> October 2009

8:46:49 PM

**ITEM 18.5 NOTICE OF MOTION 3 – CR R PAVER**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR PAVER**  
**SECONDED: COUNCILLOR J BOSTOCK**

**Council minutes shall include a record of:**

- a) points of order and the rulings of the Mayor thereon; and
- b) points of clarification and the responses of staff thereto.

**MOTION LOST 3-9**

**Record of Vote**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Leavesley, Wolfe, Dufty, Sutton and Matla

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

**Councillors Reason:**

The cause of good governance is substantially advanced by the inclusion of the above matters in the minutes which will then serve as an invaluable record of rulings made on points of order and of advice sought from and provided orally by staff in the course of Council meetings.

**ITEM NUMBER:** 18.6  
**ITEM TITLE:** NOTICE OF MOTION – MAYOR EVANS - ADMINISTRATIVE  
DIRECTIVE CONTACT WITH COUNCIL STAFF  
**COUNCILLOR:** Mayor Evans  
**RECEIVED:** OCM 20<sup>th</sup> October 2009

8:52:47 PM

**ITEM 18.1 NOTICE OF MOTION – MAYOR EVANS  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

**THAT Council implement the following administrative directive in support of Council staff:**

*“That members of Council are not to contact staff on the day of an ordinary meeting of Council other than exceptional circumstance, ie a disaster.”*

**MOTION CARRIED 8-4  
ABSOLUTE MAJORITY**

**Record of Vote**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Wolfe, Dufty, Sutton and Matla

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

**Mayor’s Reason:**

That a deadline of 5pm the Monday prior to the Ordinary Council Meeting be set to eliminate all contact between Elected Members and staff. This is to allow staff time to prepare for the Ordinary Council Meeting.

**ITEM NUMBER** 18.7  
**ITEM TITLE:** NOTICE OF MOTION BY CR DUFTY - RESCISSION MOTION - COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 24 JULY 2009 – RECOMMENDATION 3 (Item 14.12.4)

**DATE AND TIME RECEIVED:** 28<sup>TH</sup> OCTOBER 2009

In accordance with Section 10(1a) of the Local Government (Administration) Regulations 1996, the following Councillors signed the Notice of Motion: Councillors Dufty, Wellington, Sutton, Matla and Hammond.

9:09:09 PM

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**Moved: COUNCILLOR HAMMOND**

**SECONDED: COUNCILLOR LEAVESLEY**

**THAT item 18.7 is admitted as an urgent item**

**MOTION CARRIED 9-3  
ABSOLUTE MAJORITY**

**Record of Vote**

**For the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Hammond, Price, Wolfe, Dufty, Sutton, Leavesley and Matla

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

**ITEM 18.7 RESCISSION MOTION BY CR DUFTY**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**Moved: COUNCILLOR DUFTY**

**SECONDED: COUNCILLOR MATLA**

**THAT the resolution of report item 14.12.4 of 15<sup>th</sup> September 2009;**

**“THAT:**

- i) the building formally known as the Albany Entertainment Centre, be officially named the ‘Albany Princess Royal Performing Arts Centre’; and***
- ii) the studio space be named the Kalyenup Studio”***

**be revoked.**

**MOTION CARRIED 7-5  
ABSOLUTE MAJORITY**

**Record of Vote**

**For the Motion:** Deputy Mayor Wellington, Councillor Dufty, Sutton, Matla, J Bostock, Leavesley and Hammond.

**Against the Motion:** Mayor Evans, Councillor Price, Paver, D Bostock and Wolfe

In accordance with Section 5.25(1)(e) of the Local Government Act 1995, the following notice of motion is presented.

**ITEM 18.7 NOTICE OF MOTION BY CR DUFTY**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DUFTY**

**SECONDED: COUNCILLOR MATLA**

**THAT the:**

- i) building retain the name of the Albany Entertainment Centre (AEC);**
- ii) theatre of the AEC be called the Princess Royal Theatre; and**
- iii) studio space be called the Kalyenup Studio.**

**MOTION CARRIED 9-3**

**Record of Vote**

**For the Motion:** Deputy Mayor Wellington, Councillors Dufty, Sutton, Matla, J Bostock, Hammond, Leavesley, Paver and D Bostock

**Against the Motion:** Mayor Evans Councillors Wolfe and Price

9:22:47 PM Mayor Evans requested the list of competition entrants and the winner as they will all need to be notified.

**Councillor's Reason:**

- i) The Albany Entertainment Centre (AEC) is exactly what it is – many more events than performing arts will happen there;
- ii) The AEC was the most popular name amongst those submitted;
- iii) The name Albany Entertainment Centre (AEC) describes the location and business of the centre; and
- iv) AEC is already known world wide on the www (world wide web) and is in the prime position 'Google' wise.

## 19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

**ITEM NUMBER:** 19.1

**ITEM TITLE:** REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM – ROUND TWO FUNDING (RLCIP) – PROJECT COST UPDATE

### THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

<b>File Number or Name of Ward</b>	:	STR 004 (All Wards)
<b>Summary of Key Points</b>	:	Approve variations to the Federal Government RLCIP grant funding application.
<b>Land Description</b>	:	N/A
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Project Team Leader (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	SCM 10.11.07 Item 7.0
<b>Bulletin Attachment(s)</b>	:	SCM 10.11.07 Item 7.0
<b>Maps &amp; Diagrams</b>	:	Nil

### BACKGROUND

1. At the Special Council meeting held on the 10/11/09 council resolved to grant funding.
2. Concern was raised by Councillor Wolfe, that Council required more accurate estimates in order to make an informed decision.
3. Staff have responded by conducting extra consultation and presents updated estimates for each project.
4. In order to facilitate minor adjustments, it is requested that delegated authority is granted to the CEO to finalise minor adjustments to the grant allocation.

Item 19.1 continued.

**DISCUSSION**

5. Staff have revised the estimates presented to Council at the Special Council meeting, and have a more realistic estimate:

**Ready to proceed projects:**

Serial	Group	Project	Original Estimate	Amended Estimate
1	Lawley Park Tennis	re surface courts	\$120,000	\$60,000
2	Albany Soccer Club	drainage, ground improvements	90,000	129,000
3	Albany Girl Guides	drainage and safety fencing	34,000	55,000
4	Princess Royal Sailing Club	Rescue boat compound, weather station/communications upgrade	30,000	\$30,000
<b>Total</b>			<b>\$274,000</b>	<b>\$274,000</b>

**Reserve Projects:**

Serial	Group	Project	Amount	Amount
1	Apex	Lookout Gazebo	\$45,000	\$45,000
2	City of Albany	Public Toilets – attached to ALAC 2	\$100,000	\$100,000

**PUBLIC CONSULTATION/ENGAGEMENT:** No change from previous report.

**GOVERNMENT CONSULTATION:** No change from previous report.

**STATUTORY IMPLICATIONS:**

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

**FINANCIAL IMPLICATIONS:** No change from previous report.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:** No change from previous report.

**POLICY IMPLICATIONS:** No change from previous report.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:** No change from previous report.

Item 19.1 continued.

**SUMMARY CONCLUSION**

7. It is recommended that should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$274,000.

**ITEM 19.1 – OFFICER RECOMMENDATION 1  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR MATLA**

**THAT COUNCIL, in accordance with clause 3.6(1) of the Standing Orders Local Law 209, admit report item 19.1 as an URGENT item.**

**MOTION CARRIED 12-0  
ABSOLUTE MAJORITY**

**ITEM 19.1 - OFFICER RECOMMENDATION 2  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR WOLFE  
SECONDED: COUNCILLOR MATLA**

- i) **THAT Council APPROVE the ready to proceed project list for RLCIP grant funding:**

**Ready to proceed projects:**

Serial	Group	Project	Revised Estimate
1	Lawley Park Tennis	surface courts & drainage	\$60,000
2	Albany Soccer Club	drainage, ground improvements	\$129,000
3	Albany Girl Guides	turf, drainage and safety fencing	\$55,000
4	Princess Royal Sailing Club	Rescue boat compound, weather station/communications upgrade	\$30,000
<b>Total</b>			<b>\$274,000</b>

**AND**

- ii) **That should one of the preferred projects not be able to proceed, Council APPROVE the following reserve projects:**

**Reserve Projects**

Serial	Group	Project	Amount
1	Apex	Lookout Gazebo	\$45,000
2	City of Albany	Public Toilets – attached to ALAC 2	\$100,000

**AND**

- iii) **That should the actual costs of any project vary from the above estimates, the CEO be authorised to administer the expenditure amounts within the total budget of \$274,000.**

**MOTION CARRIED 12-0  
ABSOLUTE MAJORITY**

**20.0 REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION**

Nil

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

9:28:41 PM

**ITEM 21.0**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR D BOSTOCK**

**SECONDED: COUNCILLOR PAVER**

**THAT Item 21.1 is brought forward as an urgent item and discussed behind closed doors.**

**MOTION LOST 3-9**

**Record of Vote**

**For the Motion:** Councillors D Bostock, J Bostock and Paver

**Against the Motion:** Mayor Evans, Deputy Mayor Wellington, Councillors Wolfe, Dufty, Sutton, Matla, Hammond, Price and Leavesley.

9:33:28 PM

**ITEM NUMBER: 21.1**

**ITEM TITLE: NOTICE OF MOTION – DEPUTY MAYOR WELLINGTON**

**COUNCILLOR: Deputy Mayor Wellington**

**RECEIVED: 29<sup>th</sup> October 2009 at 11.58 AM**

**ITEM 21.1 NOTICE OF MOTION – DEPUTY MAYOR WELLINGTON**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**Deputy Mayor's Reason:**

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

**ITEM NUMBER: 21.2**  
**ITEM TITLE: NOTICE OF MOTION – COUNCILLOR HAMMOND**  
**RECEIVED: 17<sup>TH</sup> November 2009 at 11.27 AM**

**ITEM 21.2 - NOTICE OF MOTION – COUNCILLOR HAMMOND**

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

**Councillor's Reason:**

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

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

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

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

Nil

**23.0 NEXT ORDINARY MEETING DATE**

Tuesday 15<sup>th</sup> December 2009, 7.00pm

**ITEM 23.0 - DRAFT MOTION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: MAYOR EVANS  
SECONDED: COUNCILLOR PRICE**

**THAT Council resume Standing Order 3.1 - Recording of Proceedings.**

**MOTION CARRIED 12-0  
ABSOLUTE MAJORITY**

**24.0 CLOSURE OF MEETING**

The Mayor declared the meeting closed at: 9:35:29 PM

Confirmed as a true and accurate record of proceedings.

---

Milton John Evans, JP  
**MAYOR**

**APPENDIX A**

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

<b>Meeting Date</b>	<b>Item Number</b>	<b>Status</b>
Nil.		

**APPENDIX B**

**WRITTEN NOTICE OF DISCLOSURE**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Councillor Hammond	13.2.1	<p>Proximity. The nature of interest being the applicant/owner occasionally transacts business through the Albany Visitor Centre in respect to rental properties.</p> <p>Councillor Hammond remained in the Chamber and participated in the debate and vote.</p>
Councillor Leavesley	14.12.4	<p>Proximity. The nature of interest being that Cr Leavesley is a member of the Albany Racing Club and associate member of the Albany Club.</p> <p>Councillor Leavesley remained in the Chamber and participated in the debate and vote.</p>
Councillor Price	19.1	<p>Impartiality. The nature of interest being that Cr Price is a member of the Prince Royal Sailing Club.</p> <p>Councillor Price remained in the Chamber and participated in the debate and vote.</p>
Councillor Hammond	19.1	<p>Impartiality. The nature of interest being that Cr Hammond is a sponsor of the Princes Royal Sailing Club.</p> <p>Councillor Hammond remained in the Chamber and participated in the debate and vote.</p>
Councillor Dufty	19.1	<p>Impartiality. The nature of interest being that Cr Dufty is a member of the Albany Light Opera Theatre Company.</p> <p>Councillor Dufty remained in the Chamber and participated in the debate and vote.</p>

**B-2**

**INTEREST DISCLOSED DURING THE COURSE OF THE MEETING**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Nil		

**INTEREST DISCLOSED BY OFFICERS**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Executive Director Corporate & Community Services – Mr Madigan	14.11.1 & 14.12.4	Impartiality. The nature of interest being that he is a life member of the club.

Nil

**APPENDIX D**

**TABLED DOCUMENTS**

<b>Document Tabled By</b>	<b>Subject</b>	<b>Page No</b>
Ms Kim Stanton	Council Speech for 17 Nov 09.	149

**ELECTED MEMBER TABLED DOCUMENTS**

<b>Document Tabled By</b>	<b>Subject</b>	<b>Page No</b>
Councillor J Bostock	Item 3.0 – Announcements by Mayor and Councillors without discussion.	151
Councillor J Bostock	Item 18.2 – Amendment to Notice of Motion	152
Councillor J Bostock	Item 18.2 – Councillor Motion: Legal Advice	153
Councillor Paver	Item 18.3 – Tabled Speech	154
Councillor Paver	Item 18.3 – Amendment to Notice of Motion	157
Councillor J Bostock	Item 18.3 – Tabled Speech	158
Councillor J Bostock	Item 18.4 – Councillor Paver Motion, Business of Four Governance Committees	159
Councillor J Bostock	Item 18.6 – Councillor Motion, Mayor Evans	160
Councillor J Bostock	Item 21.1 – Speech against the Notice of Motion by Deputy Mayor Wellington	161
Councillor Paver	Item 18.4 – Tabled Documents	162

**STAFF TABLED DOCUMENTS**

<b>Document Tabled By</b>	<b>Subject</b>	<b>Page No</b>
Chief Executive Officer	Item 18.3 – Legal advice received in response to the Notice of Motion by Councillor Paver	184

Kim Stanton 55 Chipana Dr. Little Grove Council Speech for 17<sup>th</sup> November 2009

Tonight I wear two hats, ex-councillor and ratepayer.

As councillor, I took my position seriously. In 2 years I attended all meetings except for last August when I went to Perth for a hip replacement. As you all know it meant that in the run-up for the election I was unable to door knock as I was on crutches till election night.

I lost my seat and it goes to show that door knocking does win votes.

However door-knocking two years ago, I found that the ordinary ratepayer does not understand just what Council or Councillors are all about, services and lower rates being their only interest.

Recently we have seen excellent advertisements on TV showing the importance and diversity of what your local Council is and does for their residents. It is time for similar TV ad's to show what makes a good councillor and what to look for when deciding on who to vote for. These ad's should be run in the lead up to a council election.

Voting should be compulsory. My Ward averaged 31% with residents ringing me later saying they had not sent their ballot papers back because of the school holidays then etc.

Residents get distracted and with State voting as low as 25%, the State Govt needs to reconsider their position on compulsory voting for L/Govt.

Newly elected Cnr David Bostock (my Ward) promised in his campaign leaflets that, I quote "if elected my constant endeavour will be to return the running of our city to the people by taking a leading role in the governance of the city, reduce the number of local laws and reduce the number of city staff involved in activities which are of limited significance to the people of Albany". He also promised to return the government of our city to the electors and ratepayers.

Now to the ordinary person out there, this sounds terrific. But... Just how did he plan to do it? Has he forgotten that Councillors work as a team, they debate, make decisions and no single councillor can do what he just promised, without the others agreeing. And he might be able to direct the Mayor and CEO, but councillors have no jurisdiction over sacking or hiring City of Albany staff.

That leaves the question of taking a leading role in governance. Just how does Cnr David Bostock plan to do this, if he does not plan to be on any committees, especially the Governance one, or continues to vote against every Agenda Item. As Cnr. Wellington quipped, "Looks like it will be a 8/3 vote for the next 4 years !!"

Now as a ratepayer, I am asking " Why is the Vancouver Ward not being represented on any of the big 4 Council Committees? Cnr. Paver (my other Ward Rep') also gave notice that he wouldn't be attending "committee meetings", and in the last 2 years only attended a handful, leaving me as the Ward Councillor to attend all of them, which I did.

To make matters worse, Cnr Jill Bostock said she would also not be on any committees, leaving Cnr Hammond to represent their Breaksea Ward on his own. This is disgraceful, because Cnr Hammond works full-time and both councillor Bostock's do not. Then to add insult to injury, Cnr. Jill Bostock said she would attend the committee meetings but not as a member to vote, but just to be informed. We assume

that will also apply to her husband. As both Councillors continually inform us on the importance of good governance, just how do they plan to deliver this promise to their electorates, if they do not attend or vote and be involved.

What happened to the word Commitment. Why bother being a Councillor.

I am continually being stopped in the street by residents wanting to know just WHAT is going on.

Also Vancouver Ward people are saying, "why bother voting, when you get a councillor that does not want to be there or represent you." Then they get confused when they ask me if it is legal for a husband and wife to be on Council and I tell them yes. But is it ethical they say?

What about the words - Trust and Respect. Residents of Albany trust councillors to get on and do the job they were elected for and Councillors need to show respect not only to their constituents but to each other and particularly to the City of Albany staff. They are not your servants.

As an ex councillor and now as an ordinary ratepayer, I expect my elected councillors to get on with the job and to act for not only their Ward but for Albany as a whole and to do it with integrity.

OCM 17 November 2009

Item 3.0 Announcements by Mayor and Councillors without discussion.

Since last week's Special Council Meeting, I have been subject to a lot of unwarranted criticism with regard to my failure to nominate for membership of committees unless of a true governance nature, that is composed of all Councillors with a Governance generated agenda.

The criticism is centered on a misunderstanding and a mistaken belief that;

- a) I am failing in my responsibility,
- b) Not representing my constituents,
- c) Not taking my fair share of the load, and
- d) Am petulant in not "getting my way".

None of which is true. I am a conscientious Councillor and take my responsibilities very seriously, which generates my driving force to strive for improvement. I understand the "majority" rule and work within it, but this must not compromise ones principles or jeopardise the essence of our duty to "govern" the City and improve the lives of those who live here.

As a non member I can still take an active part in all committees, I simply cannot vote, thus, I can attend the present system without compromising my own understanding of representative democracy and my vote remains in the public chamber where it properly belongs.

Councillor Jill Bostock

OCM 17 November 2009

Item 18.2 Notice of Motion Legal Advice.

I would like to split this motion and make i) and ii) separate motions, allowing Councillors flexibility should they wish to support one and not the other.

I would also like to amend motion ii), without changing the intent of the motion but to simply afford greater clarity.

To read as follows:

ii) All requests for legal advice by the City of Albany except for matters concerning human resources shall be in writing, detailing the facts and questions asked. Copies of the same shall be simultaneously provided to Councillors under confidential cover.

OCM 17 November 09

Item 18.2 Councillor Motion: Legal Advice.

I do not have a lot to say about this motion, it is basically self explanatory. As decision makers Councillors are sometimes faced with legal questions concerning issues to be determined. When these questions arise, they do so from a Councillors understanding and interpretation of a case that possibly differs from that made by the officer. It is therefore important that the reasoning for the question is understood by the legal advisor and this can clearly present problems when relayed through a third party. The way the question is asked can determine the answer and since the Councillor remains accountable for the final decision clarity is all important. It is therefore sensible to remove the possibility of misinterpretation of the query out of the equation. Direct enquiry from the person who wants the answer will lessen that difficulty and hopefully encourage a more direct reply. This will be more cost effective by minimizing the risk of ambiguity in replies and the consequential problems this creates.

The second part of my motion is straightforward, Councillors need to keep abreast of important issues and in the same way as we receive other monthly returns, such as finance, planning, tenders, it would be useful to include all cases where legal advice is sought.

Councillor Jill Bostock

**Stuart Jamieson**

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**From:** Aussie Drawcards [aussiedrawcards@wn.com.au]  
**Sent:** Wednesday, 18 November 2009 1:09 PM  
**To:** Council

Dear Stuart

Please find below the address that I tabled last night in relation to Item 18.3.

Please acknowledge receipt.

Thanks

Roley Paver

Item 18.3 OCM 17/11/09

**Amended Councillor Motion**

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

**Address in Support of Amended Councillor Motion**

Your Worship

I must say that I was surprised to discover at the end of last week that the CEO had referred my original motion to the City's newly appointed lawyers and that he did so not once but twice, apparently in a determined attempt to obtain from them an opinion that it was ultra vires.

I was disposed initially to debate the merits of these opinions but decided ultimately to simply redraft my motion thereby removing any possible legal cause for objection, whether real or imaginary.

Your Worship

We Councillors cannot hope to carry out our roles and responsibilities conscientiously without access to information provided by the City of Albany fully, unambiguously and within a reasonable time. This is so obvious as to be axiomatic. Note, your Worship, that like the original motion this amended motion cannot be construed as an attempt to secure for Councillors something to which they are not statutorily entitled. It states quite clearly that the information that they are to be provided is information that they seek "in the proper exercise of their roles and responsibilities". It does not suggest either expressly or impliedly that they be entitled to seek and obtain information for improper purposes, which, I readily concede would be ultra vires.

Your Worship, if you look at the motion it is the second half of it that has been rewritten, not to alter its intent but to make its intent clearer so that it cannot be misconstrued by lawyers. I understand perfectly well the statutory powers of the CEO and the amended motion makes it pelucidly clear that there is no intention to remove those powers, something that would indeed be ultra vires. What it seeks to do is not to remove those powers but to ensure that their limits are properly understood and observed.

Your Worship, not since Magna Carta in 1215 has anyone, other than a succession of Kings and their sycophantic acolytes, maintained as a matter either of political theory or legal principle that the powers of the executive arm of government are absolute. Such an assertion places the executive above the law and those who make it would do well to remember the fate of Charles Stuart who lost his head trying to maintain it. The fact is that in our legal system there is no room for the notion of absolute power. All executive power is subject to the overriding legal principle that it must be exercised in accordance with right reason and not arbitrarily by whim or caprice. While the government of Western Australia has from time to time demonstrated to the international embarrassment of its people a forgetfulness of the legal limits of executive power, the same cannot be said for the State Parliament. While it has given the CEO's of local authorities certain executive powers under the Local Government Act these powers are not absolute. On the contrary they are limited by the statutory duties imposed on CEO's and by the overriding objective of the Act which is to bring about more open and accountable local government.

It is clear from the Act therefore that just as Councillors do not have an unlimited right to access information in the possession of the City and may only seek and obtain information in the proper exercise of their roles and responsibilities, so too CEO's do not have unlimited

power to withhold information from Councillors and may only do so in accordance with the proper exercise of their statutory powers and duties. In short both the rights of Councillors and the powers of CEO's are limited by the requirement that they must act for proper and not improper purposes.

The second part of my motion therefore recognises the powers of the CEO but seeks to ensure that when exercising those powers he does so in a manner that openly demonstrates that he is acting in accordance with right reason and not arbitrarily by whim and caprice.

I cannot understand why any Councillors, conscientiously mindful of their individual and collective responsibilities as elected and accountable governing representatives of the people of Albany, should find this motion objectionable. It is nothing more than a motion that confirms at a local government level the same constitutional principle that was hard won by lawyer Parliamentarians in the reign of Charles the First. That principle is that executive power is not absolute. To permit a CEO to deny elected Councillors access to information to which they are legitimately entitled and to permit him to do so on the basis of a mere assertion that the information sought relates to an operational or a confidential matter or a matter that he might be disposed to refer to the CCC is to permit the CEO to determine the limits of his statutory power. This is absolutism which cannot be tolerated because it is nothing less than a recipe for executive tyranny.

**Item 18.3 OCM 17/11/09 - AMENDED COUNCILLOR MOTION**

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

Reason:

The motion has been redrafted to make it clear that a) it does not seek to confer upon Councillors any rights other than those to which they are entitled under the Local Government Act and b) it does not seek to remove any powers conferred upon the CEO under the Local Government Act. There is no room therefore for any suggestion that the motion if adopted would be ultra vires.

OCM 17 November 09 Speak in Support of this motion.

Item 18.3 Councillor Paver Motion: Access to Information.

There has been some controversy with regard to the acceptable level and content of information being made available to Councillors. This has resulted in debate about the interpretation of the Local Government and Freedom of Information Acts concerning the role of Councillors and their requirement for information to properly carry out their responsibilities.

There appears to be some confusion, as much of the statute quoted has been referring to access of information to the general public rather than the more privileged position of Councillors. Whilst it is understood that Councillors should not be involved in operational matters they hold a statutory duty to represent the interests of the electors and this requires good communication and factual accuracy. This does not necessitate involvement in operations, simply an examination; an understanding of the facts and assurance from the CEO that administrative justice is appropriately managed.

There is no question that all operations are the responsibility of the CEO, the problem and involvement by Council is that the CEO is an employee, accountable to Council and it is they that are charged with the overall responsibility of the whole organisation.

LGA 1995S2.7 The Role of Council

(1) The Council-

- (a) Directs and controls the local governments affairs; and
- (b) Is responsible for the performance of the local government functions.

In other words any problem within the organisation is ultimately the responsibility of Council; it is the Governing Body that is finally accountable to the owners of the City of Albany, the local community.

Given this enormous responsibility one must have the authority to hold the CEO and thereby the organisation to account, Council must be able to examine any aspect for which it is responsible, this appears to be embodied in the LGA s.5.92. Access to information by council, committee members (1) A person who is a council member or committee member can have access to any information held by local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law. It sounds straight forward but as Councillors know interpretation of Councillors Role and information accessibility has somehow been subject to misunderstandings on all sides, something that a governance meeting and a measured approach could easily resolve.

In conclusion the LGA has clearly vested the authority and responsibility of the City of Albany in the hands of the Council, in order to meet the demands of that responsibility Council must have the ability and unfettered access to examine the organisation.

Councillor Jill Bostock.

OCM 17 November 2009

Item 18.4 Councillor Pavers Motion, Business of Four Governance Committees.

Councillor Paver's motion highlights the importance of governance focus and there is no doubt that our current committees have not achieved this end, not for want of commitment on anyone's part, but I would suggest by default in its very structure.

Governance is not a piecemeal endeavour, it demands a holistic approach. By dividing these committees into management compartments, it immediately threatens the effectiveness of governance and inevitably leads to management discussion. The agenda is generated by staff and is frequently centered on operational matters, taking the focus away from the business of governance. Distraction and diversion on management issues can rob Council of precious time and whilst we are working on these matters, the job of governance can be neglected. It is important to remember that a Governance Committee is to help Council get its job done, not to help staff with their job.

Whilst we maintain the current structure it will always be difficult to maintain the crucial focus, staff are quite rightly enmeshed in their own affairs and will clearly present matters from their perspective, it is our job to step back, extricate ourselves from staff issues and be proactive on those of governance.

Governance is a hugely responsible job and we must not hide behind manufactured busyness and apparent conscientiousness of these demanding staff agendas. We must be self directing and responsible for our own work, and this cannot be achieved if we wait to be led.

This is not a criticism but an observation and a desire to build on what we have and work towards positive change that could improve our performance as a Governing Body.

In conclusion I uphold Councillor Pavers Motion it is imperative that any meeting is confined to its designated purpose.

Councillor Jill Bostock.

OCM 17 November 09

Item. 18.6 Councillor Motion, Mayor Evans.

Motion:

That Council implement the following administrative directive in support of Council staff.

“That Members of Council are not to contact staff on the day of an ordinary Council Meeting.”

Firstly we need to examine the purpose of our OCM, this is a formal meeting of Council to deliver decisions on matters affecting the people of Albany. The quality of those decisions will be determined by the quality of the information Councillors receive, and their appreciation and understanding of all aspects of the case in question.

Unlike members of Staff who have been working on issues for weeks, months or even years, Councillors have just 7 working days to read and clarify their thoughts on often complex issues. It is not therefore surprising that questions and possible alternatives evolve as understanding unfolds.

Councillors must have access to executive knowledge and assistance, this is basic to good governance and the CEO, Mayor and Executives should be available for the entire period following the distribution of the Agenda to the time of the Council Meeting.

The City of Albany exists to serve the Community, every policy, every action; every decision should be for their betterment. What possible advantage can restricting Councillors access to assistance have on improving outcomes and is it appropriate that staff preparation for the meeting is protected at the expense of that required by the decision maker.

I am disappointed that the Council is viewed as a distraction to staff members, rather than a committed body doing their best to deliver informed, ethical decisions. I am sure Councillor contacts with staff are legitimate, and necessary and can only be positive in increasing understanding and improving the effective outcomes of our deliberations.

I certainly agree with avoiding non urgent contact with staff in the time leading up to a Council meeting but assistance that is directly pertinent to the agenda must be available. Directives such as this, though based on a desire to improve matters will all most certainly be counterproductive.

Councillors I ask you to vote against this motion, which can only serve to hinder our endeavours and make our job and our meetings more difficult and inevitably compromise the quality of our decision making.

Councillor Jill Bostock.

OCM 17 November 2009

Item 21.1 Notice of Motion Deputy Mayor Dennis Wellington.

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

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

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

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

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

Councillor Jill Bostock

Item 18.4 Note: Numbers 1 to 6 indicate cross referencing to  
Your Worship Governance Review Discussion paper detailed at page 164

In 2007 Mr Hammond guided the establishment of the 4 standing Strategy and Policy Committees. He produced for Councillor's consideration and endorsement a Governance Issues Discussion Paper.

In this paper he identified certain problems with the way in which the standing or regular Concept Briefing Sessions had been conducted. They were intended to focus on long term strategic planning but were beset with what he called the "omnipresent problem .... ①..... is likely to approach and vote upon a matter". Quoting from the Local Government Operational Guidelines he said "the process ... may lack accountability and the probity of elected members and staff could be challenged". He went on to say that the "use of Concept Briefing Sessions for the purpose of ②... is clearly outside of established guidelines" and concluded that for this reason they should be discontinued.

He recommended that in future concept briefings should be given to Councillors on an as needs basis.

He then outlined his proposal for Strategy and Policy Committees.

It is clear from what I have already quoted to you that the proposed committees were not intended to operate as Concept Briefing sessions and yet this is how they are now being allowed to operate. It is also clear that they were not intended to function as (to use Mr Hammond's words) "Standing Committees which typically ... ③..... at Ordinary Council meetings". Yet this too is how they are now being allowed to function.

What then was the intended function of the Policy and Strategy Committees. Well their name says it all. Their principle role said Mr Hammond is "to formulate ④... and other management documents".

On page 6 he spelled out his proposal in greater detail saying "It is proposed to establish... ⑤..... Make recommendations to Council on the adoption or revision of the documents".

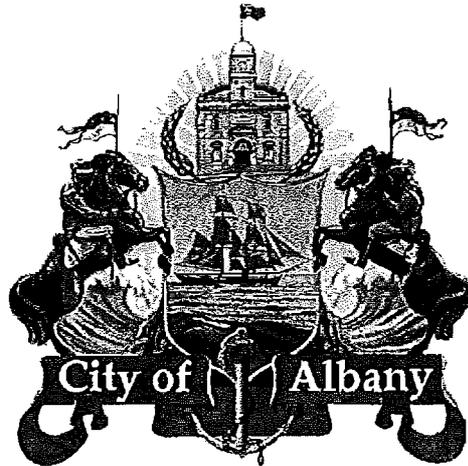
It can be seen that the 4 committees were intended to be working committees and that their recommendations were to be confined to recommendations on

the adoption or revision of the City's strategic documents. This was put beyond doubt by the next paragraph of the discussion paper which reads: "It would not be the role of the committees .....<sup>6</sup>..... financial statements etc."

Now this discussion paper was the basis upon which Council resolved to establish these Strategy and Policy Committees. Yet all who have eyes to see and ears to hear know that these committees are operating in a manner that was not intended.

The purpose of my motion is to try to get these committees back on track, to try to ensure that in the absence of a resolution authorising otherwise, the committees confine themselves to dealing with and making recommendations on the formulation review and performance management of "Council's policies, strategies and business plans, local laws and other management documents", to use the words of the Discussion Paper.

Your Worship, Council established these committees with limited purposes and limited powers. It should not permit these committees to arrogate to themselves purposes and powers beyond those granted them by resolution of Council.



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**GOVERNANCE ISSUES  
DISCUSSION PAPER**

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**Andrew Hammond  
December 2007**

**Governance Review – Discussion Paper**

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**1. MEETING AND BRIEFING STRUCTURE*****Current Situation***

The City currently utilises a briefing session / council meeting structure in which to bring matters to deliberation and decision. The structure comprises of an Ordinary Council meeting conducted on the 3<sup>rd</sup> Tuesday of each month preceded by an Agenda Briefing session on the 2<sup>nd</sup> Tuesday.

The rules pertaining to the Ordinary Council meetings are covered by the City's Standing Orders Local Law, which should be reviewed over the next 12 months.

***Agenda Briefings***

The Agenda Briefing conduct and process is covered by the following directives approved by the Council at the October 2004 meeting:

- *Conducted at 6pm on the second Tuesday of each month;*
- *Open to public other than 'behind closed door' items as prescribed in Section 5.23 (2) of the Local Government Act;*
- *Confidential 'general business' items for no more than one hour at conclusion of meeting;*
- *All discussion channelled through the chair;*
- *No revelation of voting intention;*
- *No collective decision making or debate;*
- *Financial Interests to be declared however Council can approve member remaining in the chamber to participate in discussion on the item concerned;*
- *Chaired by Mayor, Deputy or as resolved by those present; and*
- *Business is limited to those matters on the Ordinary Council meeting agenda.*

The Local Government Operational Guidelines – Number 5, covering Council Forums, provides a sound framework of principles and procedures in conducting agenda forums. The current procedures generally comply with the guidelines however the treatment of declaration of financial interests does not.

The guidelines provide that:

*"Interests are to be discussed in accordance with provisions of the Act as they apply to Ordinary Council meetings. Persons disclosing a financial interest will not participate in that part of the forum relating to their interest and leave the meeting room".*

It is assumed that the term 'financial interest' is meant to include indirect interest and proximity interests as well.

It is considered that the Agenda Briefings have been very effective in providing Elected Members with the opportunity to collectively ask questions, receive answers, and predicate alternate motions. The opportunity for proponents and members of the public to interact with Councillors and staff on agenda issues in a public forum has also been a positive contributor to the decision making process.

## RECOMMENDATION

It is recommended that the Agenda Briefings continue to be convened however the rules of conduct be amended to bring them into lines with Local Government Operational Guidelines on Council Forums (No. 5 issued January 2002). A copy of the Guidelines is attached. *See attachment one.*

Suggested rules of conduct at Council Briefings Sessions are as follows:

- To be conducted on the 2<sup>nd</sup> Tuesday of each month commencing at 6pm.
- To be open to the public unless dealing with a matter on which a formal meeting may be closed pursuant to Section 5.23 (2) of the Local Government Act.
- Items to be addressed to be limited to matters listed on the Agenda.
- All questions and discussions to be directed through the chair.
- Interests are to be disclosed as they apply to Ordinary Council Meetings however no opportunity is to be provided to request that one remains in the chamber.
- To be chaired as in Ordinary Council Meetings.

### ***Concept Briefing Sessions***

Concept briefing sessions were also endorsed at the October 2004 meeting. They have been conducted between 6pm and 8pm on the 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> Tuesdays of the month behind closed doors and normally held in the Margaret Coates Boardroom.

The concept briefing session rules adopted by Council differed from the agenda briefing session rules by virtue of Councillors not having to seek the approval of Council to remain in the boardroom if they had declared an interest. This meant that Councillors could remain in the room and be involved with all business items under discussions regardless of the nature or extent of any interest that may have been declared.

This scenario certainly does not meet the criteria contained with the Local Government Operational Guidelines on Council forums and should be amended.

The briefing sessions have played an important role in providing for large amounts of information exchange between officers and elected members on the development of some major strategies and policies.

The following documents and issues are a representative sample of what has been developed and discussed using concept briefings as the main information exchange forum.

- Albany Local Planning Strategy
- Economic Development Strategy
- Community Development Strategy
- Albany 'Ring' Road
- Asset Master Plans – Roads/pathways/Reserves/Drainage

- 15 Year Financial Plan
- Communications Strategy
- Human Resource Policy
- Tourism Marketing Plan
- Albany Leisure and Aquatic Centre Design
- Administration Centre Design

This list is not exhaustive but gives a good understanding of the magnitude and importance of the policy and strategy development that has been undertaken by Council over the last 3 to 4 years.

The downside of the concept briefings has been the logistical inability of several Councillors to attend due to work commitments and family commitments and the omnipresent problem of discussions leading to informal debate leading to informal decisions or at the very least staff concluding a briefing session with a reasonable understanding of which way the Council is likely to approach or vote upon a matter.

This problem is discussed in Clause 5 of the Local Government Operational Guidelines on Council forums which states:

*“Additionally the process (formulating management documents) may lack accountability and the probity of elected members and staff could be challenged”.*

Concept Briefing sessions still have a role to play in the governance framework of the City particularly with complex matters that require a great deal of information exchange in order for elected members to be able to make informed and timely decisions. The use however of Concept Briefing Sessions for the purpose of the enabling staff to establish the ‘direction’ or ‘general thinking’ of the Council is clearly outside of established guidelines and should therefore be discontinued.

It is proposed to convene Concept Briefing Sessions in the future on an as needs basis particularly for the dissemination of information on complex issues. Matters relating to the preparation, review and performance assessment of Council Policy and Strategy documents are proposed to be handled by a system of regularly convened Strategy and Policy Committees to be discussed later on in this document.

Occasionally Councillors will need to meet outside of the auspices of the Local Government Act to discuss high level strategic issues. The formulation and production of the City’s next corporate plan is an example where it will be proposed to conduct independently facilitated workshops with Councillors and members of the community in order to extract the vision goals and objectives for a future plan. This process will see discussion and debate on many issues leading to a succinct and workable strategic plan. Where practical a record and/or minutes of all meetings will be taken, community participation will provide for transparency and accountability and as a matter of policy all interests should be declared and the declarer excluded from involvement therein.

**Governance Review – Discussion Paper**

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**RECOMMENDATIONS**

That Concept Briefing Sessions in their current form be discontinued and replaced by Briefing Sessions convened under the following terms and conditions.

- The subject matter of concept briefing session is limited to the two way exchange of information relating to complex matters affecting the local authority.
- Concept briefing sessions will not be used for the formulation, explanations, review or performance assessment of Council strategy and policy documents.
- Conducted behind closed doors.
- Can be convened by the Mayor, CEO or a resolution of Council.
- Conducted on an as needs basis as approved by the Mayor or CEO provided that at least 3 working days notice is given.
- All questions and discussions to be directed through the chair.
- Interests are to be disclosed as if they apply to Ordinary Council meeting however no opportunity is to be provided to request that one can remain in the chamber.

***Strategy and Policy Committees***

The problems experienced with concept briefing session have been previously explained but generally centre around the need to discuss or debate issues within the context of the preparation or production of a management document such as a policy, strategy, business plan or local law.

Whilst not wanting to head down the path of Standing Committees which typically deal with all of the normal business of Council and then make recommendations for adoption at Ordinary Council meetings, the establishment of a series of committees whose principle role is to formulate, review and performance manage Councils policies, strategies and business plans, local laws and other management documents does have merit. (3)

The current system used by this (any many other) Local Governments when preparing a detailed or complex strategy or policy document is to as follows: (4)

- Staff prepare a project brief for the document including the issues to cover and the objectives to achieve.
- The document is prepared either in-house or by a consultant.
- The draft document is explained to Council by way of a 30 minute concept briefing session prior to being adopted in draft format at an Ordinary Council meeting for the purposes of community consultation.
- The document is re-submitted to Council with or without amendment following receipt of community submissions for final debate and adoption or deferred pending a further briefing session and subsequent Council adoption.

**Governance Review – Discussion Paper**

It is proposed to establish a series of strategy and policy committees in line with Part 5 of the Local Government Act whose principle function and purpose would be to:

- 5
- In collaboration with relevant staff identify, and establish the need and form of Council Policy, Strategy, Business Plans and other Strategic and Corporate Documents.
  - Work with staff in determining the content and objective of documents.
  - Oversee and consider the response of community consultation processes relating to either the establishment or the revision of the documents.
  - Evaluate the performance of the documents and undertake review where appropriate,
  - Make recommendations to Council on the adoption or revision of the documents.

6. It would not be the role of the committees to consider matters relating to the normal executive, legislative and statutory functions of the Council eg. applications for planning scheme consents, rezonings, acceptance of tenders, receipt of monthly financial statements etc.

In essence the committees would assist in the management and review of the policies, strategies and plans that would guide both staff in framing their recommendations and making decisions under delegated authority and Council in considering those recommendations as motions.

The following is a suggested framework of Strategy and Policy Committees and an example of the matters they could deal with. The examples are not exhaustive.

*Planning and Environment Committee*

Executive Officer: Executive Director Development Services

- Albany Local Planning Strategy
- York Street Master Plan
- Retail Strategy
- Outbuidling Policy
- Climate Change Strategy (Proposed)
- Community Planning Scheme
- Tourism Land Use Policy
- Yakamia Masterplan

*Community and Economic Development Committee*

Executive Officer: Executive Director Corporate and Community Services

- Economic Development Strategy
- Tourism Strategy
- City Events Program
- Recreation Strategy
- Seniors Policy
- Youth Policy
- Aboriginal Accord
- Town Hall Business Plan
- Albany Leisure and Aquatic Centre Business Plan

*Corporate Strategy and Governance Committee*

Executive Officer: Chief Executive Officer

- City Strategic Plan
- Customer Service Charter
- Complaints Policy
- Human Resource Operations Policy
- Standing Orders Local Law
- Organisational Development Policies
- Delegation Register

*Asset Management and City Services Committee*

Executive Officer: Executive Director Works and Services

- Roads Masterplan
- Pathways Masterplan
- Reserves Masterplan
- Airport Business Plan
- Waste Minimisation Strategy
- Gravel Supply Strategy
- Drainage Master Plan

It is proposed to maintain existing arrangements for the Finance Strategy Committee and Community Financial Assistance Committee.

Committee Membership

It is proposed to have all Councillors involved in the strategy and policy development process by having them be a member of two committees and having their ward counterpart be a member of the remaining two. The same ward Councillors would also become deputy members for each other so as each ward could be equitably represented across all committees. The Mayor could sit on all committees, however not necessarily chair them.

The Local Government Act 1995 Section 5.10 provides rules on the appointment of committees and directs that all Councillors have the right to sit on one committee.

In the spirit of cooperation and with the objective of equitably representing ward interests across policy and strategy development areas a Councillor from each ward backed up by a deputy in their absence is preferred notwithstanding the minimum committee representation requirements as provided in Section 5.10 (2) of the Local Government Act.

In the situation where a committee member could not attend a meeting, then their ward counterpart could deputise. All Councillors not sitting on the committee could of course attend as observers.

**Governance Review – Discussion Paper**

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The Strategy and Policy Committees will vary in the volume and complexity of matters to be dealt with and it is proposed to require committee meetings to be convened at least once every three months.

The workload for the Planning and Environmental Committee and Corporate Strategy and Governance Committees is likely to be much higher than the workload for the Community and Economic Development and Asset Management and City Services Committee. It is therefore proposed to coordinate the first mentioned committee times with existing agenda briefing and Ordinary Council meeting commitments. A meeting duration of between 4pm and 6pm, will give Councillors time to have a break and a meal prior to meeting appointments.

**Meeting Schedule Proposal**

**All Meetings 4pm to 6pm**

1 <sup>st</sup> Tuesday of the Month	Community and Economic Development
2 <sup>nd</sup> Tuesday of the Month	Corporate Strategy and Governance
3 <sup>rd</sup> Tuesday of the Month	Planning and Environment
4 <sup>th</sup> Tuesday of the Month	Asset Management and City Services

**RECOMMENDATIONS**

That in order to effectively engage Councillors in the understanding, preparation, operation, review and performance assessment of Council Policies, Strategies, Business Plans, Local Laws and major projects, the following committee structure be implemented pursuant to Part 5, Division 2 Subdivision 2 of the Local Government Act 1995.

Strategy and Policy Committees be established overseeing the following portfolio areas:

Community and Economic Development

*Executive Officer: Executive Director Corporate and Community Services*

- Economic Development
- Community Development
- Council Services, ie
  - Library
  - Townhall Theatre
  - Vancouver Arts Centre
  - Day Care Centre
  - Princess Royal Fortress
  - Parks and Reserves
  - Pathways
- Aboriginal Accord
- City Events

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Corporate Strategy and Governance

*Executive Officer: Chief Executive Officer*

- Customer Service
- Information Technology
- Human Resource Management
- Organisational Development
- Corporate Strategy
- Public Relations
- Risk Management
- Corporate Governance
- Standing Orders Local Law
- Delegations

Planning and Environment

*Executive Officer: Executive Director Development Services*

- Urban and Regional Planning
- Environmental Health
- Fire Control and Ranger Services
- Building
- Climate Change Initiatives

Asset Management and City Services

*Executive Officer: Executive Director Works and Services*

- Asset Master Plans
  - Roads
  - Drainage
  - Buildings
- Property Leasing
- Waste Minisation Strategy
- Raw Materials Supply
- Landfill
- Public Amenities
- Plant and Equipment Replacement

Committees comprise of the Mayor and six Councillors all representing a different ward. Deputies to be the alternative ward Councillor.

**Governance Review – Discussion Paper**

Meet between 4pm and 6pm as follows:

1 <sup>st</sup> Tuesday of the Month	Community and Economic Development
2 <sup>nd</sup> Tuesday of the Month	Corporate Strategy and Governance
3 <sup>rd</sup> Tuesday of the Month	Planning and Environment
4 <sup>th</sup> Tuesday of the Month	Asset Management and City Services

Meet at least once every three months or more regular if determined by the committee due to workload.

Meetings to be behind closed doors in the Margaret Coates Boardroom.

Meetings are to be conducted in accordance with Local Government Act 1995 Part 5 Division 1, Subdivision 3 and City of Albany Standing Orders Local Law.

## 2. DELEGATIONS

Delegations relating to the processing of planning scheme consents and their approval or decline have been investigated in this review along with the way planning team members pursue prosecution of breaches of either planning or building regulation, schemes, policies and codes.

### Current Level of Delegated Authority

Delegated Authority is exercised on the following levels:

- Residential up to: \$1.5 million
- Commercial up to: \$1.5 million

It is proposed to introduce a 'provisional' approval system that will identify decisions that have been made by planning staff on matters that have been subject to community consultation or exhibition.

These include:

- Variations to the residential design codes.
- Uses classified as either "SA" or "IP" in the use/zoning table of the town planning scheme.
- Relaxation or variation of certain town planning scheme provisions.

When giving consideration to these applications and the consultation response, planning staff currently prepare a brief report, with a summary of responses and a conclusion on whether the application is approved or not.

It is proposed to circulate to all elected members a weekly schedule of these applications with an appended summary of recommended approval or decline.

**Governance Review – Discussion Paper**

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Should any elected member wish to have any of the matters circulated, listed on the next Council Agenda Item for consideration then they would contact either the CEO, EDDS or MPS before a prescribed time, possibly 7 days after distribution of the information.

Any items not 'called up' to the Ordinary Council Meeting by Councillors would be approved under delegated authority by staff.

Proponents and respondents would be advised of this process so as if aggrieved by a provisional staff decision they could seek the advocacy of their elected member in having the matter placed before full Council for deliberation.

#### Recommended Refusals

Current practice provides for staff placing recommendations for refusal of planning scheme consent before Council for final consideration.

A typical example would be a shed application which does not meet the criteria for Councils outbuilding policy, possible being over sized, referred to Council for decision.

It is the writers view that such applications should be declined at officer level which then affords the proponent two courses of action:

- 1) Change the dimensions of the shed to conform with the policy.
- 2) Seek a review of the decision by the State Administrative Tribunal which could be resolved at conference, mediation between Council and the proponent or go to a hearing for determination.

Whilst the practice of placing such matters before Council effectively gives proponents 'one last chance' it places Councillors in a position of having to constantly consider matters that are outside of adopted policy. That can lead to planning decisions being made not necessarily on valid planning grounds.

If it transpired that staff were constantly receiving what appeared to be quite reasonable applications that all failed to achieve policy requirements then the policy in question should undergo review by the proposed Planning and Environment Committee.

#### Prosecutions

Current practice sees planning staff preparing agenda items seeking Council approval to commence legal proceedings for breach of the Town Planning Scheme.

Most issues have centred around unauthorised or prohibited land uses undertaken in contravention of the Town Planning Scheme.

Recent examples of these issues has demonstrated decisions being made that generally benefit the proposed defendant but leave the issue of the prohibited use unresolved.

**Governance Review – Discussion Paper**

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Political interference in such matters when going to Council, is obvious and quite legitimate as both proponents and aggrieved neighbours are well within their rights to lobby elected members with their point of view.

The interests of sound and orderly planning however would be better served if after a reasonable time was given to regularise the breach or nuisance, and nothing is resolved then the matter should go directly to the Tribunal where the issues will be dealt with purely within the context of compliance or otherwise with the relevant town planning scheme or other regulatory instrument.

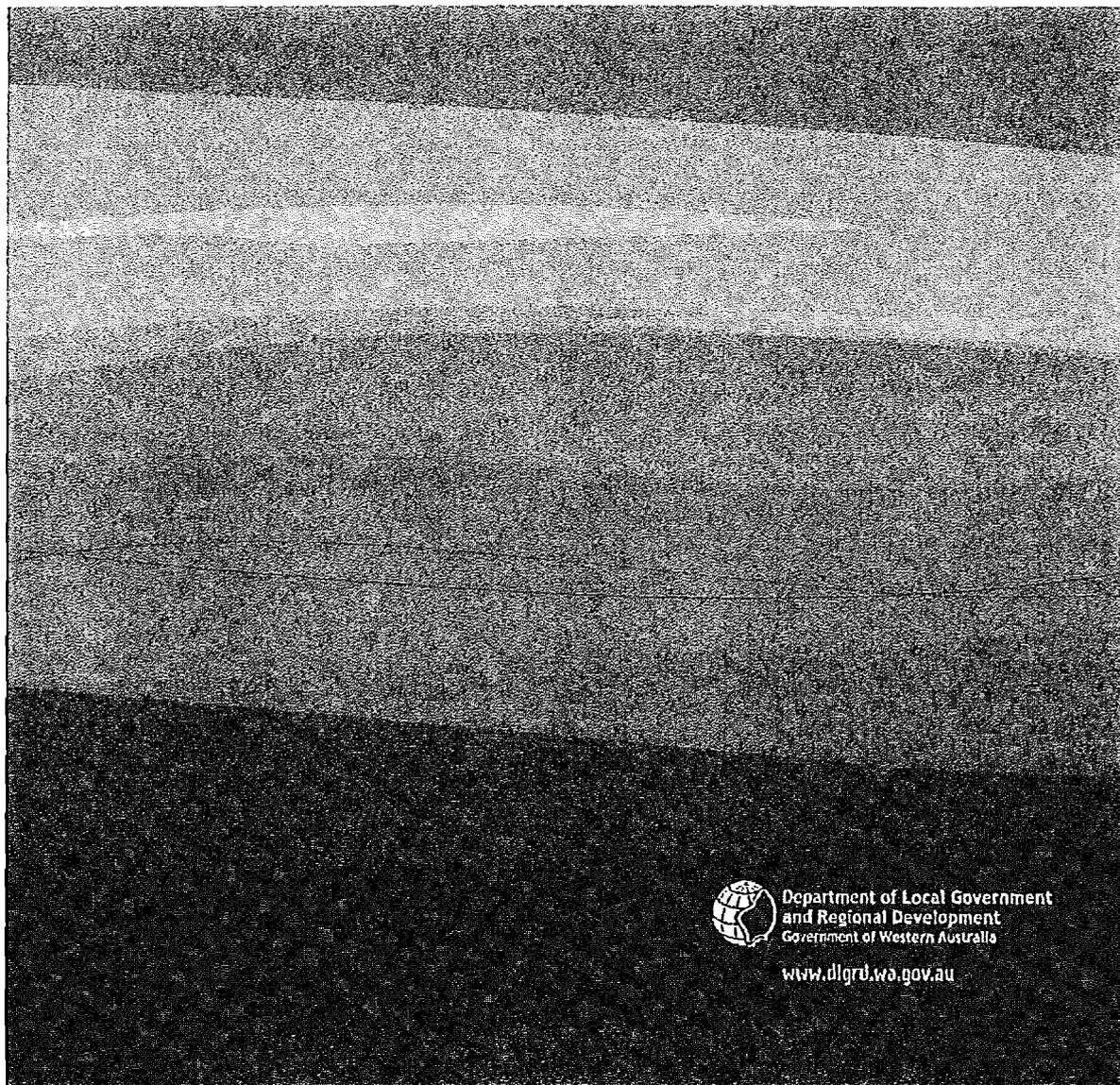
**RECOMMENDATION**

1. That Delegated Authority for the issue of planning scheme consents be amended to provide for the following provisional approval system.
  - All applications requiring community consultation as part of an approval process (typically “IP” or “SA” uses in the scheme, variations to the residential design codes, some variations to scheme provision) be subject to the provisional approval system.
  - When considering applications and consultation feedback, planning staff will prepare a brief report summarising the consultation, planning issues and a provisional decision.
  - All provisional approval reports will be circulated weekly appended to a summary list for elected member information. (suggest every Friday afternoon)
  - Should elected members be unhappy with the provisional staff decision then they should contact the CEO, EDDS or MPS prior to noon on the following Friday to have the matter placed on the next available Council agenda.
  - All items not called up will then be processed in line with the provisional decision and notice of planning scheme consent or refusal notices issued.
2. All applications not meeting Council policy considered within delegation limits currently being submitted to Council recommending refusal are to be dealt with under delegated authority by staff without reference to Council.
3. Legal action for non-compliance of Council Local Laws, Regulations, Town Planning Scheme and other instruments within its legal jurisdiction is to be dealt with under delegated authority to the CEO after offenders have been given a full and reasonable opportunity to cease or correct the breach or nuisance they have instigated. Permission to commence legal action is not to be sought from Council by the CEO however Council reserves the right to direct the CEO to commence an action if it so chooses.

Attachment 1

## Council Forums

Local Government Operational Guidelines - Number 05 January 2004



## Council Forums

1. Introduction
- 1 Over recent years many local governments have introduced procedures that allow elected members and officers to meet and discuss matters relating to the operation and affairs of their local government outside of the formal council meeting framework. This has been done through an informal meeting process that has been given a range of titles including *briefing or information sessions, workshops and corporate discussions*. For the purposes of this guideline the term “forum” will be used to encompass such meetings.
- 2 The forum approach has allowed the ordinary meeting of council to focus on the decision-making needs of the local government. Many local governments that have adopted the forum process in preference to standing committees claim that it has led to better informed elected members and a more efficient and effective decision-making regime. This guideline is designed to assist those local governments that do conduct forums by listing appropriate procedural and behavioural controls. The adoption of such controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent.
- 3 Local government forums range from one-off events discussing a particular issue through to regular, structured meetings, albeit not convened under the auspices of the *Local Government Act 1995* (the Act). This guideline is intended to address those forums that are held on a regular basis.
- 4 While acknowledging that regular forums are invaluable and legitimate, the Department advises that the conduct of such has generated complaints regarding the potential for a reduced level of transparency in the decision-making process and hence a reduction in accountability to and involvement by the community. Local governments need to make a clear distinction between forums and the formal debate and decision-making process.
- 5 It is recognised that local governments may conduct other sessions or workshops which would include items such as team building exercises, strategic planning workshops and community input forums. It is not intended that these guidelines would necessarily be applied to such sessions, but some of the suggested procedural controls may have relevance.
- 6 Issues relating to council forums that are addressed in these guidelines include:
- 11 accountability;
  - 12 openness and transparency;
  - 13 probity and integrity;
  - 14 authority for the presiding person;
  - 15 participation by elected members and staff;
  - 16 proposals under Town Planning Schemes;
  - 17 formulating management documents; and
  - 18 forums immediately prior to an ordinary meeting of council.
- 2 Principles of the Act
- 7 Part 5 of the Act sets out the framework whereby elected members meet as the governing body for the purpose of decision-making on behalf of the local government.
- 8 It is an intention of the Act that councils conduct business and make decisions –
- 19 openly and transparently;
  - 20 with a high level of accountability to their community;
  - 21 efficiently and effectively;
  - 22 with due probity and integrity;
  - 23 acknowledging relevant community input;
  - 24 with all available information and professional advice; and
  - 25 with the fullest possible participation of elected members.
- 5 The Act establishes ordinary, special and committee meetings. Each council must decide the meeting structure it will adopt within the legal framework for it to achieve the most efficient and effective decision-making process. It is a legal requirement that all decisions made on behalf of the local government are to be made at meetings called and convened under the provisions of the Act.
- 17 In addition to ordinary and special meetings, elected members can meet as a committee, membership of which may vary in number from three to all members of council. Committees can discuss matters and make recommendations to the council or, if given delegated authority by the council, can make decisions on its behalf. A council does not need to have committees and can have all matters presented to it directly for decision. A recent trend has been for councils to abolish the system of standing committees or limit the number and/or range of committees and adopt a forum approach.

## Governance Review – Discussion Paper

## 3. Council Forums

11 Local government forums range from a once-only event to discuss and explore a particular issue, a number of sessions to address matters such as a specific project or the compilation of a report for internal or external use, through to forums held at regular intervals with a consistent structure and objectives.

12 Regular forums run in local governments exhibit two broad categories which we have titled *agenda* and *concept*. They are differentiated by the stage of development of issues which are discussed by elected members and staff. The two types are described below along with the variations in procedural controls and processes suggested for each.

## Concept Forums

11 Concept forums involve elected members and staff meeting to propose, discuss and formulate philosophies, ideas, strategies and concepts for the development of the local government and the district. Such forums often involve projects that are in the early planning stage and are some time away from being presented to council for decision. In discussing such issues, staff are looking for guidance from the elected members as they research the matter and draft the report. Elected members and staff are also looking to present ideas and concepts for future consideration. If the response is favourable staff can proceed with their research and eventual report on the matter.

- 14 Examples of the type of issues concept forums may cover include –
- current matters of a local or regional significance;
  - matters relating to the future development of the local government;
  - significant revenue-raising requirements or expenditure needs;
  - the development of internal strategic, planning, management and financial documents; and
  - development of the selection criteria and performance objectives for the Chief Executive Officer (CEO).

15 Behind closed doors and in a relatively informal manner are the two notable characteristics of concept forums. Holding such meetings behind closed doors is justified in that many of the ideas and concepts are preliminary and while looking for that creative gem some may be extreme, expensive or impractical and never adopted.

Discussion on such proposals in a public forum would be counter-productive. Privacy and informality allows elected members to propose ideas, ask questions and discuss issues for the better understanding of those in attendance. Such forums assist individuals to become better informed and to clarify their views.

16 The privacy and informality of concept forums also has pitfalls including the risk of neglecting proper standards of probity and public accountability. Over time, participants can become too familiar, and therefore more lax, with the procedure and purpose of the meeting. Unless procedures are adopted and rigorously applied to these forums, there is a danger that collective or collaborative decisions may be made, implied and otherwise.

## Agenda Forums

17 For proper decision-making, elected members must have the opportunity to gain maximum knowledge and understanding of any issue presented to the council on which they must vote. It is reasonable for elected members to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following ordinary council meetings. The complexity of many items means that elected members may need to be given information additional to that in a staff report and/or they may need an opportunity to ask questions of relevant staff members. Many local governments have determined that this can be achieved by the elected members convening as a body to become better informed on issues listed for council decision. Such assemblies have been termed *agenda forums*. It is considered they are much more efficient and effective than elected members meeting staff on an individual basis for such a purpose with the added benefit that all elected members hear the same questions and answers.

18 To protect the integrity of the decision-making process it is essential that *agenda forums* are run with strict procedures.

## 4. Principles Governing Procedural and Behavioural Controls for Forums

19 Local governments that conduct forums or are considering doing so have the right to implement a forum system that best suits their needs. The principles and associated procedures set out below, if adopted by local governments when conducting forums, will ensure that all requirements of accountability, openness and transparency are satisfied.

## Governance Review – Discussion Paper

20 The identified principles and associated procedures are accountability, openness and transparency, probity and integrity, authority for the chair and meeting notification. Each of these is explained below.

#### Accountability

21 The Act requires that ordinary and special council meetings and committee meetings that have delegated authority must be open to the public. Most local governments also open committee meetings even where there is no delegated authority. This openness allows the community to view the decision-making process from the time an issue is first presented to elected members through to the final decision.

22 There must be no opportunity for a collective council decision or implied decision that binds the local government to be made during a forum.

23 Agenda forums should be for staff presenting information and elected members asking questions, not opportunities to debate the issues. A council should have clearly stated rules that prohibit debate or vigorous discussion between elected members that could be interpreted as debate. Rules such as questions through the chair and no free-flowing discussion between elected members should be applied.

24 If there is minimum debate in the ordinary meeting because the elected member attitudes have been established through the item being thoroughly canvassed in the *agenda forum* then the community is denied the opportunity to witness any debate and understand how the council reached its decision. Other concerns relate to elected members agreeing on movers, seconders and/or amendments. Such an approach must not be allowed by the council whether the *agenda forum* is open or closed to the public but a closed forum will almost certainly generate a perception by the community of secret meetings where the decisions are made beyond public scrutiny.

25 Councils, when considering conducting closed forums, need to consider their reasons for justification against the likely damage to their public standing from the perception of secrecy. A policy that the forums will generally be open to the public will make a significant contribution to the community perception of council accountability. A clearly delineated distinction between *agenda* and *concept* forums is important for these reasons.

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#### Openness and Transparency

26 A significant strength of local government is the openness and accessibility of its processes to the community. In conducting forums each local government should make a conscious decision to promote the community perception that it embraces the concept of openness and transparency. Therefore, whenever appropriate, forums should be open to the public.

#### Probity and Integrity

27 The legislation provides that in ordinary meetings and committee meetings elected members must disclose conflicts of interest and exclude themselves from proceedings where they have a financial interest.

28 Disclosure in forums is a matter of ethics. The disclosure requirements only apply to meetings that are convened under the provisions of the Act. Elected members can legally participate at forums without being in breach of the legislation even where they have a clear financial interest or conflict of interest. Such participation is ethically unacceptable and is clearly at odds with the probity and accountability principles of the Act and codes of conduct. It is essential that councils adopt standards for forums that stipulate that disclosure rules applying to meetings constituted under the Act also apply at all forums. Disclosure should lead to an individual departing the forum.

#### Authority for the Chair

29 Many councils have established a forum process without specifying how the forums should be chaired and what authority the chair is given to control proceedings. In some local governments, the CEO chairs the forums in certain circumstances. This latter approach is not supported because it confuses the roles and relationships established in the Act.

30 It is recommended that the mayor or president or, if appropriate, another elected member, chairs all forums that involve elected members. Properly managed forums rely on strength and leadership from the chair. Therefore, a forum's chair should be supported by established rules similar to the standing orders that apply to formal meetings.

#### Meeting Notification

31 The provisions of the Act are designed to ensure that members are given timely notice of, and information for, council and committee meetings. Formal provisions do not apply to forums but the principles remain the same. Adequate notice needs to be given of the time, location and content of the forum.

### Governance Review – Discussion Paper

32 The forum process is most successful in those local governments where forums are held on a regular basis such as on the alternative weeks to the ordinary council meeting (where they are held fortnightly) or a week before the ordinary council meeting. By setting the dates for forums well in advance, elected members, staff and the community can plan for their attendance.

33 Forums that are organised without adequate notice or a proper agenda are often poorly attended and inefficiently run. This will be detrimental to the purpose of the forum.

#### 5. Particular Issues of Concern in the Forum Process

34 There are a number of concerns relating to the content and conduct of forums. These are set out below. Councils need to be aware of these and take action to overcome the concerns if such apply to them.

##### Dealing With Proposals Under the Town Planning Scheme

35 The discretion available to council when making decisions under the Act is not always available when making decisions under town planning legislation. When a council is dealing with town planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an elected member the role of a planning commissioner. Council is not only constrained by the conditions of its Town Planning Scheme but also by the relevant State Acts.

36 Decision-making in town planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The elected member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow elected members. These same comments apply whether councils do or do not work with specialist planning committees. Elected members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from the developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker.

37 Councils will often have briefings relating to development issues and these are important in terms of the elected members becoming fully informed on the matter on which

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they have to vote. The nature of the decision means that briefing sessions involving planning matters should be conducted with the strictest of rules. There should be no implication of debate between elected members; the session should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an elected member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision-makers are privy to that information.

##### Formulating Management Documents

39 Many local governments prepare their management documents, such as budgets, plans for the future and policy manuals, through a forum process. In many cases this involves a number of forums to which all elected members are invited and the public are excluded. Such forums are not set up under the auspices of the Act. There are no formal decisions made as in due course the documents are adopted at a formal meeting of council. Nevertheless, as the forums proceed and the document is developed, some issues are included, some are discarded and others may need further research by staff. If records of the matters discussed at the forums are not kept, development stages of the documents will be uncertain and hence any orderly progress inhibited. Additionally, the process may lack accountability and the probity of elected members and staff could be challenged. Change of membership of the group by either staff or elected members would again place doubt on the validity of the process.

35 A more suitable procedural process for the development of management documents would be the formal establishment of a committee under the Act with that assigned purpose. Although the committee meetings, if no power or duty has been delegated to the committee, are not required by legislation to be open to the public, the integrity of the process is protected by the legislative requirement for the agenda and minutes to be available for public inspection. Such committees, upon completion of their assigned task(s), could be wound up or reconvened the following year when the task was again required. Examples would be a committee reviewing standing orders and a "Budget Committee". The former would be wound up upon submission of its report to council. The "Budget Committee" would be an ongoing but occasional committee which would meet each year from (say) March to early July.

## Governance Review – Discussion Paper

Some committees could have a select and limited membership whereas others (such as the budget committee) could include all elected members.

### Forums Immediately Prior to an Ordinary Meeting of Council

40 Some local governments hold forums immediately prior to ordinary council meetings. Anecdotal evidence suggests that in discussing the agenda of the forthcoming meeting at such forums implied decisions may be made. This familiarity with the issues and known attitudes can lead to debate at the ordinary council meeting being stifled or non-existent much to the chagrin of the public who are not privy to the earlier discussions. Forums held immediately prior to ordinary council meetings cause more complaints of secret meetings and predetermined decisions than any other type of forums.

41 Pre-meeting forums may be beneficial where an elected member has additional or alternative information to that contained in a staff report which may be controversial or cause problems within the ordinary meeting at the time the item is discussed. Certainly, it is an advantage for the CEO, council and particularly the presiding member to be aware of potential problems in the forthcoming ordinary meeting. While a pre-meeting forum provides the opportunity to inform others of the potential problem it would be preferable to raise the matter with likely concerned parties such as the presiding member, CEO and reporting officer much earlier than immediately before the meeting. Early advice will give those concerned the opportunity to undertake action to address the identified problems.

42 It is recognised that with many local governments, especially those that are in rural locations, the timing of the pre-meeting forum is understandable in that the elected members can only get together once a month because of travel time and they need an opportunity to discuss issues with the freedom of a forum.

43 After consideration of these issues, it is recommended that if a council determines that the only time available for a forum is prior to an ordinary council meeting and it is to be closed to the public, then it be established as a *concept forum* and reference to the forthcoming agenda should be prohibited unless a special circumstance is conveyed to the presiding member. An example of a special circumstance would be information additional to,

or contradicting the staff report which is likely to lead to non-adoption or significant variation of the recommendation and if has not been possible to convey such information at an earlier time. Adoption of the *concept forum* approach means elected members needing additional information or explanations from staff on forthcoming agenda items will have to make alternative arrangements to meet their requirements.

44 The adoption of such rules on pre-meeting forums should be conveyed to the public. Advice of the conducting of such a forum and its general content at the ensuing ordinary meeting will reinforce the openness and accountability of council.

### 6 Forums that Incorporate Both Concept and Agenda Items

45 Many local governments will run only one forum and it will cover both agenda items to be addressed at the next council meeting and wide-ranging concept issues. It is suggested that the different requirements of the two types are recognised and they be categorised as such in the forum agenda. The most important aspect is that the presiding person apply appropriate procedures regarding debate and discussion between elected members when agenda items are being covered.

46 Such forums should also be open to the public.

### 7. Model Procedures for Forums

47 Before introducing, or continuing with forums, councils have a responsibility to weigh carefully the risks as well as the benefits associated with such a process and consider if there are better, alternative ways of achieving the desired outcomes.

48 Councils that hold forums should adopt meeting rules and processes to ensure that proper standards of probity and public accountability are adhered to. Particular emphasis must be placed on ensuring that there is no decision-making during these forums and that this is rigidly enforced.

### Procedures Applying to Both Concept and Agenda Forums

49 The Department recommends that councils adopt a set of procedures for both types of forums which include the following –

- Dates and times for forums should be set well in advance where practical;
- The CEO will ensure timely written notice and the agenda for each forum is provided to all members;

p06.

## Governance Review – Discussion Paper

- Forum papers should be distributed to members of least three days prior to the meeting;
  - The mayor/president or other designated elected member is to be the presiding member at all forums;
  - Elected members, employees, consultants and other participants shall disclose their financial and conflicts of interest in matters to be discussed;
  - Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a forum relating to their interest and leave the meeting room;
  - There is to be no opportunity for a person with an interest to request that they continue in the forum; and
  - A record should be kept of all forums. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures/returns.
- Procedures Specific to Concept Forums**
- 52 The Department recommends that councils adopt specific procedures for *concept forums* which include the following –
- Concept forums may be open to the public when an issue is being discussed that council believes would benefit from public awareness and debate;
  - Discussion between members is to be limited to those issues which are in the preliminary development stages. Items already listed on a council meeting agenda are not to be discussed; and
  - As discussion items are not completely predictable there is to be some flexibility as to disclosures of interest. A person may disclose an interest at the time discussion commences on an issue not specifically included on the agenda.
- Procedures Specific to Agenda Forums**
- 51 The Department recommends that councils adopt specific procedures for *agenda forums* which include the following –
- Agenda forums should be open to the public unless the forum is being briefed on a matter for which a formal council meeting may be closed;
  - Items to be addressed will be limited to matters listed on the forthcoming agenda or completed and scheduled to be listed within the next two meetings (or period deemed appropriate);
- Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed; and
  - All questions and discussions will be directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.
- 53 **B. General Discussions in Councils Without Forums**
- 52 Travel and time constraints mean that many councils can convene for a limited time; for many, only one day per month. As a result, some local governments have continued with the traditional ordinary meeting format where the decision-making is combined with wide-ranging discussion on other matters. A major problem with this approach is that the wide-ranging discussions result in meetings continuing for long periods of time.
- 53 There are benefits to elected members, the public and the staff if the issues requiring decision are dealt with during one continuous stage early in the meeting.
- 54 Elected members can have more effective broad ranging discussion during the same time frame as the traditional council meeting with a revised structure. It is suggested a better format would be for the ordinary meeting to be closed as soon as the required decisions have been made. The general discussions would then be pursued in a *concept format* environment. The advantages of this approach are the opportunity for councillors to discuss issues of concern in an informal environment.
- 55 **9. Summary**
- 55 With most local governments, elected members need opportunities to discuss issues outside of the formal ordinary meeting process. The Department acknowledges this approach because those elected members that have the maximum opportunities for input will obtain the greatest satisfaction emanating from their time in local government.
- 55 The opportunity for input can be best gained through forums or committees of the full council.
- 57 Councils that wish to hold forums of either the *concept* or *agenda* type are encouraged to adopt rules and processes that are in line with these guidelines. This will assist with openness and accountability, minimise public criticism and lead to a more effective and efficient local government.

r07.

Governance Review – Discussion Paper



Department of Local Government  
and Regional Development  
Government of Western Australia

[www.dlgrd.wa.gov.au](http://www.dlgrd.wa.gov.au)

**FURTHER INFORMATION**

For more information about this and other guidelines, contact the Local Government Support and Development Branch of the Department of Local Government and Regional Development on:

Tel: (08) 9217 1500

Fax: (08) 9217 1555

Freecall: 1800 620 511 (Country Only)

These guidelines are also available on the Department's website at [www.dlgrd.wa.gov.au](http://www.dlgrd.wa.gov.au)

**ABOUT THE GUIDELINE SERIES**

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Departmental officers' knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

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PLEASE REPLY TO ALBANY OFFICE:

10 November 2009

Peter Madigan  
Executive Director  
Corporate and Community Services  
City of Albany  
PO Box 484  
ALBANY WA 6331

OUR REF: MNT  
Contact: Mr Murray Thornhill

By email: [peterm@albany.wa.gov.au](mailto:peterm@albany.wa.gov.au)

Dear Mr Madigan

**CITY OF ALBANY – MOTION FOR ACCESS TO ALL COUNCIL INFORMATION**

We refer to your email dated 6 November 2009.

We confirm instructions to provide advice in relation to a notice of motion raised by Councillor Paver, to be voted on by Council. The wording of the notice of motion is as follows:

*"Whenever Councillors, collectively or individually, in the proper exercise of their roles and responsibilities, seek access to information from the CEO or staff, the information requested shall be provided within a reasonable time and Councillors shall not be denied access to the information they seek because in the opinion of the CEO or the Mayor it relates to an operational or a confidential matter or a matter that they are disposed to refer to the CCC."*

We have summarised below our conclusions based on our analysis of the relevant Acts and subsidiary legislation and have enclosed a statement of the most relevant legislative provisions relied upon.

We advise as follows:

- 1) The legislation expressly limits and defines the different functions and duties of Council members and Council officers, including the CEO. It also limits the sort of information to which Council members are entitled, and the information the CEO is obliged to provide.
- 2) There is no statutory provision allowing Council Members unfettered access to local government information or documents. Instead the legislative and regulatory framework, relevantly, provides the following

**section 5.41(b) of the Local Government Act 1995 ("LGA")** requires the CEO to ensure that advice and information is available to the Council so that informed decisions can be made;

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**Regulation 6** of the *Local Government (Rules of Conduct) Regulations 2007* ("*Rules of Conduct*") defines a confidential document as a document which the CEO marks as indicating that the information in the document is not to be disclosed. The regulation then deals with Council members' use of any document which the CEO has marked as confidential;

**Regulation 8** of the *Rules of Conduct* provides that a Council member must not directly or indirectly use the resources of a local government for any purpose unless authorised under the Act or by Council or the CEO. The Council and CEO thereby have authority in relation to the use to which any Council member can direct the local government's resources. "Resources" may include information in our view;

**Regulation 9** of the *Rules of Conduct* prohibits a Council member from undertaking any task that contributes to the administration of the local government, without authorisation of the Council or CEO.

**Section 5.92 (1)** of the *LGA* provides that a council member can have access to any information held by the local government "*that is relevant to the performance by the person of any of his or her functions under the Act ....*"

**Section 5.92 (2)** of the *LGA* gives 2 examples of the sorts of documents and information a council member can have access to, without limiting the scope of subsection (1).

**Regulation 10** of the *Rules of Conduct* states that a Council member must not direct or attempt to direct individual officers to do or not to do anything in the person's capacity as a local government employee.

There are other provisions in the *LGA* which empower the CEO to do various things independent of Council, and in relation to individual Council members, (for example **section 2.27** which empowers the CEO determine whether a Council member should be given notice as to whether they are disqualified from being a member of Council).

- 3) Council members therefore, can only access documents that are relevant to the performance of their functions. The CEO's role in relation to information is to ensure that advice and information is available to Council to enable informed decisions to be made by Council. There are no provisions dealing with a CEO's specific obligations to individual Council members who request information, but the *Rules of Conduct* do specify that individual Council members have obligations in their dealings with the CEO and other officers.

- 4) Individual Council members' functions are set out in **section 2.10** of the *LGA*, and include participating in the Council's decision making processes. The functions of individual Council members are different to the functions of Council itself, which are set out in **section 2.7** of the *LGA*.

- 5) The CEO's roles and functions are set out in **section 5.41** of the *LGA*. The Mayor's roles and functions are set out in **section 2.8** of the *LGA*. What is clear from these very distinct roles and functions is that the limits on the role of Council members includes the following. Among other things, Council members:
- a) have no role in the day to day management of the City and its staff, which is one of the CEO's exclusive functions;
  - b) have no role in the employment, management, supervision, direction and dismissal of employees, which is one of the CEO's exclusive functions;
  - c) have no role in the day to day implementation of Council decisions.
- 5) On its face the proposed motion raised by Councillor Paver seeks, in some way, to:
- a. direct or attempt to direct individual officers and the CEO in the performance of their functions to the extent it requires them to provide unfettered access to "information", whether relevant to their function or not;
  - b. redefine the legislative scope of each Council member's authority beyond the express confines of the *LGA*. The *LGA* itself already sets out the rights of Council members to information, and the function of the CEO and staff in relation to information and documents;
  - c. expand the scope of Council members' access to information beyond the restriction in the *LGA* to information that is relevant to carrying out their function.

The limitations of time in which to provide this advice mean that this is necessarily preliminary and summary in nature. We have not had the opportunity to fully research and consider whether the motion is unlawful per se, and therefore whether it should not even be put to a vote of Council. That issue is somewhat complex.

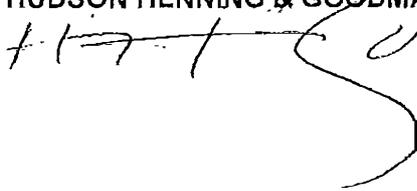
We can advise however, that if Council were not minded to vote on the motion given the above issues, then the motion could be adjourned off for a period of time to enable us to consider its legality or otherwise in proper detail, or for Council members to otherwise consider this initial advice. We have sufficient concern regarding the motion's legality to advise that, if passed, the motion may have no effect.

As a general comment on the proposed motion, we simply note that Council has the power to determine specific protocols regarding requests and access to information for Council members' purposes. The CEO can advise Council on such protocols as part of his advisory role, and the CEO can also develop and implement procedures for

council officers to follow in complying with these protocols, when Council members request information.

Please do not hesitate to contact Murray Thornhill or Gary Dean of our office if you wish to discuss this matter further.

Yours faithfully  
HUDSON HENNING & GOODMAN

A handwritten signature in black ink, appearing to be 'Murray Thornhill', written over the printed name 'HUDSON HENNING & GOODMAN'.

**RELEVANT LEGISLATION**

*Local Government Act 1995 WA*

*Local Government (Administration) Regulations 1996 WA*

*Local Government (Rules of Conduct) Regulations 2007 WA*

**ROLES AND FUNCTIONS AS DEFINED IN THE LEGISLATION*****Role of Council Members***

The primary role of a Council Member is to represent the interests of the community and to translate the community's needs and aspirations into the future direction of the City.

The role of Council Members is set out in **section 2.10** of the *Local Government Act 1995 (WA) (LGA)*-

A councillor:

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) Participates in the City's decision-making processes at council and committee meetings; and
- (e) Performs such other functions as are given to a councillor by this Act or any other written law.

***Role of Mayor***

The role of the Mayor is set out in **section 2.8** of the LGA. In addition to performing the role of a councillor, the Mayor -

- (a) presides at meetings in accordance with the LGA;
- (b) provides leadership and guidance to the community in the district;
- (c) carries out civic and ceremonial duties on behalf of a City;
- (d) speaks on behalf of a City;
- (e) performs such other functions as are given to the mayor or president by the LGA or any other written law; and
- (f) liaises with the CEO on the City's affairs and the performance of its functions.

***Role of CEO and Officers***

The role of officers is indicated by the functions of the Chief Executive Officer which are set out in **section 5.41** of the LGA, and, together with any powers delegated by Council or powers conferred by another written law, include:

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the City;
- (e) liaise with the mayor or president on the City's affairs and the performance of the its functions;

- (f) speak on behalf of the City if the mayor agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees;
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

#### **Role of Council**

The role of Council is set out in section 2.7 of the LGA

The council —

- (a) directs and controls the City's affairs;
- (b) is responsible for the performance of the City's functions.
- (c) oversees the allocation of the City's finances and resources; and
- (d) determines the City's policies.

#### **ACCESS TO INFORMATION (DIVISION 7 OF THE LGA)**

Section 5.92 of the LGA sets out the legislative provision in relation to access to information. Elected Members have information access rights that are additional to those given to the general public. These rights appear to ensure that members are properly informed on matters that are relevant to their functions. Members can access the following information held by a local government:

- a) all written contracts of the local government;
- b) all documents relating to written contracts which the local government proposes to enter into; and
- c) any Information that is relevant to their functions.

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PLEASE REPLY TO ALBANY OFFICE:

13 November 2009

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

OUR REF:MNT:KP

*By Email*

Dear Mr Madigan

**CITY OF ALBANY – MOTION FOR ACCESS TO ALL COUNCIL INFORMATION**

We refer to our advice dated 10 November 2009 and your email dated 11 November 2009, requesting that we look further into the legal problems surrounding the proposed motion set out below, and provide further advice.

*"Whenever Councillors, collectively or individually, in the proper exercise of their roles and responsibilities, seek access to information from the CEO or staff, the information requested shall be provided within a reasonable time and Councillors shall not be denied access to the information they seek because in the opinion of the CEO or the Mayor it relates to an operational or a confidential matter or a matter that they are disposed to refer to the CCC." (Proposed Motion)*

This letter is to be read in conjunction with our letter dated 10 November 2009.

In essence, the Proposed Motion seeks to provide Councillors (including individual Councillors) with access to any City information a Councillor considers they are entitled to access in the proper exercise of their roles and responsibilities, from individual officers of the City, regardless of advice from the CEO that such information is not relevant to the performance of the Councillor's role or the Council's role or functions under the *Local Government Act 1995 (Act)*.

In summary, our advice is that if the Proposed Motion is passed by the Council it will be ultra vires ('beyond power') and unlawful, and therefore of no effect. The obvious and logical implication of this is that it would be improper for the Council to vote on a motion which would be ultra vires and contrary to law if passed. We have not been able to identify any legislative provision or case law which provides that the act of putting forward or voting on such a motion is of itself unlawful. However, such a conclusion is not necessary because it is clearly improper for the Council to vote on such a motion.

Our previous advice referred to the prohibition, under Regulation 10 of the *Local Government (Rules of Conduct) Regulation 2007 (Rules of Conduct)*, on Councillors directing individual officers of the City. It is, therefore, outside the Council's statutory power to pass a motion which purports to enable Councillors to direct individual officers of the City to provide access to information. The Proposed Motion is ultra vires (meaning 'beyond power') and consequently invalid which means it is of no effect.

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Our previous advice also noted, in accordance with sections 2.10 and 5.41 of the Act, that Councilors have no role in the day to day management of the City or the City's employees and no role in the implementation of the Council's decisions. These areas are expressly the role of the CEO. Further, the CEO's role includes advising the Council in relation to the functions of the local government, under the Act and other written laws.

It is outside the Council's statutory power, and therefore ultra vires, to pass a motion which purports to enable Councilors to have access to information which the CEO advises is related to the operation of the City, not the role or functions of the Council. It would also be ultra vires for the Council to pass a motion which purports to enable Councilors collectively, or as individuals, to have access to information referred to the Corruption and Crime Commission (CCC), if such information is not related to the role or functions of the Council, or the role of an individual Councilor, or if such information has been specified by the CCC as confidential.

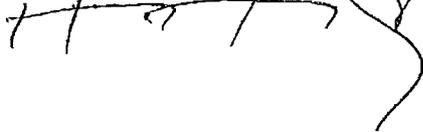
Section 99 of the *Corruption and Crime Commission Act 2003 (CCC Act)* relevantly empowers the CCC to direct that disclosure of information about an investigation by the CCC is prohibited. The Proposed Motion requires the CEO and staff to potentially act in contravention of the CCC Act.

It is also in contravention of Council's power and role to pass a motion which is contrary to any written law. At the least, this Proposed Motion is contrary to the legislative provisions referred to in this advice and our letter dated 10 November 2009. It is not necessary to consider whether there are other laws which it may also contravene.

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

Yours faithfully

HUDSON HENNING & GOODMAN



#### **ITEM 18.4 – Cr Paver reformatted tabled transcript.**

In 2007 Mr Hammond guided the establishment of the 4 standing Strategy and Policy Committees. He produced for Councillor's consideration and endorsement a Governance Issues Discussion Paper.

In this paper he identified certain problems with the way in which the standing or regular Concept Briefing Sessions had been conducted. They were intended to focus on long term strategic planning but were beset with what he called the "omnipresent problem of discussions leading to informal debate leading to informal debate leading to informal decisions or at the very least staff concluding a briefing session with a reasonable understanding of which way the Council is likely to approach or vote upon a matter."

Quoting from the Local Government Operational Guidelines he said "the process ... may lack accountability and the probity of elected members and staff could be challenged. He went on to say that the use of Concept Briefing Sessions for the purpose of the enabling of staff to establish the 'direction' or 'general thinking' of the Council is clearly outside of established guidelines and should therefore be discontinued.

He recommended that in future concept briefings should be given to Councillors on an as needs basis.

He then outlined his proposal for Strategy and Policy Committees.

It is clear from what I have already quoted to you that the proposed committees were not intended to operate as Concept Briefing session and yet this is how they are now being allowed to operate. It is also clear that they were not intended to function as (to use Mr Hammond's words) "Standing Committees which typically deal with all of the normal business of Council and then make recommendations for adoption at Ordinary Council meetings". Yet this too is how they are now being allowed to function.

What then was the intended function of the Policy and Strategy Committees. Well their names say it all. Their principle role said Mr Hammond is "to formulate, review and performance manage Councils policies, strategies and business plans, local laws and other management documents".

On page 6 he spelled out his proposal in greater detail saying "it is proposed to establish as series of strategy and policy committees in line with Part 5 of the Local Government Act whose principle function and purpose would be to:

- In collaboration with relevant staff identify, and establish the need and form of Council Policy, Strategy, Business Plans and other Strategic and Corporate Documents.
- Work with staff in determining the content and objective of documents.
- Oversee and consider the response of community consultation processes relating to either the establishment or the revision of the documents.
- Evaluate the performance of the documents and undertake review where appropriate,
- Make recommendations to Council on the adoption or revision of the documents.

It can be seen that the 4 committees were intended to be working committee and that their recommendations were to be confined to recommendations on the adoption or revision of the City's strategic documents. This was put beyond doubt by the next paragraph of the discussion paper which reads: "It would not be the role of the committees to consider matters relating to the normal executive, legislative and statutory functions of the Council eg. Applications for planning scheme consents, rezoning, acceptance of tenders, receipt of monthly financial statements etc.

Now this discussion pager was the basis upon which Council resolved to establish these Strategy and Policy Committees. Yet all who have eyes to see and ears to hear know that these committees are operating in a manner that was not intended.

The purpose of my motion is to try to ensure that in the absence of a resolution authorising otherwise, the committees confine themselves to dealing with and making recommendations on the formulation review and performance management of "Council's policies, strategies and business plans, local laws and other management documents", to use the words of the Discussion Paper.

Your Worship, Council established these committees with limited purposes and limited powers. It should not permit these committees to arrogate to themselves purposes and powers beyond those granted them by resolution of Council.