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# MINUTES

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## ORDINARY MEETING OF COUNCIL

Held on  
Tuesday, 18<sup>th</sup> August 2009  
7.00pm  
City of Albany Council Chambers

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**TABLE OF CONTENTS**

	Pg#	Rec Pg#
<b>1.0 Declaration of Opening and Announcement of Visitors</b>	6	
<b>2.0 Opening Prayer</b>	6	
<b>3.0 Announcements by Mayor and Councillors without Discussion</b>	6	8
<b>4.0 Response to Previous unanswered questions from public question time</b>	8	
<b>5.0 Public Question and Statement Time</b>	8	
<b>6.0 Record of Attendance/Apologies/Leave of Absence (Previously Approved)</b>	19	
<b>7.0 Applications For Leave Of Absence</b>	20	
<b>8.0 Confirmation Of Minutes of Previous Meeting</b>	20	20
<b>9.0 Declaration of Interest</b>	20	
<b>10.0 Identification of matters for which the meeting may sit behind closed doors</b>	21	
<b>11.0 Petitions/Deputations/Presentations</b>	21	
<b>12.0 Adoption of Recommendations en bloc</b>	21	
<b>13.0 REPORTS DEVELOPMENT SERVICES</b>	22	
<b>13.1 Development</b>		
13.1.1 Development Application – Single House – 39 La Perouse Court, Goode Beach	23	29
<b>13.2 Development Policy</b>		
13.2.1 Initiation Of Scheme Amendment Lots 19 & 20 Monck Way, Centennial Park	30	34
13.2.2 Reconsideration Final Approval Of Scheme Amendment 259 – Conservation Zone – Nullaki	35	41
13.2.3 Final Approval Of Scheme Amendment – Lots 1, 2, 2, 7, 20, 21, 109 & 110 Frenchman Bay Road, Big Grove	42	46-47
<b>13.3 Health, Building &amp; Rangers - Nil</b>	67	
<b>13.4 Emergency Management - Nil</b>	67	
<b>13.5 Development Service Committees</b>	68	68-75
13.5.1 Planning and Environment Strategy and Policy Committee Meeting Minutes – 23 July 2009 <ul style="list-style-type: none"> <li>• Licensed Premises – Guidelines for Issues</li> <li>• Draft Parking and Parking Facilities Local Law 2009</li> <li>• Draft Sand Drift Prevention and Abatement Local Law 2009</li> <li>• Detailed Area Plan Policy – LOT 10 and 322 Galle Street Yakamia, LOT 247 Cull Road, South Lockyer and LOT 2 Mason Road, Lower King</li> <li>• Outline Development Plan (ODP004) – Lancaster Road Morgan Road and Morgan Place McKail</li> <li>• McKail Local Structure Plan (STR244) – LOTS 1, 2 and 3 South Coast Highway , McKail</li> <li>• Albany Central Area Masterplan</li> <li>• Future Urban Growth – Kalgan</li> <li>• Operating Procedures – Handover of Nuisance Dogs</li> </ul>		

ORDINARY COUNCIL MEETING MINUTES 18/08/09

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

	Pg#	Rec Pg#
<b>14.0 REPORTS – CORPORATE &amp; COMMUNITY SERVICES</b>	76	
<b>14.1 Finance</b>		
14.1.1 List of Accounts for Payment	77	79
14.1.2 Financial Activity Statement – 31 July 2009	80	83
14.1.3 Community Sporting and Recreation Facilities Fund (CSRFF) 2009/10 – 2011/12 Triennium Applications	88	91
<b>14.2 Administration - Nil</b>	92	
<b>14.3 Library Services - Nil</b>	92	
<b>14.4 Day Care Centre - Nil</b>	92	
<b>14.5 Town Hall - Nil</b>	92	
<b>14.6 Recreation Services - Nil</b>	92	
<b>14.7 Economic Development - Nil</b>	92	
<b>14.8 Tourism &amp; Visitors Centre - Nil</b>	92	
<b>14.9 Airport Management - Nil</b>	92	
<b>14.10 Contract Management - Nil</b>	92	
<b>14.11 Property Management</b>		
14.11.1 Property Management – Extension of Lease for Albany Business Centre	93	96
14.11.2 New Sub-Lease between Albany Sea Rescue Squad Inc. and Theresa Lewis trading as The Squid Shack on LOT 1423 portion of Reserve 42964	97	100
14.11.3 Grant New Lease and Licence to Belcap Investments Pty Ltd for Radio Bearer System located on JA Barnesby Memorial Lookout, Mt Melville	101	105
<b>14.12 Corporate &amp; Community Services Committee</b>		
14.12.1 Seniors Advisory Committee Meeting Minutes – 16 July 2009	106	106
14.12.2 Community and Economic Development Strategy and Policy Committee Meeting Minutes – 24 July 2009 <ul style="list-style-type: none"> <li>• ANZAC Peace Park – Adoption Of Interpretation Strategy</li> <li>• Naming Of Building Formerly Known As The Albany Entertainment Centre</li> <li>• Request From Albany Light Opera And Theatre Company</li> <li>• Application For The Waiver Of Landing Fees – Angel Flight Australia</li> <li>• Council Policy – Community Financial Assistance &amp; Events Funding Program</li> </ul>	107	107-109
<b>15.0 REPORTS – WORKS &amp; SERVICES</b>	110	
<b>15.1 Waste Management - Nil</b>	111	
<b>15.2 Capital Works</b>		
15.2.1 Accept Tender for the Supply of Asphalt 2009/10	112	114
<b>15.3 Reserves, Planning &amp; Management - Nil</b>	116	
<b>15.4 Works &amp; Services Committees - Nil</b>	116	
<b>16.0 REPORTS – GENERAL MANAGEMENT SERVICES</b>	117	
<b>16.1 Corporate Governance - Nil</b>	118	

	Pg#	Rec Pg#
<b>16.2 General Management Services Committees</b>		
16.2.1 Corporate Strategy and Governance Strategy and Policy Committee Meeting Minutes - 9 <sup>th</sup> July, 23 <sup>rd</sup> July and 30 <sup>th</sup> July 2009 <ul style="list-style-type: none"> <li>• Elected Members Seeking Legal Advice</li> <li>• Amendment to timings for future committee meetings</li> <li>• Local Government Reform Submission – Draft Report</li> <li>• Cull Road Subdivision Report (Confidential Item)</li> <li>• Tender – Provision of Legal Services</li> </ul>	119	119-122
<b>17.0 Adoption of the Information Bulletin</b>	123	123
<b>18.0 Motions Of which notice was given at the previous meeting</b>	123	
18.1 Gravel Extraction – Reserve 15606 - Recision Motion By Councillor Torr		
<b>19.0 Urgent Business Approved By Decision Of The Meeting</b>	126	126
19.1 Accept tender for the construction of a concrete footpath on Ulster Road	126	129
<b>20.0 Request For Reports For Future Consideration</b>	130	
<b>21.0 Announcement Of Notices Of Motion To Be Dealt With At The Next Meeting</b>	130	
<b>22.0 Items to be Dealt with while the Meeting is Closed to Members of the Public</b>	130	130
16.2.1 Tender – Provision of Legal Services	131	131
22.1 Internal Review Of The Cull Road Subdivision Report	132	132-133
22.2 Financial Options for the Balance of Lot 247 Cull Road, Lockyer	134	134
22.3 Internal Review Committee Minutes dated 4 <sup>th</sup> August 2009	135	135
<b>23.0 Next Ordinary Meeting Date</b>	136	
<b>24.0 Closure Of Meeting</b>	136	
<b>APPENDIX A - STATUS REPORT ON DEFERRED ITEMS FROM PREVIOUS MEETINGS</b>	137	
<b>APPENDIX B – NOTICE OF DISCLOSURES</b>	138	
<b>APPENDIX C – SUMMARY OF ACCOUNTS CERTIFICATE</b>	139	
<b>APPENDIX D - TABLED DOCUMENTS</b>	140	

## **1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Mayor declared the meeting open at 7.00pm.

In accordance with clause 3.1, City of Albany Standing Orders Local Law 2009: no person is to use any electronic visual or audio recording device or instrument to record the proceedings at any meeting without prior permission by resolution of the Council.

### **VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: MAYOR EVANS**

**SECONDED: CR WOLFE**

**THAT Council Suspend Standing Order 3.1 – Recording of Proceedings to allow Council to record proceedings of the Council, except in the case where the Council closes the meeting to the public.**

**MOTION CARRIED 7-0  
ABSOLUTE MAJORITY**

## **2.0 OPENING PRAYER**

Mayor Evans read the opening prayer.

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

## **3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION**

**Councillor Duffy** provided feedback from his attendance at Local Government week and remarked that it was a worth while experience. Cr Duffy passed on his appreciation for the invitation to attend a concert organised by the Seniors Citizens centre, and acknowledged the 100 plus attendees and the contribution of the Flinders Park Primary School Boys choir.

**Councillor Torr** advised the meeting that she would be standing for re-election in October 2009.

**Councillor Bostock** advised the meeting that she is happy to be back and happy to see the new audio system up and running.

**Mayor Evans** presented the August 2009 Mayors report.

Major activities since the July Council meeting have included:

Item 3.0 continued.

## **MAYOR REPORT**

**The 2009 Western Australian Local Government Convention & Exhibition** - held between 6th and 8th August 2009.

I attended this annual local government function along with Councillors Duffy, Torr, Walker and Wolfe. The Executive Director of Works and Services Mr Kevin Ketterer also attended.

The Convention included numerous speakers and meetings of both the State and Great Southern Zone of The Western Australian Local Government Association.

I submitted and spoke to a motion at the Great Southern Zone Meeting calling for more passing lanes (a minimum of every 5 kms) on major transport routes in the great southern, including south of Kojonup. This was supported and passed by the meeting.

A key focus throughout the 3 days of the convention was the Local Government Reform process. An address by the Premier, Hon. Colin Barnett MLA, and supported by Hon. Brendon Grylls MLA, was a catalyst in encouraging authorities to seriously consider opportunities for amalgamation – as we have heard about in the week following the convention.

**Parks and Leisure Australia Award** – Cr Walker and Executive Director of Works and Services, Kevin Ketterer attended these awards on Monday 10th August, immediately following the Local Government Week Convention. I'm delighted to announce that the City of Albany has been awarded the Design, Development and Management Award – Parks for Stage 1 of the Anzac Peace Park.

My congratulations to all involved in the process from the concept and design stage to the actual building and finally, the award submission.

**Regional Alliances** – Along with Acting CEO, Peter Madigan, I attended a meeting in Katanning yesterday, 17th August 2009, to discuss a DRAFT memorandum of understanding between our 2 local authorities addressing opportunities to work together and share resources as part of the Local Government Reform Process.

Other Mayoral functions and duties in addition to scheduled committee and other office meetings included:

- Afternoon Tea for the 10th anniversary of Great Southern Community Housing on 29th July.
- Reception for the Perth Detachment of the Royal Australian Navy Band and the Western Australian Army Reserve Pipes and Drums on 31st July in recognition of the fund raising charity concert held for the RFDS.
- Opening of the 'Save Our Marine Life' information and presentation afternoon on 9th August .
- Launch of the Brig Amity Refurbishments on 14th August.
- RSL Victory in the Pacific memorial service on 15th August.
- RSL Vietnam Veterans memorial service today, 18th August.

Item 3.0 continued.

**ITEM 3.0 – MAYORS REPORT**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR TORR**

**SECONDED: CR DUFTY**

**THAT the Mayors Report for August 2009 be received.**

**MOTION CARRIED 7-0**

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

Nil

**5.0 PUBLIC QUESTION AND STATEMENT TIME**

The following provides a summary of what was presented during public question and statement time.

**Speaker 1** - Richard Robins – Range Court, Bayonet Head

Mr Robins addressed Council in regards to the increase in rates and the condition of Range Court Crescent.

Mr Robins expressed his annoyance that funds were not allocated to Range Court Crescent. Mr Robbins queried the rational of how the road maintenance was allocated, in particular that Range Court was identified on the top of the list in previous years, and now does not appear as a road identified for maintenance and that three others included that were not on the previous list and now allocated as priority projects". Mr Robins asked why?

*Mayor Response: Question to be taken on notice.*

Mr Robins asked the following questions:

When funds were reallocated from Range Court Crescent was this motion moved by the Mayor and supported unanimously by Council and can you please confirm if this was the case for the previous year.

*Mayor Response: Question to be taken on notice. Council supported the call for funds to be reallocated for emergency repair of drainage which resulted from storm water damage.*

Mr Robins queried Council, that the 08/09 budget had already allocated \$500,000 for drainage and the current budget allocation.

Item 5.0 continued.

*Mayor response: In response to your previous question regarding the reallocation of road maintenance funding from Range Court. The Mayor read the motion:*

*“The motion was moved by Councillor Price and seconded by Councillor Stanton that Council approve the expenditure of \$128,753 for the immediate emergency works for the roads master plan reserve and approve the reallocation of funds \$333,000 from Range Court Road, Newby Street and John Road’s projects to help offset costs of disaster management issue caused by the 20,21 and 28 November storms, and was carried 10-0, by Absolute Majority.”*

Mr Robins: As I say, and I know for a fact that one Councillor voted on the issue not being aware of the condition of Range Court Crescent for starters. So is that normal? Do they not aware themselves of the projects that are coming up?

*Mayor Response: Mr Robins, can I say on behalf of the elected members, when it comes to conditions of roads I would suggest that Range Court Crescent, isn’t the worst of all.*

Mr Robins: No sir, I am only suggesting that funds seem fit, were located to that and were withdrawn and no further funds have been put forward. I am suggesting that that has been done in the past - move a motion that funds that at this moment that are put onto new roads that were not on the previous budget, could be withdrawn and put to use on Range Court Crescent.

*Mayor response: Mr Robins I wish it was as simple as that. Thankyou for your comments and your time is up sir.*

**Speaker 2 - Michael Pemberton – Shorts Place, Mira Mar**

I was to preface my remarks by saying any observations that I make or comments or conclusion are mine that I’m not the ventriloquist dummy and speaking for someone else. I like you Mr Mayor to cast your mind back to July at the agenda briefing meeting when I approached Council and asked for clarification and permission to ask a couple of questions. Do you recall that all?

*Mayor response: Yes.*

As at the 10 Aug 09, I have not received a response from the questions I asked of Council at the 14 July meeting. So I emailed the CEO to find out what was happening and received a reply that people remember me talking and couldn’t remember the questions that I asked and asked if I could put the questions on paper again, which I gladly did and Mr Madigan on behalf of the City then responded to my questions. The first part of the response was that the questions didn’t deserve a response because - I forget the way in which it was couched- because neither issue related to the agenda briefing - That was the first point that was made.

The two questions that I wanted to talk about were the Buy local policy and the Entertainment Centre. Some of the responses I got were: that the threshold for tenders was a \$100,000; no local firms had the level of service expertise in the FTR digital recording system: Evidence

Technology was engaged because of an proven track record; there was no allegations levelled at the competence of a local firm in respect to that installation; and then there was an attempt to link the Buy Local content of the original admin construction to the particular upgrade.

With respect to the questions asked on the Entertainment Centre, there was no answers to my questions regarding: the exposure of loss with the Entertainment Centre - I found the response that I got finally – untimely - no doubt patronising and confusing - so knowing that we are being recorded I would like to ask those questions again if I can.

With respect to buy local does and will the Council continue to embrace the buy local policy and its philosophy as amended on the day of the last council meeting which was the 21<sup>st</sup> July.

I want to also ask whether or not the Councillors were aware that this particular buy local policy should be reviewed every twelve months, accordingly to clause 7 on page 11 and that there has been a gap of 7 years, just 7 years, since the buy local policy has been in operation and it was only reviewed last month, on the 21<sup>st</sup> July.

Were the Councillors advised of the financial impact on Council resources and the level of local purchasing as called for within that policy document and if so what were they?

Where is it determined that the threshold amount for tenders is \$100,000 in the buying policies of council, because that is something I have never heard of before.

With respect to the FTR system who determined that no local company had the expertise to install the system and when that determination was made were a series of quotes gathered or just Evidence Technology anointed as the successful provider for that.

I noticed within the accounts tonight, that there is an amount for \$64,776.80 for stage one, can I also ask whether or not this is the first stage of how many stages and how many more dollars are we going to spend in this process?

With respect to page 13 of the budget papers, there is a comment there that says that consistent with ongoing cost saving and efficiency initiatives the ALAC café will serve the City's catering requirements in 2009/2010, how does that fit into the buy local policy?

If you look at the accounts for tonight you will find that \$14,284 on that basis wouldn't have been spent by the City with local small businesses and that is what I thought the buy local policy was all about.

In the budget papers it talks about the next 3 years that there are risks associated with the Entertainment Centre and there are strategies being put in place for that. What are the risks and are we privy to that?

So in summary, how much of the buy local policy was fashioned here between the Chamber and the liberal state government at the time. We talk about the impact that it can make, and are Council going to ensure that the philosophy of their money being spent here for the benefit of the community is going to be fact and not just talked about. Thank you.

Item 5.0 continued.

*Mayor – those questions will be promptly and responsibly answered Mr Pemberton, I will guarantee you that. But there are that many we will have to take them on notice and get back to you.*

*But can I make this point to you too. For some time we have had problems with the acoustics quality of this building, a whole range of problems associated with what we had and it got to a point, a crucial meeting where a local member, Mr Watson was in place and it was totally frustrating, people couldn't hear and I was battling to hear these even these Councillors here. So I made the determination, stood to my feet at the closure of the meeting, I would not put the gavel down until these things are fixed. So the CEO took that on board, so I want you people to realise that, that I was totally frustrated and most others Councillors and Mr Watson said 'put the rates up and get this fixed' and we have got it fixed. And there are other editions to this that are going to be great benefit to everyone, not just elected members. So I will answer that Mr Pemberton, thanks for that.*

Thankyou Mr Mayor, and I guess if you take the same rationale with the by local policy, with the gavel and so on, that will happen to. Thank you.

**Speaker 3 - Mervyn Leavesley – Kalgan**

Along with other rate payers I received this document, with my rates notice and I noticed on the operating expenditure pie chart, governance and administration has a figure of 4% and yet the actual pie looks like about 20% and I thought that it is pretty poor show or must have been the most important document sent out along with the rates, that you get something as wrong as that and I don't know what you are going to do about it. What is it? 24%, what should it have been?

*Mr Jamieson response: I don't know the actual figure off the top of my head now, it has been identified that the proof that we sent to the printing organisation that a mistake occurred. The correct figures have been detailed on the Council website and can be downloaded. I can get those figures for you.*

You don't know what they are, who proofed the document?

*Response: I personally did not proof the document, but can get those figures for you.*

In the same section, in the middle, you talk about reducing the debt level of Council, which is admirable, but you also talk about raising rates in an orderly fashion, can you please comment on what an orderly fashion is? How much each year can be expected.

*Executive Director Corporate & Community Services – I can attempt to answer that. Over the past years, Council has aimed to increase rates to the level of CPI + 1% which is in accordance with its long term planning policies. In trying to estimate what CPI was, Council underestimated it, so in the past three years alone, the rates have not kept pace with CPI. 9% would not be regarded as orderly, but 9% is required to balance the budgets.*

Item 5.0 continued.

So we can hope to move down the scale, I think we are the 3<sup>rd</sup> highest rate rise in the state, and we can look forward that being the position in the future?

*Mayor response: Yes and I look forward to you putting your hand up at the next election.*

**Speaker 4 - Justin Hardy, Millbrook**

I would like to talk about the public reserve area on Millbrook Road that as a resident of the area, I am also a member of Friends of the King River and Billaboy Reserves an affiliated group of Oyster Harbour Catchment Group Inc. As the friends of the King River and Billaboy Reserve over the last several years, we have been volunteering our time and effort to remove weeds which has been overtaking the area and have made a lot effort in the preparation of a management plan for the area as well. In October 2008 we had some initial Watsonia control in the reserve, which is along the Millbrook Road.

We plan to continue these efforts this coming spring, 2009 on the same Reserve. But we feel that our efforts are probably fraught, as we have now discovered that this rock within the area is of 17 hectares in size of vegetation is planned to be quarried for gravel and we are concerned that along with other locals we are not very well aware of the significance of this activity and the end effect is going to be counterproductive to our efforts and our vision to the connectivity of the vegetation of the reserve along the river. We are also concerned that in an event that it does go ahead, that vehicle and truck access points do appear to be chosen in the worst and most hazardous spots, given the heavy traffic and 'S' bends on that particular part of the Millbrook Road.

So we ask that the Council consider rescinding this gravel reserve and gravel being taken from it and consider the likely damage it will be doing to the flora and fauna, which as a community we hold in high value. I also have a map showing the area in question and other details of the reserve. Thank you.

**Speaker 5 - Dennis Wellington – McKenzie Street, Albany**

I sent a letter to Council on 14<sup>th</sup> July and received a reply dated 27<sup>th</sup> July, and I asked questions regarding \$275,000 spent on legal fees last year. *"please be advised that the \$275,000 expenditure on legal fees in the past 12 months is as follows... \$39,688 – spent locally, the total amount spent on planning related matters was \$126,250, the amount spend of queries / disputes was \$540."* Now with my maths that adds up to \$166,478 and that is the last time any amount is mentioned. So we start off with \$275,000 with an explanation of \$166,478, what happened to the rest?

*Executive Director Corporate & Community Services response:*

*Mr Mayor, Mr Wellington's letter to us, first stated that he was after an explanation of \$275,000 of legal fees in the past 12 months, and there are a list of queries which I would like clarified.*

*How much was spent locally? Our response was \$39,688 was spent locally.*

Item 5.0 continued.

How much was spent on planning queries?

*Response:* The total spent on planning queries was \$126,250.

How much was spent of queries and/or disputes with Councillors?

*Response:* The amount spent was \$540.

In the budget what area was this year's provision listed under?

*Response:* The legal budget for 2009/10 is in the Corporate Services Management area and his final question was, what was the reason for more than doubling of the fees over the previous years? And the answer was the increase in legal fees over the past year arose because the Council was involved in approximately twice the number of SAT appeals and appeals regarding enforcements.

*So our response was in direct answer to his questions.*

No it wasn't. The letter was regarding the \$275,000, your statement here, signed by you Mr Madigan, please be advised that the \$275,000 expenditure on legal fees in the past 12 months, is as follows, and you explain \$166,478.

*Response:* Mr Mayor, the question was, there was a list of queries I would like clarified.

There were, and you just read them out and I understand that. I have got the letter in front of me, but the question was about the \$275,000 and you just blatantly refused to answer the basis of the question.

Those were specific items I wanted itemised, but I wanted an explanation of the \$275,000, which I think is reasonable. Is that not correct?

*Response:* It is easy to answer, if you had asked the question. This letter is a formal request for an explanation of expenditure \$275,000 on legal fees in the past 12 months, there are a list of queries which I would like clarified. And that is what was clarified.

But not the \$275,000 itself?

*Response:* As advised Mr Mayor, this is easy enough to provide.

*Mayor response:* We can do that quiet clearly.

Well thankyou very much, that is all I was asking.

(Mr Wellington made a comment that was withdrawn from the minutes).

Item 5.0 continued.

*Mayor response: I said that you will get an answer, as Mr Pemberton requested as well. But there is no way in the world you should talk about Mr Madigan in that fashion or any other officer or Councillor. When you were in the Chamber, I remember you retorting very clearly with facial expressions and all kinds of body language to other people in that open forum, so I would suggest you quit while you are ahead.*

Thanks very much Mr Mayor.

**Speaker 6** – Mr Tony Stanton – Little Grove

I'm concerned at the proposed merger of Country Councils in WA. It appears to be a blatant political manipulation using executive dominance at the expense of country communities.

It is an erosion of individual rights and effects country people without their input.

Governing political parties both federal and state are making crucial policy decisions without debate or consulting the people.

Both this and the last state government gave more power to the metro area.

Some examples, one vote – one value, cost country people seven lower house representatives, a forced three year trial of day light saving, knowing country people were its greatest opponents and the introduction of GM crop trials, ignoring a previous under taking without Council consultation.

This executive dominance has reduced country representation and is not democratic. Did any country community, Council or local member suggest amalgamation would be a good idea? It is the executive direction of the Minister for Local Government, John Castrilli. With no choice but to carry out his executive instructions, Council's have graded themselves into categories where they should be required to undertake significant structural reform.

To ensure they toe the line, a mafia like offer, they can refuse, has been reported in the press with small communities told if they don't form an alliance they will lose 50% of Royalties for Regions. Black mail or stand over tactics.

This is designed to by pass the people and is undemocratic.

Why does an individual community have to be larger than the premiers suggested 1000's.

Small communities are also extremely successful. Perth are looking for it's lost community spirit. Community spirit is alive and well throughout Council WA. Woodanilling is concerned it will be gobbled up and there rates will rise. Representation will go down, and services will decrease. If Albany is suddenly overstretched by amalgamation with other towns, this could also happen to our community. Suddenly bigger is not necessarily better.

Item 5.0 continued.

I trust Councillors will carefully appraise how the situation will effect our Community and canvas their constituents. Small Communities should not just be broken up to concentrate power. Council communities are not all the same; consider the diversity of Wyndym and Albany, Carnarvon and Giles. In a recent news poll, 94% of all Australians said that we are over governed. 85% claim that it is at state level. 91% want it to go to referendum. Executive dominance is not democracy; neither is forcibly breaking up Country communities. Thankyou Mr Mayor.

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY**

**SECONDED: CR TORR**

**THAT Council support the extension of public question and statement time.**

**MOTION CARRIED 7-0**

**Speaker 7 - Kevin Richardson – Range Court, Bayonet Head**

I would like to take off where we left off last meeting and refer to the budget of the 2007/08, where in the road section, Range Court Crescent was listed as a proposed major works. In the budget of 2008/09 where once again Range Court was listed as a proposed major works. As a result of nothing occurring in either of those two budgets, we presented a petition last meeting, as you are aware. Can we expect a response to that petition?

*Mr Jamieson response: The petition was received by Council and acknowledged by Council (Recorded in the Minutes). There was no specific question asked on that petition, to my knowledge. If you have concerns with how the petition was administered, I can arrange a meeting to discuss such issue as the format the petition was presented was not in accordance with the Standing Orders Local Law 2009.*

So if I didn't ask the question now, would I have received a response?

*Mr Jamieson response: That is correct. .*

Can I refer to the two quotes in the local newspaper, as a result of the petition? One in the weekender on 30<sup>th</sup> July, where the works service executive director said that there were no funds for any road works in this financial years budget and in the Extra, where it is quoted that the City has confirmed it will not spend a single cent on Albany's road network in this financial year.

We then received our budget brochure in the mail, where it clearly states that the City will spend \$6 million maintaining and constructing roads - And goes on to list a number of major proposed works - Which of the statements are correct?

Item 5.0 continued

*Executive Director Works & Services response: The quotations in the newspaper were slightly misleading and not accurate in full. There is clearly money to be spent on roads, but the full quotation is that there will be no discretionary funding allocated to any road works this year.  
(will have to be moved to top of page)*

*All the money which is in the budget is either directly 100% state funded or state matched funding.), where we are matching funding. So there is no discretionary funding which we could allocate to something which is not approved by the State Funding or Federal Funding system.*

In the previous two budgets, under the major projects where it comes to roads. It clearly states, that there is a sum of money being allocated, some of which comes from Capital expenditure others from external sources. In this years budget it doesn't clarify it, it just simply says, that the City will spend \$6 million.

*Executive Director Works & Services response: For clarification. In this financial year, there is no discretionary funding. It is all either State or linked to State funding.*

Why didn't you say that in the brochure? How are the rate payers to understand? If you were misquoted in the paper, based on the bad publicity this has received, both in the newspaper and on the television. Why did the City not take the opportunity to correct the statement quoted in the paper.

*Mayor Response: Can I tell you sir, we do that all the time.*

Well you haven't done this time.

*Mayor Response: We don't always get the response we want. It's another subject.*

It is not satisfactory.

*Mayor Response: I understand and that is one of my concerns, and has been for a long time is the way in which this Council communicates to people just like you - And a frustration for an individual elected member whether they are Mayor or elected to represent this district. We are hard pressed to properly communicate to you people. We do make ourselves available to places like Progress Association in Lower King and so on – that covers your area and my area too. We go down there, there are leaflets dropped in every letter box, but where are you? - not there? And I would suggest, and I don't mean this as a criticism or a negative, but you people also need to make some real serious effort to get the facts right and contact these people and clarify some issues. Don't just expect the only situation you have, as recourse to this Council, is through the only podium here. There are other areas.*

Mr Mayor, our first approach to raise concerns about the issue of Range Court Crescent was through our local elected Councillor. The response we got from our local elected Councillor was so poor; we had no opportunity to do this thing.

*Mayor – I understand what you are saying. There is an election coming up.*

Item 5.0 continued.

**Speaker 9** - Anthony Wood - Cordillera St, McKail

I would just like to make some comments on Cull Road report. I would like to ask a question. Why is it Confidential?

*Mr Bride's response: There are some issues regarding potential compensation and other legal matters, that under the Local Government Act, should remain behind closed doors. Sensitive matters.*

Are some of these issues are related to Mr and Mrs Wood?

*Mr Bride's response: Yes, there are some matters, a whole range of issues. But one of the issues does relate to the acquisition and compensation for Mr and Mrs Wood's land.*

I think some of the Councillors may or Council should approach Mr and Mrs Wood about what is going on. After reading agenda item, at the very end it says 'action required' 'staff to update Councillors on the actions taken to mitigate water and silt runoff to Mr and Mrs Woods from the Cull Road subdivision'. Don't you think someone should advise Mr and Mrs Woods on what is going on?

*Mr Bride's response: Which particular item are we referring to?*

*Mayor – But one thing for sure when we go behind closed doors on any item. What is voted on and the actual resolution of Council has to be voted on and declared in public.*

*Mr Jamieson's response: The Item Mr Woods refers to is not confidential. That was an action required, on request of a Councillor to make sure that the appropriate course of action and communication was being maintained with Mr and Mrs Wood.*

I think this Council needs to speak to Mr and Mrs Wood regarding this whole Cull Road subdivision, like the people in Bayonet Head are struggling to get a road, the Cull Road and Cumming Road is unfit for traffic at the present - there are millions of dollars being spent by the Council on a Cull Road Subdivision - I think their priorities are a little bit wrong here - Where the money is being spent.

**Speaker 9** - Gary Knewstubb – Cliff Street, Albany

I like everyone else received our rates and wasn't surprised because it had been in the paper, that we are the fifth highest in the state – that there was a rate rise. But I do have some concerns.

Where can we find the Standing Orders, everything here seems in accordance with the standing orders. Where would I find the Standing Orders so we know what we can and can't ask? Perhaps we can get a copy.

*Mayor – do we have a copy on the website.*

*Mr Jamieson's response: Yes. I will ensure a quantity is made available at the end of the meeting.*

Item 5.0 continued.

The other issue - with concern - the expenditure of the Council - Rather concerned at the capital expenditure, 33% is going to the ALAC and 8% Peace Park.

Although they are worthy causes perhaps some of the other money should go to the things that are more demanding and meaningful to the people of Albany - Neglected roads including Range Court, and I do not live there, I live way from it. I live where I lived for some years and some 27 years ago at least, the road where I live was a gazetted road and still haven't got one. Which is Bay Street, located at the top of my block.

Could you clarify or justify because you did go back and said you would have a close look at the budget and where you are going to only spend where necessary. Could you clarify or justify the expenditure on Parade Street, the islands and paving, which to me is nothing but an absolute shambles.

You come over the rise and there are three lanes looking at you - And also the replacement of the traffic island, on the junction of Serpentine and York Street, there was a traffic island there before, it was a left turn only. It is still a left turn only, but I guarantee it cost \$100's of dollar for a new one. - Perhaps \$1000, because the road is breaking up there all ready.

As far as the road which I live, I did ask Council when could something happen to it. I didn't ask for it to be sealed, I just asked for a reasonable access. I will admit there is a second property on my block and the access there is over granite rock. There is no road at all. I was told it was an all weather access and that is all it was going to do and I would be the only person who would benefit. There are actually 5 properties which bank onto this road and one of the other neighbours I do know has had great concern because since the Serpentine Private Estate has been developed there, there has been extra amount of water coming down there. We were told, there is no extra water and our neighbour has film of water coming down.

And the other issue is, I really do think that it is time the Council and I'm talking Council, not Councillors, the Council should start looking after the rate payer a little bit more than paying everything for the tourist. The tourist is a great dollar here, but there is a lot of work here for the tourists and a lot of the people here in the town are not getting their money's worth. Thank you.

*EDWS response: Parade and Serpentine Road. Those traffic management measures were not funded out of our budget, they were black spot funding, which is a state and federal funding. And I would like the details of the Mr Knewstubb's road, where he lives, so I can investigate that issue and come back to you.*

I have never seen a black spot sign on Parade Street, and I have been there 15-16 years.

*EDCCS response: in relation to the capital expenditure on ALAC, \$6 million has been funded by both State and Federal Govt, and for the ALAC stage 2 extension. Peace Park, just under \$1 million, again funded by State and Federal Government.*

*Entertainment Centre. There was a \$1 million dollar commitment towards the waterfront project this year and that is through the funding of the normal budget.*

*The Mayor closed open forum*

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

M Evans, JP

**Mayor**

**Councillors:**

Breaksea Ward	J Bostock
Breaksea Ward	VACANT
Frederickstown Ward	VA Torr
Vancouver Ward	R Paver
West Ward	D Duffy
West Ward	D Wolfe
Yakamia Ward	G Kidman

**Staff:**

Acting CEO / 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
Executive Manager Corporate Services	D Schober
Minutes Secretary	S Smith
Manager Finance	P Wignall

**Public Gallery and Media:**

2 media representatives were in attendance; and approximately 23 members of the public.

**Apologies/Leave of Absence:**

Kalgan Ward	J Walker
Vancouver Ward	K Stanton
Yakamia Ward	J Matla
Frederickstown Ward	D Price
Kalgan Ward	R Buegge
Chief Executive Officer	P Richards

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS**

**SECONDED: CR WOLFE**

**THAT the minutes of the Ordinary Council Meeting held on the 21<sup>st</sup> July 2009, as previously distributed be confirmed as a true and accurate record of proceedings.**

**MOTION CARRIED 7-0**

**9.0 DECLARATION OF INTEREST**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Councillor Kidman	22.1	Impartiality. The nature of his interest is that his daughter's partner is employed by OPUS.
Councillor Dufty	16.2.1	Impartiality. The nature of his interest being that he is a member of the Cottage Scheme Board.
Councillor Paver	16.2.1	Impartiality. The nature of his interest is that he has had previous dealings with Hudson Henning and Goodman.

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

In accordance with 5.23 (2) (b) (c) (d) of the Local Government Act 1995; being:

- a matter affecting an employee or employees;
- the personal affairs of any person;
- a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
- legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;

the following items were addressed behind closed doors:

<b>Item Number</b>	<b>Item Title</b>
16.2.1	Committee Recommendation 6 - Tender – Provision of Legal Services
22.1	Internal Review Of The Cull Road Subdivision
22.2	Financial Options for the Balance of Lot 247 Cull Road, Lockyer
22.3	Internal Review Committee Minutes dated 4 <sup>th</sup> August 2009

**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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**13.0 REPORTS – DEVELOPMENT SERVICES**

**13.1 DEVELOPMENT**

**ITEM NUMBER:** ITEM 13.1.1

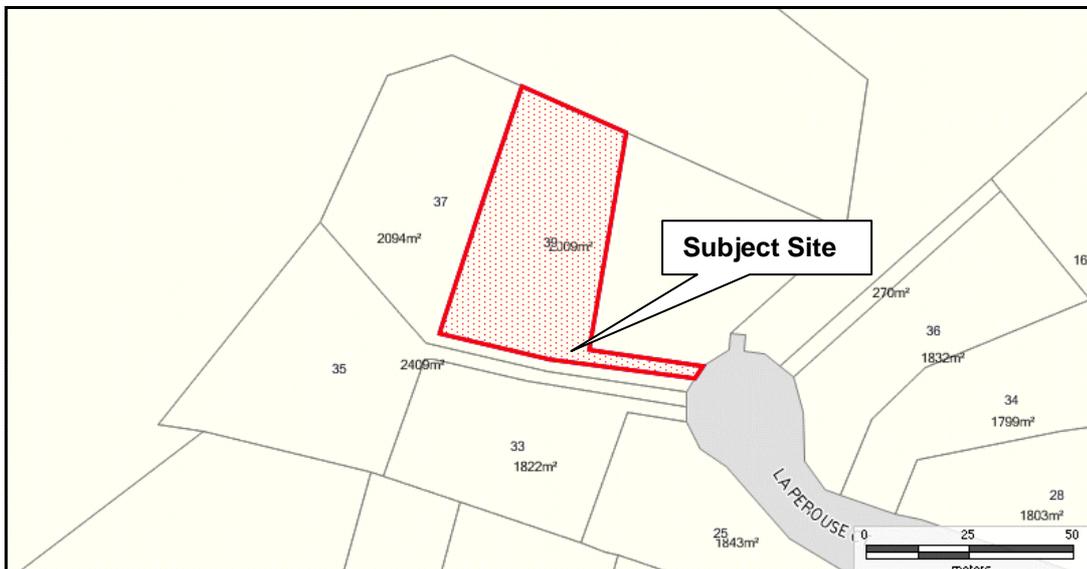
**ITEM TITLE:** DEVELOPMENT APPLICATION – SINGLE HOUSE – 39 LA PEROUSE COURT, GOODE BEACH

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

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

- File Number or Name of Ward** : A185755 (Vancouver Ward)
- Summary of Key Issues** : Relaxation of side setbacks and building envelope
- Land Description** : Lot 654, 39 La Perouse Court, Goode Beach
- Proponent** : Concept Building Design
- Owner** : S & S Jarvis
- Reporting Officer(s)** : Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 15/04/03 - Item11.3.3  
OCM 15/07/03 - Item 11.3.2  
OCM 21/04/09 - Item 11.6.2
- Bulletin Attachment Reference** : 1. Application for Planning Scheme Consent  
2. External Materials/Finishes Reflectance Values  
3. Local Planning Policy – Building Envelopes within Special Residential Area No. 8.
- Consulted References** : 1. Town Planning Scheme 3  
2. Use of Reflective Building Materials in Goode Beach
- Councillor Lounge** : Colour copy of artists impression of proposed building.

**Maps and Diagrams:**



Item 13.1.1 continued.

## **BACKGROUND**

1. The application site is an undeveloped parcel of land 2009m<sup>2</sup> in area, located to the west of the 'Cul-de-Sac' end of La Perouse Court, Goode Beach. The land is within Special Residential Area No.8 of Town Planning Scheme 3.
2. At its meeting dated 15 April 2003 Council made a lengthy resolution including:  
  
*"iii) require staff to refer all Planning Scheme Consents to Council for determination for lots 401 and 402."*
3. The proposed dwelling has been referred to Council for consideration in accordance with the above point of this resolution.

## **DISCUSSION**

4. The application seeks Planning Scheme Consent for a two storey dwelling house. The proposal was sent to the adjoining landowners for comment by registered post on 5 June 2009. No response has been received in response to this consultation.
5. The site is undulating and comprises vegetated dunes. The building envelope defined in the subdivision guide plan and revised in Local Planning Policy 'Building Envelopes within Special Residential Area No. 8' is located towards the north of the lot, with the majority of the envelope within a lower lying area / gully between two dunes.
6. The proposed house is designed with a ground floor nestled in the gully between the dunes, with a larger first floor above stretching towards the rising slope of the dunes to the north and south. It is to be supported on poles and it does not significantly impact on the natural slope of the dunes (no cut and fill or excavation is required for foundations).
7. On the plans, the building is shown to encroach beyond the designated building envelope, but for the most part this is the floor and roof overhang; the supporting structure below is located within the building envelope. The exception is a small element to the west side where the structural walls for the garage would encroach a maximum 1.3m out of the building envelope. This minimal encroachment is considered by staff to be acceptable.
8. The Special Provisions for Special Rural No.8 includes a measurement of building heights figure. For sloping ground, this establishes a method for setting a site datum height from which to measure the building height. The maximum wall height is set 5.6m above the datum with an overall building height of 9.1m.
9. With the undulating topography of this site it is very difficult to set a realistic datum using the method in the special provisions, but using this formula a datum has been calculated to be 7.06m AHD. Therefore, the maximum wall height for this site is to be 12.66m AHD and maximum building height is to be 16.16m AHD.

Item 13.1.1 continued.

10. Although the proposed dwelling has a wall height of 6.3m, the finished floor level of the ground floor is shown to be 3.5m AHD, with the first floor at 6.5m AHD (both below the datum level). Accordingly the highest part of the wall would be at 10.25m AHD and with the low-pitched skillion (mono-pitched) roof elements the highest part of the roof does not exceed 11m AHD. This is well below the maximum permitted under the Special Provisions calculations. Accordingly, it is staff's opinion that the design satisfies the scheme provisions and will not be significantly intrusive in the surrounding landscape setting, nor by reason of its bulk, scale and massing detriment to surrounding landowners.
11. The Local Planning Policy 'Building Envelopes within Special Residential Area No.8' requires a front elevation drawing showing the proposed development in relation to the landscape, plus a drainage strategy for the gully to be provided with a development application on the lots within its area. The landscape elevation is intended to demonstrate the impact on the surrounding area in terms of visibility beyond the dunes and the drainage strategy to control run-off from the dune ridges to maintain the structural integrity of any buildings.
12. The drainage strategy can be required by condition. Although a landscape elevation has not been provided with this application, the building is setback and below the dune ridge to the south of the lot. This dune ridge is higher than the proposed building at 11.5m AHD. Given the setback from the road and with the intervening dune ridge and associated vegetation, it is unlikely the development will be visible from any public vantage point in reasonable proximity to the property. The building will only be visible from higher ground further away from the site and any visual impact is diminished with increased distance when considered in the setting at the fringe of the Goode Beach residential area.
13. A balcony is proposed at first floor level, above the garage mentioned previously. Part of this balcony encroaches with the garage out of the building envelope to the west and at its nearest point would be only 3.2m from the boundary. Although this balcony is above the garage effectively at first floor level when viewed within the site, this is cut into the rising dune. Beyond the garage wall/balcony the natural ground level rises by 1.5m above the balcony floor level at the boundary and continues to rise beyond the property boundary. Staff considers the balcony will not give rise to overlooking or privacy issues from the proposed dwelling; and with the adjoining landowners not objecting, the requested minor building envelope relaxation is considered acceptable.
14. This proposed development also falls within the Goode Beach Reflective Building Materials Policy catchment. The proponent has provided the reflectance values for some of the external finishes together with an indicative visual representation. They have been unable to obtain reflectance values for the proposed natural stone. Also, Colorbond give reflectance values only for their standard range of wall and roof cladding. Due to the proximity to the sea, Colorbond Ultra is required for durability in this instance, thus the reflectance values given are not for the actual materials proposed.

Item 13.1.1 continued.

15. Most of the materials have a reflectance value below 50% except for “vivid white” (93.9%) to be used to paint feature panels and fascia. “Vivid white” is proposed with a matt finish rather than gloss and is to be used minimally to accentuate specific architectural features and elements of the building. The proponent has provided a justification for the use of this highly reflective finish. As this is mostly on the central light tower, much of it is screened from views outside the site by the building around it.
16. The Reflective Materials Policy has set assessment criteria for the use of highly reflective building materials. Although the proposal meets some of this, it is impossible to assess compliance with certain elements. The neighbouring lot to the west is partly on a higher natural ground level and is currently vacant. It depends where, within the building envelope, and whether a future building is single or two-storey as to whether or not the small element of reflective material will be overlooked from any future dwelling on this adjoining land. Also, it is a matter of opinion whether or not it would create a nuisance and it is difficult to predict if it will present a hazard.
17. Although staff are of the opinion the limited use of the reflective paint surface is acceptable in this instance, it cannot be determined if it complies with the Council Policy. The colour finish can be controlled by condition and Councillors are requested to make a determination if this is appropriate.

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

18. Copies of the proposal were sent by the proponent to the adjoining landowners by registered post on 5 June 2009. No responses have been received from this consultation.

#### **GOVERNMENT CONSULTATION**

19. Not applicable.

#### **STATUTORY IMPLICATIONS**

20. The land is zoned ‘Special Residential (Area No.8)’ in Town Planning Scheme No.3, whereby a single house is a permitted use. The Special Provisions applicable to this zoning within the Scheme requires compliance with a range of provisions including building setbacks/envelopes, height, materials, colour, fire control and the provision of services.
21. Clause 6.9.4 of Town Planning Scheme 3 states:
  - a) *A Town Planning Scheme Policy shall not bind the Council in respect of an application for Planning Consent, however, it may require the Council to advertise its intention to relax the provisions of the Policy once a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
  - b) *Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve and any submissions lodge, before making its decision.*

Item 13.1.1 continued.

## **FINANCIAL IMPLICATIONS**

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

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

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

*1. Lifestyle & Environment,*

*Albany will be a City where...*

*1.5 Development...*

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

## **POLICY IMPLICATIONS**

24. At its meeting dated 15<sup>th</sup> July 2003, Council resolved to adopt the policy entitled 'Building Envelopes within Special Residential Area No. 8'. The policy was primarily introduced to realign building envelopes, affected by minor changes in the subdivision layout.

25. The Policy also included provisions to ensure that development pays particular attention to:

- the minimisation of erosion, soil and vegetation disturbance;
- ensuring that building envelopes do not conflict with, or detract from, the landscape in terms of their design, location, scale, height or otherwise; and
- minimising the impact of the development on the physical environment, particularly in terms of foreshore management, bushfire control, on-site effluent disposal and other servicing requirements.

26. The minor encroachment into the building envelope can be determined on the individual planning merits of the proposal. The area of encroachment can be adequately compensated for elsewhere by relinquishing an equivalent area of the building envelope. The design and scale of the proposed development together with the specific topography of the site offers unique circumstances that would not set a precedent for future proposals in the policy area.

27. The minimal use of cladding with a high reflectance value has highlighted operational anomalies in using the assessment criteria of the Reflective Building Materials Policy if the policy is applied literally. This does not effect Council's ability to make a determination in this particular instance, nor does the decision prejudice Council's ability to make future decisions.

Item 13.1.1 continued.

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

28. 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**

29. The application proposes a single residential house of two-storey design.
30. A minor encroachment into the building envelope and a boundary setback relaxation are proposed. These are considered acceptable as laid out in paragraphs 7 and 9 of the discussion above.
31. The development proposes the use of a highly reflective finish for limited architectural elements of the development; Council needs to determine to what extent that element should be assessed against the criteria defined in the Council Policy 'Use of Reflective Building Materials in Goode Beach'. Although Staff are of the opinion the proposed use of this finish will have minimal impact, this decision requires a direction from Council, with possible revision of the policy. Whether or not the use of the paint applied to a timber, concrete or other surface is supported, can be the subject of a condition and does not prevent Council from approving the proposal should Council be minded to.

Item 13.1.1 continued.

**ITEM NUMBER – 13.1.1 OFFICER RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS**  
**SECONDED: CR DUFTY**

**THAT Council SUPPORTS the issuing of a Notice of Planning Scheme Consent for a 'Single House' at Lot 654, (39) La Perouse Court, Goode Beach, subject to, but not limited to, the following conditions:**

- i) Prior to the issue of a Building Licence, detailed plans and specifications of the proposed method of stormwater disposal shall be submitted to and approved in writing by or on behalf of the Council;**
- ii) Prior to the issue of a Building Licence, a drainage strategy to control run-off from the ridges down into the gully and to protect the structural integrity of the dwelling shall be submitted to and agreed in writing by or on behalf of the Council;**
- iii) The new crossover/s being constructed to Council's specifications, levels and satisfaction in accordance with drawings 97024 to 97028. A permit from Council is required prior to any work being carried out within the road reserve;**
- iv) The development hereby approved shall be constructed in accordance with Australian Standard 3959 (AS3959 – Building in Bushfire Prone Areas) or any such standard that replaces it; and**
- v) Notwithstanding the submitted details, no external finishes or materials on the development hereby approved shall exceed a Light Reflectance Value of 0.50 (50%). The portions of the building intended to be finished in "Vivid White" shall be clad another colour to be agreed in writing by or on behalf of the Council.**

**MOTION CARRIED 7-0**

**ITEM NUMBER – 13.1.1 OFFICER RECOMMENDATION 2**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR DUFTY**  
**SECONDED: CR WOLFE**

**THAT Council DELEGATES it's authority to the Co-ordinator Development Control Planning pursuant to Clause 6.10 of the City of Albany Town Planning Scheme 3, to issue a Notice of Planning Scheme Consent for a 'Single House' at Lot 654, (39) La Perouse Court, Goode Beach and empowers the Co-ordinator Development Control Planning to incorporate any further conditions that he considers necessary.**

**MOTION CARRIED 7-0**  
**ABSOLUTE MAJORITY**

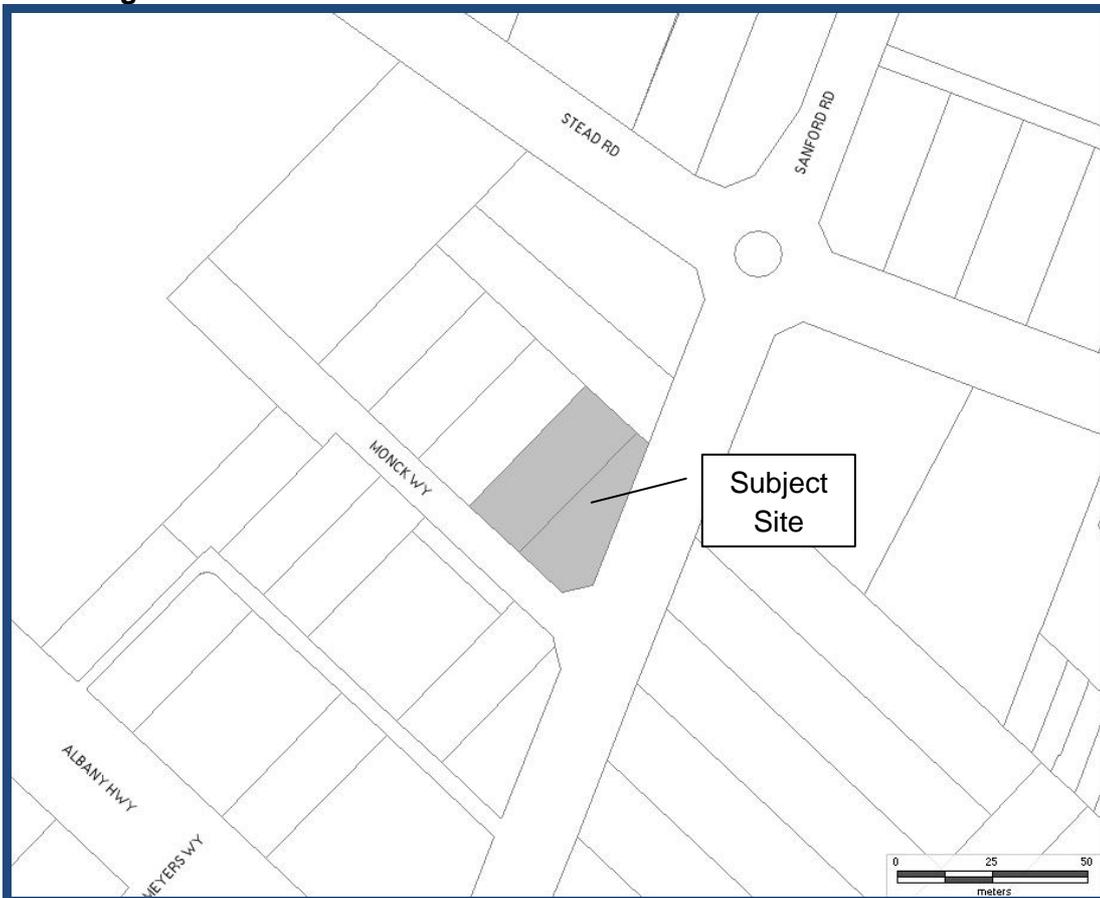
**ITEM NUMBER:** 13.2.1  
**ITEM TITLE:** INITIATION OF SCHEME AMENDMENT LOTS 19 & 20 MONCK WAY, CENTENNIAL PARK

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

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

- File Number or Name of Ward** : AMD 173 (Frederickstown Ward)
- Summary of Key Points** : Determine whether to initiate the rezoning of Lots 19 & 20 Monck Way from the 'Public Use' Reserve to the 'Industry' Zone.
- Land Description** : Lots 19 & 20 Monck Way, Centennial Park
- Proponent** : Ayton Baesjou Planning
- Owner** : Crown Land
- Reporting Officer(s)** : Planning Officer (C McMurtrie)  
Strategic Planner (A Nicoll)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/07/09 - Item 13.2.4  
OCM 21/04/09 - Item 11.2.3
- Bulletin Attachment(s)** : Nil (documents provided at OCM 21/07/09)
- Consulted References** : 1. Albany Local Planning Strategy  
2. Local Planning Scheme 1
- Councillor Lounge** : Nil

**Maps and Diagrams:**



Item 13.2.1 continued.

## BACKGROUND

1. Amendment 173 proposes to rezone Lots 19 & 20 Monck Way, Centennial Park from a 'Public Use' Reservation to the 'Industry' Zone under Town Planning Scheme (TPS) No.1A.
2. A Scheme Amendment Request (SAR 142) that proposed to rezone the subject land to 'Industry' was considered by Council at its ordinary meeting dated 21 April 2009. Council resolved to advise the proponent that it is prepared to entertain the submission of a formal scheme amendment to re-zone Lots 19 & 20 Monck Way, Centennial Park from the 'Public Use' Reserve to the 'Industry' Zone.
3. Amending documents were submitted to the July Council meeting. Staff recommended that Amendment 173 be initiated on the grounds that the proposal is consistent with the objectives of the Albany Local Planning Strategy (ALPS).
4. Concern was raised over the possibility that the proposed zoning would not be consistent with the objectives of the ALPS and Council resolved to 'lay the item on the table' for further consideration.

## DISCUSSION

5. The ALPS indicates this area as 'City Centre', the objectives of which include:
 

*"Promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern" (refer to section 8.5.2 of the ALPS); and*

*"guide a transition of land uses from heavy industrial to mixed-use activities...to ensure the establishment of a long-term living environment without curtailing the shorter-term operational requirements of existing industries" (refer to section 5.2.1 of the ALPS).*
6. There are currently 'Industrial' and 'Other Commercial' zoned properties in the vicinity of the area.
7. The draft Local Planning Scheme 1, has been initiated by Council and not yet endorsed by the Western Australian Planning Commission for advertising; the draft scheme recommends a 'Regional Centre/Mixed Business' zone for this area.
8. The following table illustrates uses that are either supported or not supported in the various zones mentioned in this report for TPS1A and the draft LPS1:

	Public Use (TPS1A)	Industry (TPS1A)	Other Commercial (TPS1A)	Regional Centre/ Mixed Business LPS1
<b>Light Industry</b>	Discretionary. Land Reserved for Public Use	Permitted	May be Permitted	Not Permitted
<b>General Industry</b>	Discretionary. Land Reserved for Public Use	Permitted	Not Permitted	Not Permitted
<b>Bulky Goods/Showroom</b>	Discretionary. Land Reserved for Public Use	May be Permitted	Permitted	May be Permitted
<b>Retail/Shop</b>	Discretionary. Land Reserved for Public Use	Not Permitted	Not Permitted	May be Permitted
<b>Residential</b>	Discretionary. Land Reserved for Public Use	Not Permitted	Not Permitted	May Be Permitted

Item 13.2.1 continued.

9. In respect to the information provided in the table above it can be said that:
  - the 'Public Use' Reservation is non-specific and is not consistent with the other zones (industry and commercial) in the area;
  - the 'Industry' and 'Other Commercial' zones support similar uses other than for 'general industry', which is not supported in the 'Other Commercial' zone.
  - the 'Regional Centre/Mixed Business' zone will not support any industry, and it does support shops and residential, which is dissimilar to 'Other Commercial' and 'Industry' and more reflective of the strategic objectives of the area as described by the ALPS.
10. Considering the ALPS and the LPS1 are looking to transition the area from industry to shop/commercial and considering the 'Other Commercial' zone does not support heavy industrial type practices, it may be more practical to go to the 'Other Commercial' zone rather than the 'Industry' zone. However, such a zoning ('Other Commercial') would be inconsistent with the zoning of lots on the west side of Sanford Road.
11. It is considered impractical to introduce a complete new zoning classification ('Regional Centre/Mixed Business') to resolve this two lot re-zoning application. Until such time that the new LPS1 is gazetted, which may be a number of years away, it is more practical to consider a zoning already adopted in the TPS1A.

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

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

#### **GOVERNMENT CONSULTATION**

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

#### **STATUTORY IMPLICATIONS**

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 is to be referred to the Environmental Protection Authority (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 should not be construed to mean that final approval will be granted to that amendment.

Item 13.2.1 continued.

### **FINANCIAL IMPLICATIONS**

19. Where Council refuses approval for the development of land reserved under the Scheme on the grounds that the land is reserved for public purposes, or grants approval subject to conditions that are unacceptable to the applicant the owner of the land may, if the land is injuriously affected by the making of the Scheme, claim compensation for such injurious affection.

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

20. The subject land is located within an area shown as 'Albany (Regional Centre)' within the ALPS. The 'Albany (Regional Centre)' designation is indicative in ALPS and will be further informed / refined by the Commercial Strategy currently being prepared for Council by Shrapnel Planning.
21. The draft Local Planning Scheme No. 1 (which has recently been initiated by Council) is proposing to zone the area 'Regional Centre/Mixed Business' promoting a gradual transition from traditional industrial to mixed use development in the future.
22. The 'Other Commercial' zoning is more consistent with the objectives of the ALPS and the proposed direction within Local Planning Scheme No. 1, but is inconsistent with the adjacent lot zonings.

### **POLICY IMPLICATIONS**

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

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

24. 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.
25. A resolution to initiate an amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
26. 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**

27. There are strong arguments for the zoning of the land to be either:
  - Delayed until such time as the draft scheme is adopted; or
  - 'Other Commercial', which is more consistent (than industry) with the strategic intent of the area; or
  - 'Industry', which is more consistent (than other commercial) with the current zonings in the vicinity.

Item 13.2.1 continued.

28. Staff recommend a change in the zoning of the lots (rather than delay) in order to provide greater clarity in the type of land uses that may be permitted in accordance with the current TPS1A. Delaying the zoning of the land at this point in time (draft scheme not yet considered by Western Australian Planning Commission) may lead to financial implications for the City (refer to paragraph 20 of this report).
29. Zoning the land to 'Other Commercial' would create a 'spot rezoning' (zoning inconsistent with the surrounding lots), which Council and the Commission has previously not supported.
30. With all things considered, including the fact that Council previously resolved to advise the proponent that it is prepared to entertain the submission of a formal scheme amendment to re-zone the land to 'Industry' Zone, staff recommend the best approach taken at this point in time is to zone the land to 'Industry'.

**ITEM NUMBER 13.2.1 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR DUFTY**

**THAT Council in pursuance of Section 75 of the Planning and Development Act 2005 and Regulation 25(i)(c) of the Town Planning Regulations 1967 resolves to INITIATE, Amendment No. 173 to Town Planning Scheme No. 1A for the purpose of:**

- i) Zoning Lots 19 & 20 Monck Way, Centennial Park from the 'Public Use' Reserve to the 'Industry' Zone; and**
- ii) Amending the Scheme Maps accordingly.**

**MOTION CARRIED 4-3**

**Record of Vote**

**For the motion: Mayor Evans, Councillors Kidman, Dufty and Wolfe**

**Against the motion: Councillors Paver, Torr and Bostock**

**ITEM NUMBER:** 13.2.2  
**ITEM TITLE:** RECONSIDERATION OF FINAL APPROVAL OF SCHEME  
AMENDMENT 259 – CONSERVATION ZONE – NULLAKI

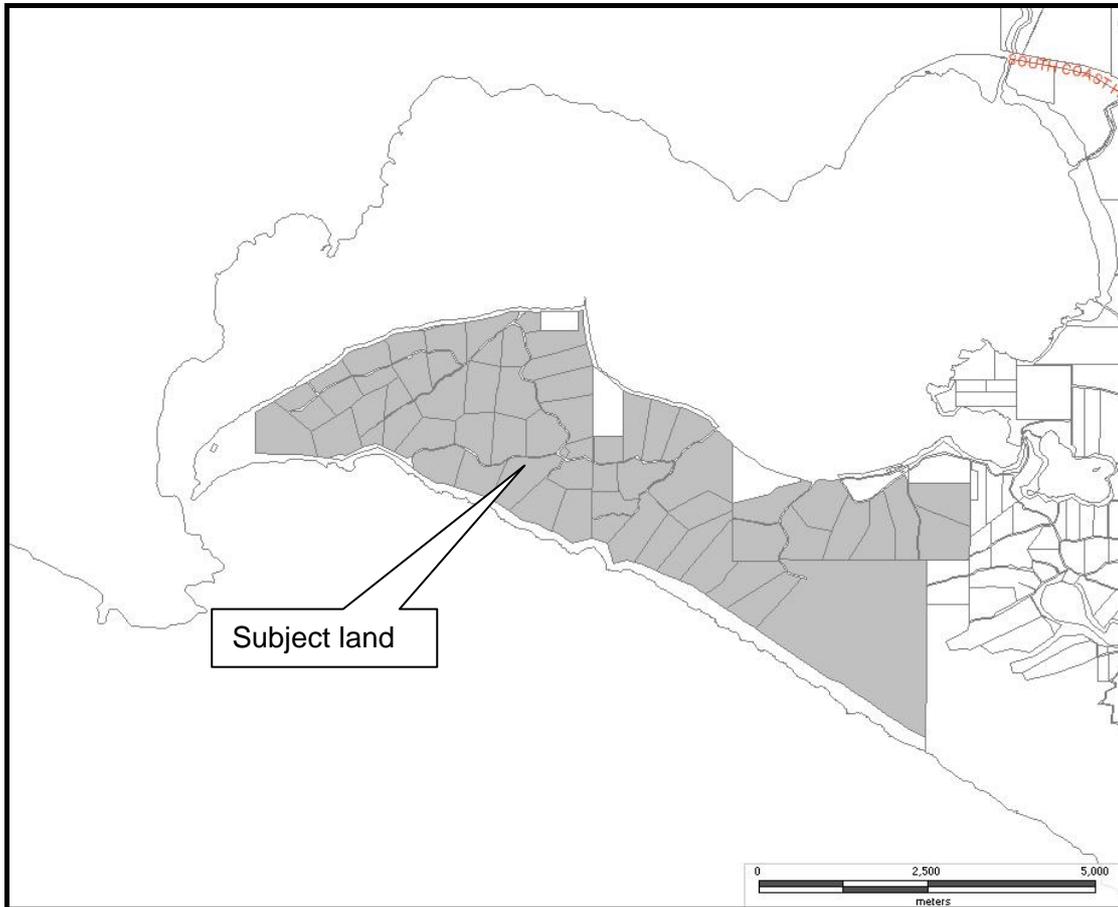
**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER**

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

<b>File Number or Name of Ward</b>	: AMD 259 (West Ward)
<b>Summary of Key Points</b>	: Request to reconsider final approval of AMD 259 to modify the Subdivision Guide Plan and introduce new scheme provisions for Conservation Zone Area No. 1
<b>Land Description</b>	: Locations 1609, 1828, 1947, 1990-1992, 2064, 2229 and 3102 Eden Road, Nullaki
<b>Proponent</b>	: Ayton Baesjou Planning
<b>Owner</b>	: G J Robertson & S Dzwonnik and various landowners
<b>Reporting Officer(s)</b>	: Planning Officer (C McMurtrie)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 21/12/04 – Item 11.3.2 OCM 19/07/05 – Item 11.3.6 OCM 19/12/06 – Item 11.3.4 OCM 19/12/06 – Item 11.1.3 OCM 18/09/07 – Item 11.3.5 OCM 19/02/08 – Item 11.3.4
<b>Bulletin Attachment(s)</b>	: 1. Copy of correspondence from Ayton Baesjou Planning. 2. Copy of correspondence from MP Rogers & Associates PL. 3. Copy of report from Coffey Geotechnics Pty Ltd.
<b>Consulted References</b>	: 1. Albany Local Planning Strategy. 2. WA Planning Commission (WAPC) Statements of Planning Policy (SPPs) SPP2.6.
<b>Councillor Lounge</b>	: 1. Copy of Amending Document. 2. Copy of OCM 19/02/08 – Item 11.3.4 and attendant Schedule of Submissions. 3. Copy of correspondence and Schedule of Modifications from WAPC.

Item 13.2.2 continued.

**Maps and Diagrams:**



**BACKGROUND**

1. Council initiated Amendment 247 at its ordinary meeting on 19 July 2005 to modify the subdivision guide plan and scheme provisions associated with the Nullaki Conservation Zone. One of the new provisions made allowance for 42 additional caretakers' dwellings to be developed within the zone. However, the Environmental Protection Authority (EPA) and the Minister for Planning and Infrastructure considered the additional caretakers' dwellings to be inconsistent with the objectives of the zone, as they could potentially have detrimental impacts on flora, fauna, surface water and groundwater. Consequently, the amendment was rejected and Council was appropriately notified of that decision.
2. Following this outcome, the proponent prepared Amendment 259, to which this report refers. This removed the provision allowing for additional caretakers' dwellings, but retained the modifications to the subdivision guide plan and other proposed scheme provisions that formed part of Amendment 247. The EPA supported the modifications, allowing the amendment to proceed through advertising. Few submissions were received and no modifications to the draft documents were considered necessary. At the ordinary Council meeting on the 18 September 2007 Council resolved;

Item 13.2.2 continued.

*“THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005, resolves to amend the City of Albany’s Town Planning Scheme No. 3 by amending the Subdivision Guide Plan and various provisions associated with Development Exclusion Areas, development approval and road alignments within Conservation Zone Area No. 1”.*

3. The amending documents were then referred to the Department for Planning and Infrastructure (DPI) for review prior to final approval by the Western Australian Planning Commission (WAPC) and the Minister for Planning. However, on review of the referral process undertaken by the City, DPI staff and City officers felt it necessary to refer the amendment to additional Government departments and additional landholders on the Nullaki peninsula prior to it progressing to the WAPC and the Minister. At the close of the second advertising period, 19 submissions had been received and staff believed it necessary for Council to formally reconsider the proposal.
4. After considering the various issues raised in the submissions at the ordinary Council meeting on 19 February 2008 Council resolved;
  - “i) *THAT the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either Noted, Upheld or Dismissed as detailed;*
  - ii) *THAT Council amend the City of Albany’s Town Planning Scheme No. 3 by amending the Subdivision Guide Plan and various provisions associated with Development Exclusion Areas, development approval and road alignments within Conservation Zone Area No. 1; and*
  - iii) *THAT the amending documents be modified as recommended, appropriately signed and then forwarded to the Minister for Planning for execution and gazetta”.*
5. The amending documents were again referred to the DPI for review and final approval by the WAPC and the Minister for Planning. The WAPC subsequently advised that the Minister had determined not to approve the amendment until such time as the changes set out in the Schedule of Modifications had been incorporated into the amending document.
6. However, the proponents have continued to express their doubt over the requirements for a Development Exclusion Area and 200m setback from the southern boundary of those lots adjoining the coastal foreshore reserve. They have submitted reports from MP Rogers & Associates PL (Consulting Engineers) and Coffey Geotechnics Pty Ltd that support this position, in addition to questioning a number of other changes required within the WAPC’s Schedule of Modifications.

## DISCUSSION

7. The proposal seeks to modify a number of the development provisions within the Nullaki Conservation Zone Area No. 1. The need for these changes has arisen from difficulties and inconsistencies in interpreting and applying some of the existing scheme provisions.
8. The modifications relate to the following broad issues:
  - Removal of the Development Exclusion Area and 200m setback from the southern boundaries of lots that adjoin the coastal foreshore reserve;
  - the preservation of visual amenity from public vantage points;
  - improving controls governing the clearing and management of vegetation;
  - improving fire management measures; and
  - updating the Subdivision Guide Plan accordingly.

Item 13.2.2 continued.

9. The Albany Local Planning Strategy (ALPS) identifies the subject land as an “environmental protection area”. The key element of this designation is to protect biodiversity, natural character and resources and to reduce the environmental impacts from land use and development. It is considered that the proposal is broadly consistent with these objectives.
10. The principal issue relates to the removal of the Development Exclusion Area and 200m setback requirement from the Subdivision Guide Plan and the Scheme Provisions, which Council has previously resolved to support. However, WAPC requires the retention of these, as outlined in modifications 1, 3, 6, 7 and 11, based on the outcomes of previous studies and the need to highlight the area where any development may have a significant impact on views from Ocean Beach Lookout in Denmark.
11. The proponents have stated that they find these modifications unacceptable and have provided reports from MP Rogers & Associates PL (Consulting Engineers) and Coffey Geotechnics Pty Ltd that support their position. The report from M P Rogers & Associates states that *“aerial photography of this area along with our site inspection completed in March 2009 indicates that this area is a rocky coastline, consisting of rock cliffs that extend in the order of 100 to 160m above sea level...”*

*The classification of a rocky shoreline within SPP 2.6 is one on which “the highest visible impact of sea action is in direct contact with lithified material”. This classification is clearly applicable for this section of coastline; therefore a full setback assessment comprising the determination of the S1, S2 and S3 components as outlined in DPI’s memorandum is not required. Rather, the policy calls for “the coastal processes setback to be determined following a geotechnical survey accounting for possible erosion over a 100 year period. In the absence of any survey, the minimum setback shall be 50m from the HSD”.*

*The HSD, or horizontal setback datum, is defined as the “normalised alignment of the landward limit of sea action on the coast”. Further, it was noted by DPI in their correspondence that the HSD should be the inner extent of cavernous undercutting. Due to the nature of the cliffs, access to the bottom to investigate any undercutting was not possible, however no visible undercutting was observed during our site visit. In any case, in the absence of a geotechnical survey, a 50m setback from the HSD as stated within the policy would not be suitable in this instance as this would mean development could potentially be placed on the slope face of the cliffs in some locations”.*

12. The report then outlines that, given the nature of the cliffs, the services of Coffey Geotechnics were engaged to undertake a specialist geotechnical survey to provide advice on the expected changes over the 100 year planning period.
13. The report from Coffey Geotechnics states that *“it is anticipated that over the relatively short period (in geological time) of 100 years, that is typically considered for this type of project, the process of erosion of the cliffs outlined above will not result in significant retreat of the existing shoreline”.*
14. This report concludes that a 50m setback from the southern lot boundaries provides an appropriate setback distance for the remaining six coastal lots (Lot 154 to Lot 161), based on two theoretical slopes drawn inland at angles of 33° and 45° from the base of a 50m high section of cliff, composed of fresh rock overlain by variably cemented sand (weathered rock) to the top of the slope.

Item 13.2.2 continued.

15. It was found that this 50m setback line, taken from the southern lot boundaries, would be predominantly located behind the two theoretical slope lines, as illustrated in Figure 1 appended to the Coffey Geotechnics report. Councillors should note that the lot boundaries are located between 150 and 300m from the shoreline, which due to the lack of cavernous undercutting places the HSD approximately 30m back from the shoreline. Therefore, development could not occur within approximately 230m of the shoreline, as opposed to the 400m required by the existing Subdivision Guide Plan and Scheme Provisions.
16. This reduction would allow the resultant building locations to benefit from the scenic amenity afforded by these lots, while minimising their impact on the visual amenity of the Ocean Beach Lookout. In addition, this would ensure that developments are not visible from the main access road to the development.
17. Therefore:
  - Only Modifications 1 and 7 should be reconsidered in their entirety.
  - Modification 3, only the insertion after Clause 3.3 of a clause specifically defining Development Exclusion Areas should be reconsidered.
  - Modification 6 (the retention of Clause 4.5 of the existing Special Provisions) is supported, provided that references to Development Exclusion Areas and the 200m setback from the southern boundaries of lots adjoining the coastal foreshore reserve are removed from this clause.
  - Modification 11 should be supported, on the basis that the above changes are made to Clause 4.5 of the Special Provisions.
  - The proponents have also stated that they find Modifications 5, 12 and 13 unacceptable. However, these seem logical changes provided that Clause 4.5 of the special provisions remains in place. This clause does refer to the 200m setback from the coastal foreshore reserve, though this could be easily modified to a reduced figure if necessary.
  - Finally, the proponents have stated that Modifications 8 to 10 require further clarification. Indeed, confusion could arise over Modification 8, as it is unclear if the amending document is referring to the Bibbulmun Track or another coastal path, or if it should be referring to both. This can be easily rectified through discussion with the proponents and the Department of Planning (DoP – formerly DPI) and a simple modification to the text, if necessary.
  - Modification 9 relates to Development Exclusion Areas. If the Development Exclusion Areas are removed from the Subdivision Guide Plan, this modification will be made redundant.
  - Modification 10 requires replacement of the words “*not visible from a foreshore node or the Bibbulmun Track*” with “*not visually prominent from a foreshore node*” in Clause 4.8. The justification given is that “*the Bibbulmun Track does not exist in the area the area described in the clause*”. In fact, the Bibbulmun Track does exist in this area, as it follows a route from the sandbar at the mouth of the Wilson Inlet along the northern coast of the Nullaki peninsula. This reference should therefore remain in the clause. However, the replacement of the words “*not visible*” with the words “*not visually prominent*” would be supported for the reason outlined in the Schedule of Modifications.

Item 13.2.2 continued.

18. Overall, it is considered that the 50m setback from the southern boundaries of lots adjoining the coastal foreshore reserve is an appropriate replacement for the current Development Exclusion Areas and 200m setback requirement, as set out in the existing Subdivision Guide Plan and Scheme Provisions. The remaining issues can be addressed by minor modifications to the text following appropriate discussion with the proponents and DoP.

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

19. Nil.

#### **GOVERNMENT CONSULTATION**

20. Nil.

#### **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 approval of the amendment requires endorsement by the WAPC and the approval of the Minister for Planning.

#### **FINANCIAL IMPLICATIONS**

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

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

23. The draft Albany Local Planning Strategy (ALPS) identifies this area as an "environmental protection area"; the key element being to protect biodiversity, natural character and resources and to reduce the environmental impacts from land use and development.
24. The amendment is considered to be consistent with the key elements of the ALPS.

#### **POLICY IMPLICATIONS**

25. The Statement of Planning Policy (SPP) No. 2.6 (State Coastal Planning Policy) introduces a number of requirements for this area. The most applicable being:
- to provide for the protection of the landscape, flora and fauna;
  - to protect, conserve and enhance coastal values; and
  - to protect development from coastal processes.
26. The amendments to the Conservation Zone considered as part of this application are in keeping with these statements of planning policy.

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

27. Council has the following options in relation to this item, which are:
- To accept the modifications requested by the Minister for Planning; or
  - To request the Minister for Planning reconsider certain modifications.

Item 13.2.2 continued.

28. Council's decision on the scheme amendment is in effect a recommendation to the WAPC 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**

29. The finalisation of the proposed Scheme Amendment is recommended, subject to the modifications discussed in the body of this report.

**ITEM NUMBER 13.2.2. OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

**THAT Council write to the Minister for Planning requesting that Modifications 1, 3, 7, 8, 9 and 10 as listed in the Schedule of Modifications dated 10 December 2008 for Amendment No. 259 to Town Planning Scheme No. 3 be reconsidered due to the reasons outlined in report item 13.2.2.**

**MOTION CARRIED 4-3**

#### **Record of Vote**

**For the Motion: Mayor Evans, Councillors Kidman, Dufty and Wolfe**

**Against the motion: Councillors Paver, Torr and Bostock**

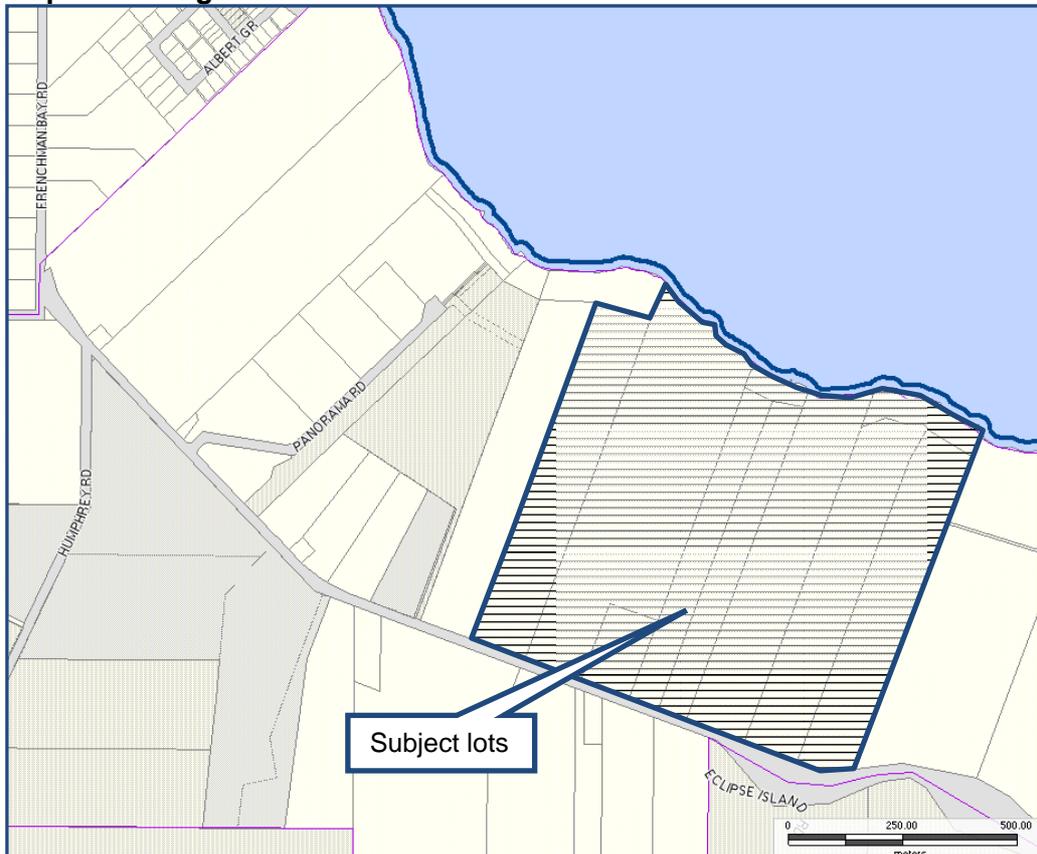
**ITEM NUMBER:** 13.2.3  
**ITEM TITLE:** FINAL APPROVAL OF SCHEME AMENDMENT – LOTS 1, 2, 2, 7, 20, 21, 109 & 110 FRENCHMAN BAY ROAD, BIG GROVE

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

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

- File Number or Name of Ward** : AMD 284 (Vancouver Ward)
- Summary of Key Issues** : Consider the submissions received from the public consultation period and determine whether to seek final approval to rezone land at Big Grove to Residential Development
- Land Description** : Lots 1, Lot 2 (no. 855) and Lot 2 (no. 887), 7, 20, 21, 109 & 110 Frenchman Bay Road, Big Grove
- Proponent** : RPS Koltasz Smith
- Owner** : Various
- Reporting Officer(s)** : Coordinator Statutory Planning (J Van Der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/06/05 - Item 11.3.9  
OCM 18/04/06 - Item 11.3.5  
OCM 20/06/06 - Item 11.3.1  
OCM 21/10/08 – Item 11.3.4
- Bulletin Attachment** : Copy of Submissions
- Consulted References** : Albany Local Planning Strategy (ALPS)
- Councillor Lounge** : Amendment document

**Maps and Diagrams:**



Item 13.2.3 continued.

## **BACKGROUND**

1. Council initiated Amendment 284 to Town Planning Scheme No. 3 at its Ordinary Meeting held on the 21 October 2008.
2. The amendment seeks to rezone the subject land from 'Rural' to 'Residential Development'.
3. The successful completion of this amendment will then facilitate the future development of the land to residential uses subject to the completion of an Outline Development Plan (ODP) to guide the future subdivision and development.

## **DISCUSSION**

4. The scheme amendment proposes to rezone the above lots from 'Rural' to 'Residential Development' to facilitate the future subdivision and development of the land in accordance with a proposed Outline Development Plan (ODP). The proposed ODP is subject to a separate assessment and future report to Council.
5. The amendment is consistent with Council's decision in June 2006 to support a scheme amendment request to rezone the land to residential development.
6. The outcome of this scheme amendment will effectively create a planning boundary around the subject land in which the landowners need to complete an ODP for adoption by Council and approval by the WA Planning Commission prior to subdivision or development proceeding.
7. The majority of the issues raised in the submissions do not relate to the scheme amendment. They are more relevant to the more detailed planning that needs to be undertaken and the information required during the preparation and adoption of the ODP. Staff expect the draft ODP will be presented to Council for consideration in the near future. The ODP if adopted will then be advertised and referred out for public and agency comment.
8. Staff recommend that the scheme amendment be finalised incorporating the following changes:
  - (a) include the following into Section 7.2 (Proposed outline development plan) of the amending document
    - 1) Council shall not consider the Outline Development Plan (ODP) unless the following issues are dealt with and documentation in that regard is included as part of the ODP.
      - The extent of the foreshore reserve (to the satisfaction of the Coastal Planning Branch of the Department of Planning and Department of Water);
      - A Foreshore Management Plan;
      - Fire Management Plan;
      - Visual Amenity Impact Assessment;
      - Local Water Management strategy; and
      - Additional Fauna and Flora studies and information as required by the Department of Environment and Conservation.

Item 13.2.3 continued.

- 2) The ODP will be prepared so that:
  - Key vegetation associations, fauna habitat and ecological linkages are retained where possible;
  - The length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reducing the incidence of native fauna road kills;
  - The coastal setback and foreshore reserve width is to the satisfaction of the DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.
  - Visual amenity from Torndirrup National Park and the Albany Township are not unduly affected.
  - The design recognises the ecological corridor values of the foreshore, with increased, rather than reduced, levels of vegetation.
  
- (b) include the following text under the relevant sub sections of Section 5 of the amending document:

*“ (a) The information regarding Fauna and Flora is not conclusive and any proposed ODP would have to contain additional studies, information, targeted fauna and flora surveys and management plans to the satisfaction of the Department of Environment and Conservation”*
  
- (c) in addition to only referring to lot numbers add the respective house numbers to all references to lot 2 and ensure that both are included throughout the document e.g. “Lot 2 (house no 855) and Lot 2 (House no 887) Frenchmans Bay Road”
  
- (d) include a reference to Sharp Point Road under Section 3.1 of the amending document

## **PUBLIC CONSULTATION/ENGAGEMENT**

9. The scheme amendment was advertised for 42 days in accordance with the requirements of the *Town Planning Regulations 1967* from 18<sup>th</sup> June 2009 to 29<sup>th</sup> July 2009 by placement of sign on-site, direct referral to affected and adjoining/nearby landowners and relevant State Government agencies and advertisement in the local newspaper.
10. A total of 11 written submissions were received as attached. The submissions received are summarised and discussed with a recommendation for each submission in the attached Schedule of Submissions.

## **GOVERNMENT CONSULTATION**

11. The scheme 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 formal assessment and in addition provided some advice and recommendations as outlined in the attached Schedule of Submissions.

Item 13.2.3 continued.

12. The amendment was also referred to the Department of Planning, Alinta Gas, Telstra, Water Corporation, Western Power, Albany Port Authority, Department of Agriculture and Food, Department of Health, Department of Water, Department of Environment and Conservation, Department of Education and Training and Main Roads WA for assessment and comment. Responses were received from Telstra, Water Corporation, Department of Water, Department of Environment and Conservation, Department of Education and Training and Main Roads WA and are summarised in the attached Schedule of Submissions.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

14. Not applicable.

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

15. The City's decision on the scheme amendment must be consistent with the outcomes of the draft Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
16. The subject area is located within an area identified for future urban uses within the draft Albany Local Planning Strategy (ALPS) adopted by Council in August 2007. The proposal to rezone the land is consistent with the settlement strategy objectives of ALPS.

### **POLICY IMPLICATIONS**

17. Council is also required to have regard to any WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) that apply to the scheme amendment. (SPP) No's 1 'State Planning Framework Policy' and 3 'Urban Growth and Settlement' establish the general principles for planning in Western Australia. The primary aim of these SPP's being to provide for the sustainable use and development of land by reducing energy consumption, consolidating development where there are existing services, supplying a range of suitable land for a variety of housing and to coordinate new development with the efficient, economic and timely provision of infrastructure and services.
18. The WAPC have 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.

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

19. Council has the following options in relation to this item, which are:
  - To seek final approval to the scheme amendment without modifications;
  - To seek final approval to the scheme amendment with modifications; or
  - To not seek final approval to the scheme amendment.

Item 13.2.3 continued.

20. 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**

21. The proposed scheme amendment is supported with modifications to address the relevant matters raised within the submissions.
22. The majority of the matters raised in the submissions are not directly relevant to the scheme amendment and would be dealt with during the preparation and adoption of the ODP plan which is the next stage of planning required to be undertaken for the land.

In accordance with clause 7.1(c) of the Standing Orders Local Law 2009, Cr Bostock moved a procedural motion.

#### Points of Clarification

Cr Bostock – Does the City have a copy of the Draft Outline Development Plan for this site?

EDDS response: We have a first draft, but that document is incomplete and inadequate, so at this moment we do not have a draft that we would feel comfortable putting forward to Council or to the public.

Cr Bostock – When we were deliberating Amendment 279, which was the first rezoning with regard to Big Grove, I raised a point of order in reference to State Planning Policy 2.6. I notice in the current officer report, that no specific mention of this policy is made. Are Councillors to conclude from this, that consideration of this document is not necessary at this stage?

EDDS response: Definitely not. It will be considered as part of the ODP process and will need to be addressed in great detail.

#### **ITEM 13.2.3 – PROCEDURAL MOTION BY COUNCILLOR BOSTOCK VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR BOSTOCK  
SECONDED: CR PAVER**

**THAT the motion (Item 13.2.3) be deferred until the September 2009 Ordinary Council Meeting.**

**MOTION LOST 3-4**

#### Record of Vote

**For the Motion: Councillors Paver, Torr and Bostock**

**Against the Motion: Mayor Evans, Councillors Dufty, Wolfe and Kidman**

#### **Councillor's Reasons:**

- Allow time to properly examine the ODP;
- It's impact on the environment; and
- How the State Planning Policy 2.6 can be implemented to ensure sympathetic development.

Item 13.2.3 continued.

Councillor Bostock: I draw your attention to this being against the local government act, we are breaking a written law, being: Planning and Development Act 2005,

Cr Bostock moved a Point of Order. Cr Bostock stated that this recommendation violated the **Planning and Development Act 2005, section 77(1)**. Every local government in preparing or amending a local planning scheme:

(a) Is to have due regard to any state planning policy (SPP), which effects it's district.

**I have reason to believe that this policy has not been examined.**

*In accordance with Standing Orders Local Law 2009, clause 4.15 (3), the Mayor directed the EDDS to respond to the claim made by Cr Bostock's point of order.*

*EDDS response: I suppose I am getting a little bit concerned about this process of what we (Council) have or haven't looked at. The State Planning Policy (SPP) 2.6 does say that you can look at Foreshore Issues at various stages and again Mr Mayor, it is a policy.*

*We (Council) are having regard to the change of the (zoning of the) land from Rural to Residential Development. There is a process to follow.*

*Were clearly all those issues can be explored in greater detail; clearly all those issues raised by Cr Bostock can be explored in greater detail.*

*If Cr Bostock requires all the answers up front, as a Councillor, she can certainly ask for that.*

*To my knowledge, in 30 odd years of planning, you don't get to that level of detail when you change the zoning of a piece of land, from Rural to Residential Development.*

*In that context:*

- *I am comfortable in terms of the planning regime;*
  - *In terms of the report; and*
  - *In terms of the amending documentation:*
- they are adequate to proceed, so I will stand by the Officer's recommendation.*

**ITEM NUMBER: 13.2.3 OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

1. THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* and Regulation 25(i)(c) of the Town Planning Regulations 1967 resolves to **ADOPT WITH MODIFICATIONS** Amendment 284 to the City of Albany Town Planning Scheme No. 3 for the purpose of:
  - a. Rezoning Lots 1, Lot 2 (house no 855) and Lot 2 (House no 887), 7, 20, 21, 109 & 110 Frenchman Bay Road, Big Grove from 'Rural' Zone to 'Residential Development' Zone; and
  - b. Amending the Scheme Map accordingly, subject to the following modifications to the amendment document being undertaken:
    - i. include the following within Section 7.2 - Proposed Outline Development Plan of the amending document:

Item 13.2.3 continued.

<p>(a) Council shall not consider the Outline Development Plan (ODP) unless the following issues are dealt with and documentation in that regard is included as part of the ODP.</p> <p>(b) A finalised foreshore reserve area and Foreshore Management Plan;</p> <p>(c) Fire Management Plan;</p> <p>(d) Visual Amenity Impact Assessment;</p> <p>(e) Local Water management strategy;</p> <p>(f) Additional Fauna and Flora studies and information as required by the Department of Environment and Conservation;</p> <p>(g) The ODP will be prepared so that:</p> <ul style="list-style-type: none"><li>i) key vegetation associations, fauna habitat and ecological linkages are retained where possible;</li><li>ii) the length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;</li><li>iii) Coastal setback and foreshore reserve width is to the satisfaction of the DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.</li><li>iv) Visual amenity from Torndirrup National Park and the Albany Township are not unduly affected.</li><li>v) The design recognises the ecological corridor values of the foreshore, with increased, rather than reduced, levels of vegetation.</li></ul> <p>ii. Include the following text under the relevant sub sections of section 5 of the amending document:</p> <ul style="list-style-type: none"><li>(a) The information regarding Fauna and Flora is not conclusive and any proposed ODP would have to contain additional studies, information, targeted fauna and flora surveys and management plans to the Satisfaction of DEC.</li><li>(b) In addition to only referring to lot numbers add the respective house numbers to all references to Lot 2 and ensure that both are included throughout the document e.g. "Lot 2 (house 855) and Lot 2 (House no 887) Frenchman Bay Road".</li><li>(c) include a reference to Sharp point road under the relevant sections of section 3.1 of the amending document.</li></ul> <p><b>AND</b></p> <p><b>THAT Council <u>RECEIVE</u> the Schedule of Submissions and <u>ADOPTS</u> the officer's recommendation to dismiss, uphold or note each individual submission as contained within the Schedule of Submissions.</b></p> <p style="text-align: right;"><b>MOTION CARRIED 4-3</b></p>
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**Record of Vote**

**For the Motion: Mayor Evans, Councillors Wolfe, Dufty and Kidman**

**Against the Motion: Councillors Paver, Bostock and Torr**

ORDINARY COUNCIL MEETING MINUTES 18/08/09  
 \*\*REFER DISCLAIMER\*\*  
 DEVELOPMENT SERVICES REPORTS

Item 13.2.3 continued.

<b>CITY OF ALBANY TOWN PLANNING SCHEME No. 3</b>				
<b>AMENDMENT No. 284</b>				
<b>SCHEDULE OF SUBMISSIONS</b>				
<b>No.</b>	<b>Name/Address of Submitter</b>	<b>Summary of Submission</b>	<b>Officer Comment</b>	<b>Council Recommendation</b>
1	Environmental Protection Authority PO Box K822 PERTH WA 6842	<p>The Environmental Protection Authority (EPA) has determined that the scheme amendment is not required to be formally assessed. They provide the following advice and recommendations on the amendment:</p> <p style="text-align: center;"><b>ADVICE AND RECOMMENDATIONS</b></p> <p>Environmental Issues</p> <ul style="list-style-type: none"> <li>• Coastal setback – foreshore reserve</li> <li>• Contamination – Soil and groundwater</li> <li>• Acid sulfate soils</li> <li>• Visual amenity</li> </ul> <p>Advice and recommendations regarding Environmental Issues</p> <p>The EPA notes that, no development can occur in areas zoned “Residential Development” until a Structure Plan or comprehensive Outline Development Plan (ODP) has been prepared. The EPA expects that the following advice will be implemented during the modification/preparation of the Big Grove ODP. A summary of modifications is provided</p> <p><u>Coastal setback – foreshore reserve</u> The EPA expects that the coastal setback and</p>	<p>The EPA advice will be considered and implemented through the development of the separate ODP process.</p> <p><u>Coastal setback – foreshore reserve</u> It is expected that the ODP document will include information regarding the coastal setback and foreshore reserve.</p> <p>The ODP should furthermore include as a requirement A Foreshore Management Plan.</p> <p>The extent of reserve area required for foreshore and recreation purposes will be finalised as part of the ODP process, this will secure the land them for these uses.</p> <p><u>Contamination – Soil and groundwater</u> The ODP should include a reference to the following condition; A Preliminary Site Investigation (PSI) should be carried out in accordance with Department of Environment and Conservation’s (DEC) Contaminated Sites Management Series. and If the site is found to be contaminated, a Site Remediation and Validation Report should be prepared and implemented to the satisfaction of DEC’s Contaminated Sites Branch prior to any subdivision or</p>	<p>The submission is upheld and the following modifications to the scheme amendment should be made.</p> <ol style="list-style-type: none"> <li>1. Reference should be made in the amending documentation that the information regarding Fauna and Flora is not conclusive and that any ODP would have to contain additional studies, information, targeted fauna and flora surveys and management plans to the Satisfaction of DEC.</li> <li>2. include the following reference Under 7.2 Proposed outline development plan.</li> </ol> <p>The ODP will be prepared so that:</p> <ul style="list-style-type: none"> <li>• key vegetation associations, fauna habitat and ecological linkages are retained where possible;</li> <li>• the length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface</li> </ul>

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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		<p>foreshore reserve will comply with the physical and ecological requirements of the Western Australian Planning Commission's (WAPC) State Planning Policy 2.6 – State Coastal Planning Policy.</p> <p>Some gazetted and proposed foreshore reserves are still zoned “Rural” rather than “Parks and Recreation”. It is the EPA's preference that this zoning anomaly be rectified at the earliest opportunity, and by the ODP stage at the latest.</p> <p><u>Contamination – Soil and groundwater</u> the soil and/or groundwater may be contaminated as a result of historical land-use which has included floriculture, and poultry and dairy farming. A Preliminary Site Investigation (PSI) should be carried out in accordance with Department of Environment and Conservation's (DEC) Contaminated Sites Management Series. If the site is found to be contaminated, a Site Remediation and Validation Report should be prepared and implemented to the satisfaction of DEC's Contaminated Sites Branch.</p> <p><u>Acid sulfate soils</u> Desktop investigation, based on broad-scale mapping, indicates that there is generally a low risk of Acid Sulfate Soils occurring within the</p>	<p>development.</p> <p><u>Acid sulfate soils</u> The ODP should include a reference to the requirement to determine the risk, extent and severity of for Acid sulphate soils and the required management procedures if required in accordance with WAPC Planning Bulletin No 64 – Acid Sulfate soils At the time of development and or subdivision to</p> <p><u>Visual amenity</u> A Visual Amenity Impact assessment and associated recommendations to manage the impacts will be required as part of the ODP.</p> <p><u>Remnant vegetation and Fauna</u> Additional flora and Fauna Studies and associated management plans will required as part of the ODP. E.G. a targeted Declared Rare Flora survey for (<i>Calectasia cyanea</i>). targeted fauna surveys and management plans.to the satisfaction of DEC and EPA</p> <p>The ODP should be prepared so that:</p> <ul style="list-style-type: none"> <li>key vegetation associations, fauna habitat and ecological linkages are retained where possible;</li> </ul>	<p>with the adjoining bushland and reduce native fauna road kills;</p> <ul style="list-style-type: none"> <li>Coastal setback and foreshore reserve width is to the satisfaction of the DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.</li> <li>Visual amenity from Torndirrup National Park and the Albany Township are not unduly affected.</li> </ul>

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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		<p>amendment area, with some pockets of medium potential.</p> <p>The EPA expects that the extent and severity of the risk will be determined in accordance with the Western Australian Planning Commission's Planning Bulletin No 64 – Acid Sulfate .If a Detailed Site Investigation and a Management Plan are required, they must be in accordance with DEC's Acid Sulfate Soils Guidelines Series (2003) and to the satisfaction of the DEC's Contaminated Sites Branch.</p> <p><u>Visual amenity</u></p> <p>The EPA's objective in relation to visual amenity is that the area adjacent to the proposal should not be unduly affected. The Big Grove ODP area is visually prominent from Torndirrup National Park, as well as from parts of Albany township itself. The EPA recommends that the layout of the site should not be visually obtrusive, building materials blend in with the natural environment, and existing vegetation be retained where feasible. Further advice regarding visual amenity can be sought from DEC.</p> <p>Environmental Issues not assessed</p> <p>Without limiting the EPA's discretion under</p>	<ul style="list-style-type: none"> <li>• the length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;</li> <li>• Coastal setback and foreshore reserve width is to the satisfaction of the DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.</li> <li>• Visual amenity from Torndirrup National Park and the Albany Township are not unduly affected.</li> </ul>	

ORDINARY COUNCIL MEETING MINUTES 18/08/09  
 \*\*REFER DISCLAIMER\*\*  
 DEVELOPMENT SERVICES REPORTS

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**  
**AMENDMENT No. 284**  
**SCHEDULE OF SUBMISSIONS**

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Council Recommendation
		<p>section 5(e) of the EP Act to require the referral of proposals arising from the scheme amendment and your discretion, as the responsible authority, under section 48I of the EP Act to refer proposals arising from the scheme amendment, the EPA advises that the following environmental issues are not assessed:</p> <p>Remnant vegetation Fauna</p> <p>Advice and recommendations regarding Environmental Issues not assessed</p> <p>Sufficient information is not available at this stage regarding the nature of the impacts on the environment arising from the implementation of the scheme amendment. Accordingly, the EPA advises that the environmental issues listed in paragraph 3 above are not assessed and, if not adequately addressed in the Big Grove ODP, the subsequent subdivisions or developments may require referral to the EPA under s.38 of the <i>Environmental Protection Act 1986</i>.</p> <p><u>Remnant vegetation</u> The area covered by the current Amendment No. 284 contains significantly more native vegetation in Excellent and Very Good condition than the portion of the Big Grove</p>		

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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		<p>covered by the earlier Amendment No. 279. The foreshore reserve area and Lot 1 (with Karri forest associations at each end) are of particular environmental value, both as fauna habitat and as an ecological linkage between Princess Royal Harbour and Torndirrup National Park. The presence of Karri as over-storey is significant as a representation of the southern range extent, and represents the coastal form which differs from the red-loam Karris of Pemberton. In addition, there is a potential Declared Rare Flora (<i>Calectasia cyanea</i>) (DRF) within the ODP area, and this should be the subject of a targeted DRF survey.</p> <p>For your information, recent survey work suggests that the <i>Banksia littoralis</i> swamps may be regionally significant, and if this is so, it could lead to their nomination as a Threatened Ecological Community.</p> <p>The EPA observes that the majority of the vegetation on Reserve 930, immediately adjacent to the Big Grove ODP area, is of excellent condition. It has the same vegetation values as the ODP area, and also currently acts as an ecological linkage. Consequently, development in the ODP area should be appropriately planned to support this function. In its correspondence of 30 April 2009, the City advised that Reserve 930 is leased to the</p>		

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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		<p>Rotary Club (with 21 years remaining on the lease) and that the City's records will be updated to note the significance of the vegetation. Therefore, the EPA anticipates that any future development proposed on the adjacent Reserve 930 would be subject to either a clearing permit application to the DEC, or a referral to the EPA. Despite that, there is no statutory planning mechanism in place to ensure the long term protection of the native vegetation on the adjacent Reserve 930, which has led the EPA to the conclusion that sound environmental outcomes need to be achieved within the ODP area itself. This will require modifications to the ODP (see Modifications section below).</p> <p><u>Fauna</u></p> <p>The reconnaissance survey report for the area states that no species listed under State or Commonwealth government legislation were recorded (ODP Appendix 2, pp.19-20). However, a fauna consultant undertaking separate, Commonwealth-funded, targeted work (within the ODP area, only Lots 1 and 109 were surveyed) sighted three Western Ringtail possums. The removal of the habitat for this specially protected fauna, particularly the Peppermints (<i>Agonis flexuosa</i>), should be minimised.</p> <p>Furthermore, the Schedule 1 listed Carpet</p>		

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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		<p>python (<i>Morelia spilota</i>) has been regularly observed in the Big Grove vicinity. Main's Assassin spider is known to occur in the vicinity, and, given the karri vegetation, is likely to be present.</p> <p>Therefore, the Responsible Authority should comply with DEC's advice with respect to significant fauna species on the site, including undertaking a further targeted fauna survey, and/or modification of the ODP, and the preparation of a management plan if required.</p> <p>Modifications to Big Grove Outline Development Plan</p> <p>In order to address the environmental issues summarised above, the EPA requests that, in liaison with relevant agencies, including DEC and the Department for Planning and Infrastructure (DPI), the ODP be modified so that:</p> <p>key vegetation associations, fauna habitat and ecological linkages are retained where possible;</p> <p>the length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;</p>		

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		<p>Coastal setback and foreshore reserve width is to the satisfaction of the DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.</p> <p>Visual amenity from Torndirrup National Park and the Albany Township are not unduly affected.</p>		
2	Westnet energy P.O Box 8491 Perth BC 6849	Advised that they have no GAS networks in the area	nil	The submission is noted.
3	Department of Planning and Infrastructure – State Land Services Po Box 1575, Midland WA 6936	State Land Services (SLS) has noted that Private land Owners have cleared and have encroached onto Reserve 37216 (Vested in the City). SLS suggests that the City investigate the Clearing and encroachment and consider a future management plan for the foreshore.	<p>The encroachment is noted and the City's Reserves Officers will formally be notified.</p> <p>A Foreshore Management Plan will be submitted as part of the ODP this plan should contain a proposed management plan for the Foreshore.</p>	The submission is noted
4	Water Corporation (Great Southern Regional Office) 215 Lower Stirling Terrace ALBANY WA 6330	<p>No objection to the amendment.</p> <p>Advice that water and wastewater (deep sewer) connection to the area will be possible. The proponents will however be required to fund, extend and upgrade the existing reticulated water and wastewater services to cater for the development. Land required for infrastructure will also have to be provided (ceded) by the Proponents free of cost.</p>	The developer will be required to fund and provide for all the required infrastructure	The submission is noted.
5	Department of Water (South Coast Region) 5 Bevan Street	<p>Provides the following advice:</p> <p><u>Foreshore Reserve</u></p>	It is expected that the ODP document will include information regarding the coastal setback and foreshore reserve. It is furthermore expected that this	<p>The submission is noted.</p> <p>The ODP documentation should contain detailed information on</p>

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

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	ALBANY WA 6330	<p>Request the extent of the foreshore reserve through the ODP process. They would require the proponents develop and implement a Foreshore Management Plan to show future uses/management etc. Recommend a Pathway or road be provided between private developments and the foreshore reserve.</p> <p><u>Stormwater Management</u> The proponents should prepare a Local Water management Strategy as part of the ODP to DOW satisfaction. and The proponent should prepare an Urban Water Management Plan as part of any subdivision application.</p>	<p>information and the design will comply with the physical and ecological requirements of the Western Australian Planning Commission's (WAPC) State Planning Policy 2.6 – State Coastal Planning Policy to the Satisfaction of DP Coastal Planning.</p> <p>The ODP should furthermore include as a requirement A Foreshore management Plan and Local Water Management Strategy.</p>	<p>the required coastal setback and foreshore reserve the design should also be in line with this requirement.</p> <p>The ODP documentation Should furthermore include A Foreshore management Plan and a Local Water Management Strategy.</p>
6	Fire and Emergency Services Authority (FESA) Great Southern Region Hercules Crescent Albany WA 6330	Advise that they have no comment and that the Local Government is the Hazard Management Authority in this case.	The ODP documentation should include a Fire management plan and the layout be designed accordingly	The submission is noted.
7	P & B Kirby 835 Frenchman bay Road ALBANY WA 6330 (Affected Landowner)	<p>Advise of dealings with the ODP process and outline their proposals for the land. Seek to retain a larger 2 hectare lot at this stage around their existing dwelling and would like the design of the ODP to respond to this need .</p> <p>Lists a further need regarding fencing to be erected by the subdividers to protect their privacy and request R30 and R40 densities be considered for their land.</p>	The matters raised within the submission will need to be addressed through the separate ODP process.	The submission is noted.

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8	<p>Department of Education and Training (DET)                      (Asset Planning Branch)                      151 Royal Street                      EAST PERTH WA 6004</p>	<p>Advise the Department has been involved in discussions with the planning consultants over the development of the ODP.</p> <p>DET has no objection to the amendment providing a suitable primary school site location is identified as part of the ODP to their satisfaction</p>	<p>The comments are noted and the separate ODP process will need to conclude the designation of an additional primary school in the area in consultation with the Department.</p>	<p>The submission is noted.</p>
9	<p>Department of Environment and Conservation                      (South Coast Region)                      120 Albany Highway                      ALBANY WA 6330</p>	<p>Has a number of issues to raise with regard to this proposal, in particular ;</p> <p>The accuracy of the description of the lots involved, including reference to other affected landowners within the scheme amendment area.</p> <p>The proposal and formal documentation should be modified to clearly identify that there are two separate individually owned land holdings both referred to as 'Lot 2, Frenchman Bay Road', within the subject area.</p> <p>The lack of up to date information and failure to adequately recognise the biodiversity and conservation values of native vegetation within the proposed Residential Development Zone.</p> <p>The following additional information will be required at an ODP stage;                      a targeted fauna survey and and appropriate modification of the Outline Development Plan,</p>	<p>1. The Concern regarding the lot numbers is noted and should be corrected and include additional information for identification purposes.</p> <p>2. It is noted that additional information will be required as part o the ODP and that this information should be comprehensive and detailed in order to remove any doubt or discrepancies in the information.</p> <p>The environmental protection concerns can realistically be dealt with at an ODP design stage and it would be expected that the relevant studies will form part of the ODP documentation and that the design will be responsive to and resolve these concerns</p> <p>3. The EPA advice refers to further liaison to resolve a number of issues as part of the ODP process. It is expected</p>	<p>The submission is partially upheld and the following modifications to the scheme amendment report must be completed:</p> <p>1. In addition to only referring to lot numbers add the respective house numbers to all references to lot 2 and ensure that both are included throughout the document E.g. "Lot 2 (house 855) and Lot 2 (House no 887) Frenchmans Bay Road"</p> <p>2. Reference should be made in the amending documentation that the information regarding Fauna and Flora is not conclusive and that any ODP would have to contain additional studies, information ,targeted fauna and flora surveys and management plans to the Satisfaction of</p>

ORDINARY COUNCIL MEETING MINUTES 18/08/09  
 \*\*REFER DISCLAIMER\*\*  
 DEVELOPMENT SERVICES REPORTS

<b>CITY OF ALBANY TOWN PLANNING SCHEME No. 3</b>				
<b>AMENDMENT No. 284</b>				
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		<p>in addition the preparation of a Fauna management plan might be required.</p> <p>The failure to acknowledge or address advice recently provided (May 2009) by the Environmental Protection Authority (EPA) on a number of issues relating to the proposed scheme amendment, in some cases where further liaison with DEC has been recommended</p> <p>EPA advice was provided including the need for further liaison with relevant agencies, including DEC, to ensure modification of the ODP so that:</p> <p>Key vegetation associations, fauna habitat and ecological linkages are retained where possible;The length of direct road frontage between the east boundary of Lot 2 (east) and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;</p> <p>Coastal setback and foreshore reserve width is to the satisfaction of the DPIIWAPC, taking into account the ecological values and recreational needs as well as the management of physical processes;</p> <p>Visual amenity from Torndirrup National Park and the Albany township are not unduly affected</p>	<p>that this consultation and liaison will be part of the Formal ODP process that will commence shortly.</p> <p>4. It is expected that the ODP document will include information regarding the coastal setback and foreshore reserve.</p> <p>The ODP should furthermore include as a requirement A Foreshore management Plan.</p> <p>The extent of reserve area required for foreshore and recreation purposes will be finalised as part of the ODP process, this will secure them for these uses.</p> <p>5. It will be recommended that Reference be made in the amending document to</p> <p>a. Sharp Point Road that must be added to 3.1 of the amending document.</p> <p>b. The requirement that the ODP should include A Fire management plan that was developed in consultation with the local Authority and DEC.</p> <p>c. That any ODP design must recognise the ecological corridor values of the foreshore, with increased, rather than reduced, levels of vegetation.</p>	<p>DEC.</p> <p>Any Outline Development Plan will have to be prepared in line with the recommendations made in the fauna and flora studies and management plans.</p> <p>3. Comments are noted and it is anticipated that DEC will be liaised with during the ODP process.</p> <p>4. Reference should be made in the amending document to:</p> <p>a. Sharp Point Road (to be added to 3.1 of the amending document);</p> <p>b. The requirement that the ODP should include a Fire management plan prepared in consultation with the local Authority and DEC;</p> <p>c. That any ODP design must recognise the ecological corridor values of the foreshore, with increased, rather than reduced, levels of vegetation.</p> <p>d. Comments noted</p>

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

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		<p>As a Note - Remnant vegetation and Fauna issues were 'not assessed' by the EPA, and as a consequence may be referred back to the EPA, subject to satisfactory finalization of the Big Grove ODP, and any potentially significant environmental impacts that could occur.</p> <p>The inappropriately narrow width of the parts of the proposed foreshore Parks and Recreation Zone and apparent failure to consider an internal Parks and Recreation Zone to protect a potentially significant native vegetation corridor between the foreshore and Torndirrup National Park.</p> <p>However, long term planning requirements need to be considered if the population of the Big Grove area is to grow and if a viable mixture of foreshore vegetation conservation, public access ways (eg dual use pathways) and management access for vehicles are to be satisfactorily accommodated within the foreshore reserve particularly in the face of potential sea level rise.</p> <p>DEC therefore considers that the foreshore Parks and Recreation Zone should be widened adjacent to Lots 20, 21 and 110 so as to at least be consistent with its minimum width fronting Lots 7,109,1, and 2 (east) or slightly wider (66-78m) as per recommended setbacks</p>	<p>d. References to Section 7.2 Proposed Outline Development Plan Dot Points 1 and 5: boulevard style entry and road will need to be carefully orientated to avoid line of sight views from Sharp Point Road." This is a specific ODP design issue and would have to be dealt with at an ODP stage</p>	

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

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		<p>by M P Rogers in the August 2008 ODP, Appendix 1.</p> <p>Considering the potential significance of the contiguous Excellent condition vegetation on Lots 1, the NE sector of Lot 110 and the southern portion of Lot 2 (east), DEC considers that, until demonstrated otherwise, a Parks and Recreation Zone should also be established extending SSW from the existing foreshore Parks and Recreation Zone through to the Frenchman Bay Road frontage immediately north of Torndirrup National Park.</p> <p>Various other issues</p> <p>Section 3.1 Location</p> <p>Request that some parts of the amendment document be modified to:</p> <p>Include reference to Sharp Point Road within the visual sensitivity analysis</p> <p>Section 6.5 Fire Management</p> <p>It is stated that the 'foreshore reserve' will result in a reduction in fuel loadings across the subject land. This implies that the foreshore area proposed to be zoned Parks and Recreation will be further cleared of native vegetation rather than managed in a dual</p>		

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

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		<p>purpose for conservation of native vegetation/corridor linkages and availability for public recreation, for example through a cycle and walk path.</p> <p>DEC will expect the ODP to recognise the ecological corridor values of the foreshore, with increased, rather than reduced, levels of vegetation.</p> <p>Section 7.2 Proposed Outline Development Plan Dot Points 1 and 5: Any 'boulevard' style entry and road will need to be carefully orientated to avoid line of sight views from Sharp Point Road. With regards to the landscape issue it is important to note that this is not simply a case of 'retention of a landscape buffer' along Frenchman Bay Road as per Dot Point 5 in this section but a question of road orientation/alignment and the possible incorporation of a 'dog-leg after the proposed entry so as to avoid line of site along the 'boulevard' to the foreshore vicinity when Viewed from Frenchman Bay Road and particularly from Sharp Point Road.</p>		
10	Main Roads WA (Great Southern Region) Chester Pass Road ALBANY WA 6330	No objection 'in principle' and comments that the scheme amendment only shows a portion of the development proposed under the Albany Local Planning Strategy and therefore traffic impacts expected on State and Local	The comments are noted and it is clear that the full development of these areas will require substantial upgrades to the present minor and major road system. The separate ODP process will need to	The submission is noted.

<p align="center"><b>CITY OF ALBANY TOWN PLANNING SCHEME No. 3</b>  <b>AMENDMENT No. 284</b>  <b>SCHEDULE OF SUBMISSIONS</b></p>				
<b>No.</b>	<b>Name/Address of Submitter</b>	<b>Summary of Submission</b>	<b>Officer Comment</b>	<b>Council Recommendation</b>
		<p>Government roads.</p> <p>The proposal should be subject to a detailed district structure plan and an agreed access strategy for future connectivity with the local road network. The district structure plan should consider the traffic impacts of all development envisaged in the local planning strategy.</p> <p>Advise that the expected traffic volumes from the proposed development will also require upgrading of the intersection at Princess Royal Drive and Frenchman Bay Road by the proponents.</p>	<p>quantify and address traffic impacts and provide for all necessary road improvements (vehicular and pedestrian) to cater for these increases.</p> <p>The Department will be consulted in preparing the ODP and it is expected they then will seek road upgrading conditions upon referral of future subdivision applications by the WA Planning Commission.</p>	
11	<p>Telstra Corporation Ltd                      (Forecasting &amp; Area Planning)                      3/80 Stirling Street                      PERTH WA 6001</p>	<p>No negative comment and advises that the area can be easily serviced.</p>	<p>Nil.</p>	<p>The submission is noted.</p>
12	<p>Tony Harrison                      34 Gordon Street, Little Grove,                      6330</p>	<p>Objects to the Proposed amendment,                      Suggests that a rezoning to Special Rural with lot sizes of between 2 – 5 Acres will be more appropriate given the subject sites locality in close proximity to Torndirrup National Park .</p> <p>Further states that Larger lots will be in line with the City's earlier environmental Guidelines that stated that the ambience and green coastal escarpment should be protected from over development and                      DEC have the same opinion about protecting</p>	<p>The proposed amendment is in accordance with the strategic intent for the area as per the Albany Local Planning Strategy.</p> <p>It is further proposed that a visual amenity impact assessment would need to be prepared and any design and or development should not be visually obtrusive, building heights will be restricted and materials would have to blend in with the natural environment, and existing vegetation would need to</p>	<p>The submission is noted.</p>

<p align="center"><b>CITY OF ALBANY TOWN PLANNING SCHEME No. 3</b>  <b>AMENDMENT No. 284</b>  <b>SCHEDULE OF SUBMISSIONS</b></p>				
<b>No.</b>	<b>Name/Address of Submitter</b>	<b>Summary of Submission</b>	<b>Officer Comment</b>	<b>Council Recommendation</b>
		<p>the coastal strip and ridge.</p> <p>A concern is further raised about ;</p> <p>The impact of the proposed development (at sizes of 500-600m2) on the underground water catchment areas.</p> <p>Whether the zoning will allow for the development of for example a Hotel (development) of 5 storeys.</p> <p>The impact of climate change and sea level rise on the proposed development.</p> <p>The effect cats and dogs might have on the environment.</p>	<p>be retained where feasible.</p> <p>It should be noted that no development can occur in areas zoned "Residential Development" until a Structure Plan or comprehensive Outline Development Plan (ODP) has been prepared. The specific uses and the density of development is determined at this stage. The ODP process has its own formal consultation stage and any comments or concerns about density, height of buildings and specific uses should be raised at this stage of the detailed planning for the area.</p>	
13	Cr Vera Torr Po Box 1126 Albany WA 6331	<p>ALPS Shows the area as Priority 3 does not meet the supply and demand criteria Is there a ODP and has council seen this?</p> <p>The land contains extensive vegetation and protected Fauna (Ringtail Possum habitat) The Federal Government Western Ringtail Possum Report records several sightings on the subject land. The Federal Government holds a register. The subject land was within the study area. The report was submitted by Ms J Gillfallun.</p> <p>Has Council been advised of the EPA report findings and any conditions imposed has the public seen the report.</p> <p>Does the City have the capital reserves to</p>	<ol style="list-style-type: none"> <li>1. ALPS have been adopted by Council .The proposed amendment is in accordance with this strategy and the specific part dealing with the prioritization.</li> <li>2. The City has seen the draft ODP and made an initial technical comment on the document whereby additional information and modifications were requested. It is expected that the ODP will be formally submitted for consideration in the next few months.</li> <li>3. Additional studies and management plans will have to be submitted as part of the ODP.</li> <li>4. Council has received the EPA</li> </ol>	The submission is noted

ORDINARY COUNCIL MEETING MINUTES 18/08/09  
 \*\*REFER DISCLAIMER\*\*  
 DEVELOPMENT SERVICES REPORTS

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**  
**AMENDMENT No. 284**  
**SCHEDULE OF SUBMISSIONS**

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Council Recommendation
		<p>upgrade the road capacity bearing in mind anticipated traffic increase Guarantee Of Need To Pay For External Infrastructure.</p> <p>There is nothing in this report to guarantee, nor the ability to enforce a guarantee of developers contribution to external civil works needed to support the development. As this is a Priority 3 release this should be attended to at re-zoning level. To not attend is to allow land banking with a guarantee.</p> <p>What is the development suitability and capability of this land.</p> <p>Lot 2 is not always mentioned on documentation.</p> <p>Additional comments received;</p> <p>Support letter from ex-Minister for Planning and Infrastructure.</p> <p>This decision was not made in the interest of Albany and as we know Ministers can make irrational decisions based on whatever they want. This minister has been replaced and no longer holds authority. What does the new Minister for Planning, who may make the ultimate decision, have to say.</p>	<p>advice prior to advertising as required. The EPA advice is attached.</p> <p>5. The Developers will have to fund all required new infrastructure and all upgrades to existing Infrastructure. This requirement is a standard condition of subdivision and provided for in the Planning and Development Act.</p> <p>6. The land is generally suitable, additional detailed information in this regard will be part of the ODP.</p> <p>7. A correction in this regard will be made.</p> <p>8. This amendment will ultimately considered by the current Minister for Planning.</p> <p>9. Previously addressed refer to EPA and DEC comments.</p> <p>10. The ODP will contain the detail of the development.</p> <p>The ODP process is a separate process with its own Public consultation and referral stage.</p>	

**CITY OF ALBANY TOWN PLANNING SCHEME No. 3**

**AMENDMENT No. 284**

**SCHEDULE OF SUBMISSIONS**

No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Council Recommendation
		<p>Environmental Issues.</p> <p>These issues must be assessed on today's ecological data and take into account changing climatic conditions and ensuring that vegetation is not destroyed needlessly.</p> <p>Change Of Residential Density.</p> <p>The De Villiers report was given from a specific brief. It did not encompass amenity, needs (apart from the brief) and the environmental concerns. There were no studies done on land capability, desirability or needs. The sites were selected without regard and solely for the tourist industry. To include this density change within the body of text and not apply it to the details given on the website makes it difficult for the public (me) to gain information. Perhaps it is an entirely different exercise.</p>		

**DEVELOPMENT SERVICES REPORTS**

**13.3 HEALTH, BUILDING & RANGERS**

Nil

**13.4 EMERGENCY MANAGEMENT**

Nil

DEVELOPMENT SERVICES REPORTS

13.5 DEVELOPMENT SERVICES COMMITTEE

ITEM NUMBER: 13.5.1  
ITEM TITLE: PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 23 July 2009

File Number or Name of Ward : MAN 235 (All Wards)  
Summary of Key Points : Committee Items for Council Consideration.  
Reporting Officer(s) : Executive Director Development Services (R Fenn)  
Disclosure of Interest : Nil  
Bulletin Attachment(s) : Minutes from Planning and Environment Strategy and Policy Committee – 23 July 2009.  
Councillors Lounge :

Cr Dufty left at 8:27 PM.

In accordance with the Standing Orders Local Law 2009, clause 2.3, the meeting was adjourned due to lack of quorum.

Cr Dufty returned to the Chambers at 8.32 PM. The Mayor re opened the meeting at 8.32pm.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**  
**SECONDED: MAYOR EVANS**

**Item 6.0 - Confirmation of Minutes**

**THAT the UNCONFIRMED minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 23<sup>rd</sup> July 2009, be RECEIVED.**

**MOTION CARRIED 7-0**

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 2**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: DUFTY**  
**SECONDED: KIDMAN**

**Item 7.1 - Licensed Premises – Guidelines for Issues**

**THAT Council NOT SUPPORT occasional reviews, skimpy barpersons or similar activities within licensed premises.**

**MOTION CARRIED 5-2**

**Record of Vote**

**For the Motion: Mayor Evans, Crs Torr, Wolfe, Dufty and Kidman**

**Against the Motion: Crs Paver and Bostock**

**DEVELOPMENT SERVICES REPORTS**

Item 13.5.1 Continued

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 3  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: MAYOR EVANS**

**Item 7.1 - Licensed Premises – Guidelines For Various Issues**

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

- i) Consider applications for gaming permits for social clubs and community associations be considered on their merits, with a preference that those applications be supported;**
- ii) Refer applications for private gaming permits for private individuals to Council for consideration;**
- iii) Support applications for restaurants to use small bar licenses provided the licence area does not extend onto or incorporate public land (eg alfresco areas), the premises are not located adjacent to locations which have a high potential to be frequented by children (beaches, public parks, etc) and the licensed premises can be adequately demarcated;**
- iv) Unless expressly approved by Council, applications to secure a liquor licence for hostels, bed and breakfast accommodation units and private hotels be opposed;**
- v) Only support occasional licenses and extended trading permit applications for a licensed premise where the permit application is to operate on a Crown reserve and the permit is required for a major community event (eg cruise ship visit, adopted City iconic activity).**
- vi) Not support occasional licenses and extended trading permit applications for a licensed premise where the permit application is to operate on a Crown reserve and the permit is required for a private celebration (eg 21<sup>st</sup> birthday party), a corporate promotion, or similar event or activity.**
- vii) Oppose any modification to Sunday trading hours for bottle shops within the CBD or suburban shopping centres.**
- viii) Unless the premises have appropriate acoustical treatments that will ensure compliance with the Environmental Protection (Noise) Regulations, the provision of live entertainment within the premises, and beer gardens associated with the premises, be opposed.**

**MOTION CARRIED 5-2**

**Record of Vote**

**For the Motion: Mayor Evans, Crs Kidman, Dufty, Wolfe and Torr.**

**Against the Motion: Crs Paver and Bostock**

**DEVELOPMENT SERVICES REPORTS**

Item 13.5.1 continued.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 4  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR KIDMAN**

**Item 7.2 – Draft Parking and Parking Facilities Local Law 2009**

**THAT Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended) agrees to MAKE the City of Albany Parking and Parking Facilities Local Law 2009**

**Purpose:** The purpose of this Local Law is to establish the requirements and conditions with which any persons parking or standing a vehicle within the district must comply.

**Effect:** The effect of this Local Law is to provide for the regulation, control and management of parking and standing of vehicles generally and for the regulation, control and management of parking facilities.

**MOTION CARRIED 7-0  
ABSOLUTE MAJORITY**

**MOVED: CR PAVER**

**SECONDED: CR DUFTY**

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 5  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**Item 7.3 - Draft Sand Drift Prevention and Abatement Local Law 2009**

**THAT Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended) agrees to MAKE the City of Albany Sand Drift Prevention and Abatement Local Law 2009**

**Purpose:** The purpose of this Local Law is to provide for the regulation, control and managements of sand drift on land within the district so as to protect the amenity of the area.

**Effect:** The effect of this Local Law is to establish requirements for the prevention and abatement of sand drift.

**MOTION CARRIED 7-0  
ABSOLUTE MAJORITY**

DEVELOPMENT SERVICES REPORTS

Item 13.5.1.continued.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 6  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY  
SECONDED: CR WOLFE**

**Item 7.4 – Detailed Area Plan Policy – LOT 10 and 322 Galle Street Yakamia, LOT 247 Cull Road, South Lockyer and LOT 2 Mason Road, Lower King**

**THAT Pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, Council ADOPTS the modified Detailed Area Plans Policy, as follows:**

- i) Adding the detailed area plan for Lot 322 Galle street, Yakamia into Schedule 1 without any modification;**
- ii) Modifying the detailed area plan for Lot 2 Mason Road/Lower King Road, Lange (involving the requirement that certain lots be constructed in accordance with Australian Standard 3959); and**
- iii) Adding the detailed area plan for Lot 247 Cull Road, South Lockyer into Schedule 1 subject to a minor modification to include Lot 48 and 49 within the detailed area plan with a specific requirement for buildings to be orientated to the north and for permeable fencing between the POS and the Lots.**

**MOTION CARRIED 7-0**

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 7  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY  
SECONDED: CR WOLFE**

**Item 7.5 – Outline Development Plan (ODP004) – Lancaster Road Morgan Road and Morgan Place McKail**

**THAT Council ADOPTS for FINAL APPROVAL the Outline Development Plan 004 for Lots 47, 50 and 51 Lancaster Road, Lot 8 Morgan Place and Lot 49 Morgan Road, McKail subject to the consultants completing those modifications contained within the above schedule of modifications and that on completion of the required modifications the plan be forwarded to the WA Planning Commission for endorsement.**

**MOTION CARRIED 7-0**

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 8  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY  
SECONDED: MAYOR EVANS**

**Item 7.6 - McKail Local Structure Plan (STR244) – LOTS 1, 2 and 3 South Coast Highway , McKail**

**THAT Council ADOPTS for the PURPOSE OF ADVERTISING the modified McKail Local Structure Plan for Lots 1, 2 and 3 South Coast Highway, McKail.**

**MOTION CARRIED 7-0**

DEVELOPMENT SERVICES REPORTS

Item 13.5.1.continued.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 9**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR PAVER**

**SECONDED: CR WOLFE**

**Item 7.8- Albany Central Area Masterplan**

- i) THAT the CONFIRMED minutes of the Albany Central Area Masterplan Steering Committee held on 17 June 2009 and 1 July 2009 be RECEIVED.
- ii) THAT Council ADOPTS the revised boundaries of the study area, which recognises a core area and an area of influence (Bulletin Item 1.4.1).
- iii) THAT Council AMENDS the name of the Masterplan from ‘Albany CBD Masterplan’ to ‘Albany Central Area Masterplan’.
- iv) THAT Council ADOPTS the following ‘vision’ for the Albany CBD Masterplan:

*“Albany’s City Centre will be the most vibrant, safe, accessible, liveable and commercially successful neighbourhood in regional WA.*

*Albany’s City Centre will be:*

- *Family and pedestrian friendly;*
- *A vibrant cultural hub stimulated by attractive inner city residential and tourism accommodation; and*
- *A unique and accessible retail experience.”*

- v) THAT Council AMENDS the revised terms of reference for the Albany CBD Masterplan Steering Committee adding the following point: Respecting Albany’s heritage.

**MOTION CARRIED 7-0**

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 10**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 7.9 – Future Urban Growth – Kalgan**

THAT Council:

- a) RESOLVES TO KEEP THE DESIGNATION for the land south and north of Nanarup Road, Kalgan on Map9B of the Albany Local Planning Strategy as ‘Future Urban’; and
- b) advise the applicant that it is NOT PREPARED TO SUPPORT a Scheme Amendment Request to allow Lot 422 Affleck Road, Kalgan to be progressed to change the zoning of the land from “Rural” to “Special Rural” within City of Albany Town Planning Scheme 3.

**DEVELOPMENT SERVICES REPORTS**

Item 13.5.1 continued.

ITEM NUMBER 13.5.1 – ALTERNATE MOTION BY COUNCILLOR TORR – COMMITTEE RECOMMENDATION 10

VOTING REQUIREMENT: SIMPLE MAJORITY

- i) THAT Council resolves to DEFER it's review of the 'Future Urban' designation for the land south of Nananup Road, Kalgan as designated on Map 9B of the amended draft Albany Local Planning Strategy (ALPS) until such time as the final draft of the ALPS is re-advertised and submissions and public comment received.
- ii) THAT Council ADVISE the proponent that consideration of the Scheme Amendment Request to allow Lot 422 Affleck Road, Kalgan to be rezoned from "Rural" to "Special Rural" cannot be assessed until this review is completed.

**Councillors Reason:**

The Western Australian Planning Commission has previously advised Council in their letter dated 30 April 2008 that Council's resolution to change the advertised version of the ALPS to designate this area 'Future Urban' rather than 'Special Rural' is a substantial amendment that would require re-advertising.

Rather than making a decision now it is important to get the views of those landowners affected who may still be under the impression that their land is designated Special Rural within the ALPS. After the advertising period has been conducted and all submissions have been received Council will be in a better position to decide whether it wishes to retain the Future Urban designation or propose a Special Rural designation.

**OFFICERS REPORT:** Author: Executive Services Manager Planning (G Bride)

**STATUTORY IMPLICATIONS:**

1. There are no additional statutory implications as a result of the alternative motion.

**POLICY IMPLICATIONS:**

2. There are no additional policy implications as a result of the alternative motion.

**FINANCIAL IMPLICATIONS:**

3. There are no additional financial implications as a result of the alternative motion.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

4. The Future Urban designation within the final draft of the ALPS in this locality has previously been supported by Council, and the planning merits of retaining this designation have been examined in the officer's report through the Planning and Environment Strategy and Policy (PESP) Committee (refer PESP minutes within Bulletin).
5. The Western Australian Planning Commission has previously advised that this modification needs to be re-advertised and those landowners affected by the modified Future Urban designation will have an opportunity to specifically comment on this issue.

**DEVELOPMENT SERVICES REPORTS**

Item 13.5.1.continued.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

6. As per the PESP Committee recommendation.

**COMMENT**

7. The PESP recommendation as promoted by staff will send a clear message to the proponent that the proposed Scheme Amendment Request (SAR) for Lot 422 Affleck Road is not supported under Council's current strategic planning framework. Should that framework change for any reason in the future then naturally the proponent could lodge a new SAR. The proponent is seeking Council's position on their proposal, whereas the proposed motion seeks to defer such consideration.
8. The alternate motion does not materially change the PESP recommendation, as the designation in the ALPS will continue to remain Future Urban, and as per the direction from the WAPC, certain components of the ALPS, such as the Future Urban designation in this locality, will need to be re-advertised allowing those landowners affected to provide additional input.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 10 – ALTERNATE MOTION BY MAYOR EVANS**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS**

**SECONDED: CR KIDMAN**

**THAT COUNCIL LAY ITEM 13.5.1 on the table for 1 month.**

**MOTION CARRIED 6-1**

**Record of Vote**

**For the Motion: Mayor Evans, Crs Bostock, Paver, Wolfe, Dufty and Kidman**

**Against the Motion: Cr Torr**

**Reason:**

To ensure Councillors have an adequate understanding prior to making a decision.

**DEVELOPMENT SERVICES REPORTS**

Item 13.5.1.continued.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 11**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

Item 7.10 – Operating Procedures – Handover of Nuisance Dogs

THAT Council APPROVES the introduction of an additional fee of \$10 when the owner of a dog surrenders that dog for destruction within 24 hours of an offence being created by the dog or the dog causes a nuisance.

**ITEM NUMBER 13.5.1 – COMMITTEE RECOMMENDATION 11 - ALTERNATE MOTION BY  
COUNCILLOR TORR  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR TORR  
SECONDED: CR PAVER**

**THAT Council APPROVES the introduction a \$10 surrender fee into the 2009/10 fee schedule in instances where the owner of a dog agrees to surrender that dog for destruction within 24 hours of receiving an infringement for an offence created by the dog.**

**MOTION CARRIED 7-0**

**Councillors Reason:**

The alternate motion makes it clear that a fee of \$10 is only applicable where an infringement has been issued against the dog, otherwise the owner should pay the scheduled surrender fee of \$75.

**OFFICERS REPORT:** Author: Executive Services Manager Planning (G Bride)

**STATUTORY IMPLICATIONS:** There are no additional statutory implications as a result of the alternative motion.

**POLICY IMPLICATIONS:** There are no additional policy implications as a result of the alternative motion.

**FINANCIAL IMPLICATIONS:** There are no additional financial implications as a result of the alternative motion.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:** N/A

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:** N/A

**COMMENT:** The alternate motion does provide greater clarity as to when the \$10 surrender fee would apply and is supported.

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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	\$141,450.48
Cheques	Totalling	\$191,615.17
Electronic Fund transfer	Totalling	\$3,265,619.10
Credit Cards	Totalling	\$6,892.10
Payroll	Totalling	<u>\$1,187,449.72</u>
	<b>Total</b>	<b>\$4,793,026.57</b>

4. As at the 31<sup>st</sup> July 2009, the total outstanding creditors, stands at \$642,384.44
5. Cancelled cheques – 25642, 25651 & 25652.

**PUBLIC CONSULTATION / ENGAGEMENT**

6. Nil

**GOVERNMENT CONSULTATION**

7. Nil

**STATUTORY IMPLICATIONS**

8. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the Municipal Fund or a Trust Fund if the Local Government had delegated the function to the Chief Executive Officer or alternatively authorises payment in advance.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued.

9. The Chief Executive Officer has delegated authority to authorise payments.
10. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments should be presented to Council meetings and recorded in the minutes.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision:***

*Nil*

***Priority Goals and Objectives:***

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

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

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

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

14. Nil

**SUMMARY CONCLUSION**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued.

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

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

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

**MOTION CARRIED 7-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.1.2**  
**ITEM TITLE: FINANCIAL ACTIVITY STATEMENT – 31 JULY 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 July 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 2008/09 variations in excess of 10% are reported to the Council.

**DISCUSSION**

4. The Statement of Financial Activity for the period ending 31 July 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 JULY 2009**

6. See appendix 1 to report item 14.1.2

**CITY OF ALBANY - BALANCE SHEET**

7. See appendix 2 to report item 14.1.2

**CITY OF ALBANY – INCOME STATEMENT**

8. See appendix 3 to report item 14.1.2

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**INVESTMENT SUMMARY & COMMENT**

9. Updated values for most securities were received in July. On 28 July 2009 the English High Court issued a decision regarding Noteholder Priority. If the decision is upheld in an expected appeal the prospects for the return of collateral on New York Mellon Securities should be favourable.
10. The City of Swan, Parkes Shire Council and Wingecarribee Shire Council have commenced proceedings in relation to the Deed of Company Arrangement (DOCA). A hearing to have the DOCA set aside on the basis of its validity and construction is likely to be in the next few weeks. If successful, this would result in Lehman Australia going into liquidation.
11. See appendix 4 to report item 14.1.2.

**PUBLIC CONSULTATION / ENGAGEMENT**

12. Nil

**GOVERNMENT CONSULTATION**

13. Nil

**STATUTORY IMPLICATIONS**

14. 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*

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

- IV. *A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —*  
 (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*  
 (b) *recorded in the minutes of the meeting at which it is presented.”*

**FINANCIAL IMPLICATIONS**

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>
Operating Revenue	Other Revenue exceeds Budget due to timing	\$18,083
Operating Expenditure	Materials and Contracts expenditure is under Budget due to timing	\$50,798
	Other Expenditure is under Budget due to timing	\$74,589
Capital Revenue	No material Variances	
Capital Expenditure	Purchase Plant, Equipment and Infrastructure is over budget due to timing	\$177,632

**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 2008/09 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: CR WOLFE  
SECONDED: MAYOR EVANS**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 31 July 2009.**

**MOTION CARRIED 7-0**

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 1

## STATEMENT OF FINANCIAL ACTIVITY - YEAR TO DATE

31 JULY 2009

	Actual Year to Date 31-Jul-09	Current Budget Year to Date 31-Jul-09	Current Budget vs Actual Variance
<b>REVENUE</b>			
Operating Grants, Subsidies and Cont	34,958	37,484	-2,526
Fees and Charges	634,917	699,573	-64,656
Service Charges	2,974,331	2,996,718	-22,387
Interest Earnings	7,886	8,285	-399
Other Revenue	15,222	-2,861	18,083
	<b>3,667,313</b>	<b>3,739,199</b>	<b>-71,886</b>
<b>EXPENDITURE</b>			
Employee Costs	987,348	1,059,042	-71,694
Materials and Contracts	260,437	311,235	-50,798
Utility Charges	102,337	95,941	6,396
Interest Expenses	-35,441	-32,893	-2,548
Insurance Expenses	310,172	284,458	25,714
Other Expenditure	23,228	97,817	-74,589
Depreciation	892,419	929,011	-36,592
	<b>2,540,500</b>	<b>2,744,611</b>	<b>-204,111</b>
<b>Adjustment for Non-cash Revenue and Expenditure:</b>			
Depreciation	-892,419	-929,011	36,592
<b>CAPITAL REVENUE</b>			
Non-Operating Grants, Subsidies and Cont	243,479	260,289	-16,811
Proceeds from asset disposals	0	0	0
Proceeds from New Loans	0	0	0
Self-Supporting Loan Principal Revenue	0	0	0
Transfers from Reserves (Restricted Assets)	0	0	0
	<b>243,479</b>	<b>260,289</b>	<b>-16,811</b>
<b>CAPITAL EXPENDITURE</b>			
Purchase Plant, Equipment and Infrastructure	275,632	98,000	177,632
Repayment of Loans	13,232	25,342	-12,110
Transfers to Reserves (Restricted Assets)	0	0	0
	<b>288,864</b>	<b>123,342</b>	<b>165,522</b>
Estimated Surplus B/fwd			
ADD Net Current Assets July 1 B/fwd	<b>564,403</b>	n/a	n/a
LESS Net Current Assets Year to Date	<b>24,044,616</b>	n/a	n/a
Amount Raised from Rates	<b>-21,506,366</b>	<b>-21,423,229</b>	<b>-83,137</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 2

## BALANCE SHEET – AS AT 31 JULY 2009

	Actual 31-Jul-09	Budget 30-Jun-10	Actual 30-Jun-09
<b>CURRENT ASSETS</b>			
Cash - Municipal	1,843,339	776,514	3,888,275
Restricted cash (Trust)	1,852,688	1,976,788	1,976,788
Reserve Funds - Financial Assets	1,849,075	0	1,849,075
Reserve Funds - Other	3,996,876	2,647,383	3,990,943
Receivables & Other	27,700,361	1,600,000	2,818,124
Investment Land	(0)	0	(0)
Stock on hand	995,524	780,000	952,145
	<b>38,237,862</b>	<b>7,780,685</b>	<b>15,475,349</b>
<b>CURRENT LIABILITIES</b>			
Borrowings	1,074,665	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	2,007,236	2,200,000	2,027,992
Trust Liabilities	1,806,416	1,778,124	1,930,516
Creditors prov & accruals	4,626,922	3,000,000	5,225,120
	<b>9,515,239</b>	<b>8,208,124</b>	<b>10,271,525</b>
<b>NET CURRENT ASSETS</b>	<b>28,722,622</b>	<b>(427,439)</b>	<b>5,203,824</b>
<b>NON CURRENT ASSETS</b>			
Receivables	106,774	152,865	152,865
Pensioners Deferred Rates	292,616	265,945	265,945
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	59,143,638	131,774,682	59,120,251
Infrastructure Assets	193,973,778	197,134,056	194,613,952
Local Govt House Shares	19,501	19,501	19,501
	<b>255,686,306</b>	<b>331,497,049</b>	<b>256,322,514</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>263,352,416</b>	<b>311,240,935</b>	<b>240,469,825</b>
<b>EQUITY</b>			
Accumulated Surplus	237,699,614	289,818,918	214,817,023
Reserves	6,878,168	2,647,383	6,878,168
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	<b>263,352,416</b>	<b>311,240,935</b>	<b>240,469,825</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 3

INCOME STATEMENT FOR THE PERIOD ENDED  
31 JULY 2009

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
<b>INCOME</b>			
Rates	21,506,366	21,346,462	19,277,114
Grants & Subsidies	24,564	3,069,252	4,043,035
Contributions, Reimb & Donations	10,395	362,187	396,201
Fees & Charges	634,917	7,294,973	7,222,828
Service Charges	2,974,331	2,996,718	2,698,198
Interest Earned	13,819	547,200	658,460
Other Revenue / Income	15,222	401,500	647,368
	<b>25,179,612</b>	<b>36,018,292</b>	<b>34,943,204</b>
<b>EXPENDITURE</b>			
Employee Costs	987,348	14,039,923	13,867,790
Utilities	102,337	1,311,912	1,138,245
Interest Expenses	(35,441)	1,179,588	1,322,148
Depreciation on non current assets	892,419	11,818,000	10,634,812
Contracts & materials	260,437	11,628,876	11,361,522
Insurance expenses	310,172	453,863	410,959
Other Expenses	23,228	(128,769)	(122,417)
	<b>2,540,500</b>	<b>40,303,393</b>	<b>38,613,058</b>
<b>Change in net assets from operations</b>	<b>22,639,113</b>	<b>(4,285,101)</b>	<b>(3,669,854)</b>
Grants and Subsidies - non-operating	243,479	70,066,581	5,029,890
Contributions Reimbursements and Donations - non-operating	0	5,175,706	4,753,185
Profit/Loss on Asset Disposals	0	(32,000)	92,948
Fair value - Investments adjustment	0	1,987,226	493,174
	<b>22,882,591</b>	<b>72,912,412</b>	<b>6,699,342</b>

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**APPENDIX 4**

**PORTFOLIO VALUATION - MARKET VALUE – 31 JULY 2009**

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value May 09	Market Value Jun 09	Market Value Jul 09	Latest Monthly Variation
<b>MUNICIPAL ACCOUNT</b>							
ANZ	1/08/2009	500,000	3.55%			1,000,000	
				<b>2,600,000</b>	<b>0</b>	<b>1,000,000</b>	n/a
<b>RESERVES ACCOUNT</b>							
Bendigo	22/12/2009	500,000	4.30%			500,000	
NAB	2/02/2010	1,000,000	4.47%			1,000,000	
				<b>1,054,624</b>	<b>0</b>	<b>1,500,000</b>	n/a
<b>COMMERCIAL SECURITIES - CDOs (New York Mellon)</b>							
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	240,000	240,000	240,000	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	167,779	155,750	155,750	-12,029
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	130,000	307,100	307,100	177,100
Beryl (AAAGlogal Bank Note)	20/09/2014	200,376	8.42%	110,000	159,380	159,380	49,380
		<b>2,118,046</b>		<b>647,779</b>	<b>862,230</b>	<b>862,230</b>	<b>214,451</b>
<b>COMMERCIAL SECURITIES - CDOs - Other</b>							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	134,840	119,000	119,000	-15,840
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	49,500	303	303	-49,198
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	35,750	68,503	68,503	32,753
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	90,000	6,600	6,600	-83,400
		<b>1,324,656</b>		<b>310,090</b>	<b>194,405</b>	<b>194,405</b>	<b>-115,685</b>
<b>PORTFOLIO TOTAL</b>		<b>3,442,702</b>		<b>4,612,493</b>	<b>1,056,635</b>	<b>3,556,635</b>	<b>98,765</b>

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.1.3**  
**ITEM TITLE: COMMUNITY SPORTING AND RECREATION FACILITIES FUND (CSRFF) 2009/10 – 2011/12 TRIENNIUM APPLICATIONS**

**File Number or Name of Ward** : FIN 138 (All Wards)  
**Proposal/Issue** : Assessment of CSRFF Applications  
**Subject Land/Locality** : N/A  
**Proponent** : N/A  
**Owner** : N/A  
**Reporting Officer(s)** : Executive Director Corporate & Community Services (P Madigan)  
Manager of Community Development (M Weller)  
**Disclosure of Interest** : Nil  
**Previous Reference** : Nil  
**Bulletin Attachment(s)** : Nil  
**Consulted References** : Nil  
**Maps and Diagrams** : N/A

**BACKGROUND**

1. The Community Sport and Recreation Facilities Fund (CSRFF) is administrated by the Department of Sport and Recreation. A recent change to the CSRFF introduced 2 different structured rounds of available funds including a small grant funding round and its annual and forward planning funding round.

The current round of funding applications is for the small grant round with the financial value of the total project being from \$5,000 up to \$150,000.

2. The Department of Sport and Recreation application form calls for applications to be initially submitted to the Local Government within which the project proposal is located.
3. Part of the assessment process involves Council consideration and priority ranking of applications received. The applications are then submitted to the Department of Sport and Recreation on behalf of the applicants.
4. All applications received from Western Australian organisations are assessed by the Department of Sport and Recreation CSRFF committee against a number of criteria, with the final decision on funding at the discretion of the Minister for Sport and Recreation.

**STATUTORY REQUIREMENTS**

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

**POLICY IMPLICATIONS**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.3 continued

**FINANCIAL IMPLICATIONS**

7. The following table provides detail of all applications received and indicates the proposed City of Albany contribution, which may be requested by the group of Council in relation to a Community Financial Assistance funding round.
8. Applicants have been informed that any proposed Council contribution would be subject to separate application under the Community Financial Assistance Fund.
9. Priority determination within the context of this agenda item does not provide indication as to whether Community Financial Assistance Funding will or will not be approved.

<b>Organisation</b>	<b>Project detail</b>	<b>Total Project Cost (ex GST)</b>	<b>Applicant contribution (ex GST) [inc voluntary component]</b>	<b>CSRFF Grant (ex GST)</b>	<b>Other state or federal funding (ex GST)</b>	<b>Proposed Council contribution (ex GST)</b>
Albany Speedway Club	Electrical/power upgrade at the speedway club to avoid continued power cuts which has been identified as a safety hazard.	\$25,660	\$17,107	\$8,553	Nil	Nil
North Albany Football Club	Feasibility Study for Club Infrastructure Development including extension of active reserve, lighting, reticulation, amenities, cricket infrastructure, site security and site access	\$21,000	\$10,500	\$10,500	Nil	Nil
Princess Royal Sailing Club	Infrastructure upgrade and extension required to host the 2011 Mirror World Championships including extension of lower deck, office refurbishment, galley upgrade, communications connection upgrade, rescue boat compound and ablutions upgrade	\$150,000	\$15,000	\$75,000	\$60,000	Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.3 continued.

**STRATEGIC IMPLICATIONS**

10. This item directly relates to the following elements from the City of Albany ‘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 Manage our municipal assets to ensure they are capable of supporting our growing community.*

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

**COMMENT/ DISCUSSION**

11. The grant guidelines require Council to provide a ranking for the projects i.e. first, second, third etc, as well as providing an assessment of how well the applicants have addressed the following criteria.

	<b>Satisfactory</b>	<b>Unsatisfactory</b>	<b>Not Relevant</b>
Project justification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Planned approach	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community consultation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Management planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access & opportunity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial viability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Co-ordination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential to increase physical activity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sustainability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. Project Rating:

- a. Well planned and needed by municipality;
- b. Well planned and needed by applicant;
- c. Needed by municipality, more planning required;
- d. Needed by applicant, more planning required;
- e. Idea has merit, more preliminary work needed; and
- f. Not recommended.

13. It is suggested that Council rank the applications in priority order and refer the completion of assessment criteria to staff under the direction of the Executive Director for Corporate and Community Services prior to submission of applications to the Department of Sport and Recreation.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.3 continued

- 14. A ranking recommendation by staff has been given based on the merits of each project.
- 15. While all projects are worthwhile priority one ranking has been recommended for the power upgrade at the Albany Speedway Club.

**SUMMARY CONCLUSION**

- 16. Nil

**ITEM 14.1.3 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

**THAT:**

- Council rank the 3 CSRFF applications received in the following order:

	<b>ORGANISATION</b>	<b>PROJECT DETAIL</b>
<b>1</b>	<b>Albany Speedway Club</b>	<b>Electrical/power upgrade at the speedway club to avoid continued power cuts which has been identified as a safety hazard.</b>
<b>2</b>	<b>North Albany Football Club</b>	<b>Feasibility Study for Club Infrastructure Development including extension of active reserve, lighting, reticulation, amenities, cricket infrastructure, site security and site access</b>
<b>3</b>	<b>Princess Royal Sailing Club</b>	<b>Infrastructure upgrade and extension required to host the 2011 Mirror World Championships including extension of lower deck, office refurbishment, galley upgrade, communications connection upgrade, rescue boat compound and ablutions upgrade.</b>

- all applications be referred to the Executive Director for Corporate and Community Services for submission to the Department of Sport and Recreation; and
- although no applicants are seeking Council contribution towards their CSRFF project, advise applicants that any Council funding sought will be subject to:
  - an application under the Community Financial Assistance Program and in the case of major applications Council’s budget process for the relevant year
  - that Council’s priority ranking does not provide indication of whether funding will or will not be approved.

**MOTION CARRIED 7-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.2 – ADMINISTRATION**

Nil

**14.3 – LIBRARY SERVICES**

Nil

**14.4 – DAY CARE CENTRE**

Nil

**14.5 – TOWN HALL**

Nil

**14.6 – RECREATION SERVICES**

Nil

**14.7 - ECONOMIC DEVELOPMENT**

Nil

**14.8 - TOURISM & VISITORS CENTRE**

Nil

**14.9 – AIRPORT MANAGEMENT**

Nil

**14.10 – CONTRACT MANAGEMENT**

Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.11 – PROPERTY MANAGEMENT**

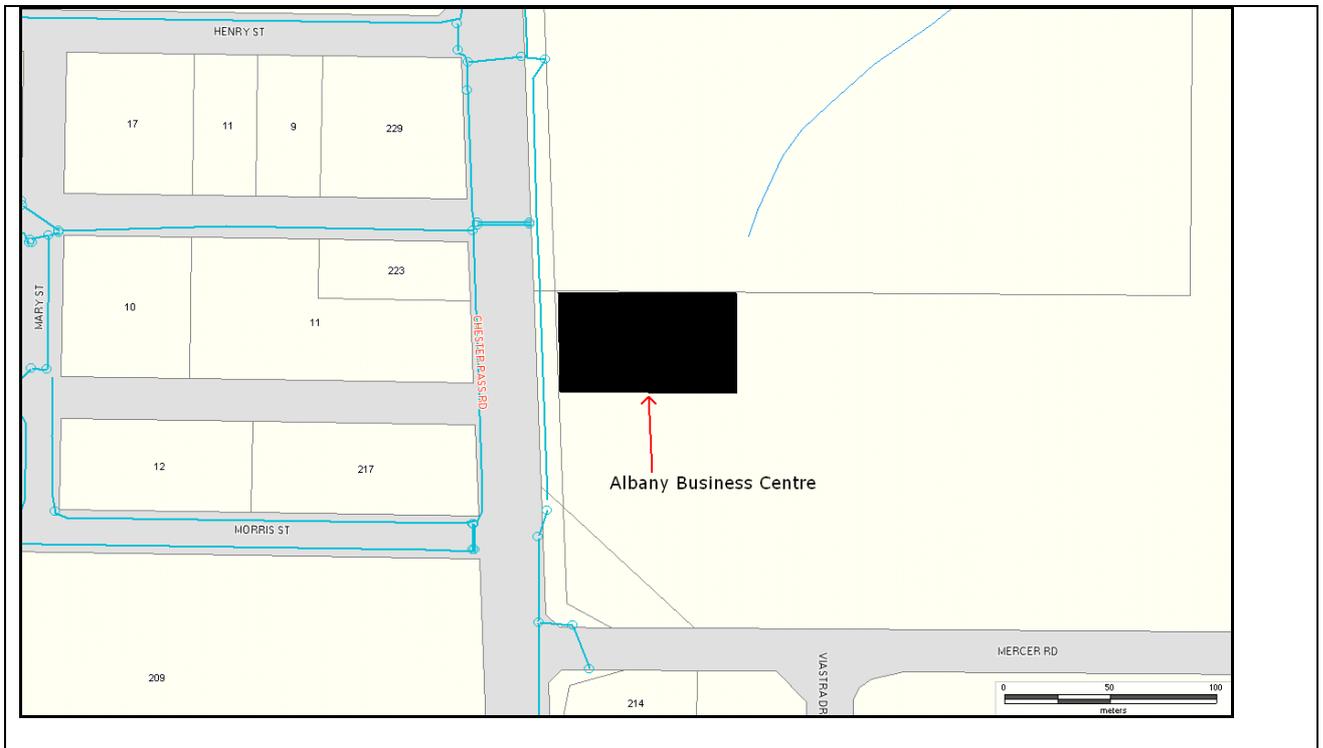
**ITEM NUMBER:** 14.11.1

**ITEM TITLE:** **PROPERTY MANAGEMENT – EXTENSION OF LEASE FOR ALBANY BUSINESS CENTRE**

**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 140 (Yakamia Ward)
- Summary of Key Points** : Variation for extension to existing lease
- Land Description** : Part Lot 5 on Diagram 59369 situated at the corner of Chester Pass and Mercer Roads, Albany.
- Proponent** : Albany Business Centre
- Owner** : City of Albany
- Reporting Officer(s)** : Acting Property Officer (E Williamson)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 17.04.07 - Item 13.5.1
- 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. In January 1998 a lease agreement was made between the Shire of Albany and the Albany Enterprise Group Inc (later known as the Albany Business Centre) for the development and management of an area of land to be used to promote the development of small business within the community.
2. The Albany Enterprise Group Inc built a series of small studios and rented them at a nominal charge to new and small business to enable them to become established in a less commercial environment. Once established, these businesses were then required to find accommodation within the commercial market.
3. The land on which this building is situated, being Lot 5, corner of Chester Pass and Mercer Roads, is the same land on which the large animal pound, Mercer Road former offices and the City Depot are located. The Former City offices are currently leased to the South Coast Natural Resource Management Inc on a 5 year lease expiring 20<sup>th</sup> January 2013 with a 5 year option expiring 20<sup>th</sup> January 2018.

**DISCUSSION**

4. A previous Council item from the OCM 17<sup>th</sup> April 2007 Item 13.5.1 regarding this lease was sparked by an enquiry from the Albany Enterprise Group Inc to build further suites within their leased area to accommodate growing demand for their services. The item recommended that Council did not negotiate beyond the current terms of the current lease and further that Council endeavour to locate an appropriate site for the Albany Business Centre to relocate to. This recommendation was carried 11-1.
5. The Albany Enterprise Group Inc (Albany Business Centre) currently has a 10 year with a 5 year option with the option expiring 31<sup>st</sup> December 2012. They have requested an extension on their current lease to bring it into line with the neighbouring lease of South Coast Natural Resource Management Inc.
6. The Albany Business Centre is a not profit organisation designed specifically to nurture independent small business operatives within the Albany Community.
7. It is suggested that all other aspects of the lease remain the same.
8. Council have no current plans for the land.
9. It would be beneficial for the expiry of both the South Coast Natural Resource Management lease and the Albany Business Centre lease to occur at the same time.

**PUBLIC CONSULTATION / ENGAGEMENT**

10. No public consultation is required at this stage.

**GOVERNMENT CONSULTATION**

11. No Government consultation is required at this stage.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

13. The cost of the preparation of these documents to both surrender the current lease and develop a new lease would cost approximately \$900 plus GST.
14. The current lease revenues are at a nominal rate, being \$10.00 per annum plus GST. The new lease rate would be set at the minimum land rate of \$580 plus GST per annum.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision***

*Nil.*

***Priority Goals and Objectives***

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

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

**POLICY IMPLICATIONS**

16. Council has adopted a Property Management - Leases Policy. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures. Relevant sections of the Policy in relation to this item are:
- Commercial leases will be offered at a rental determined by an independent valuer taking into account the current value of the business and rental structured in a way which provides maximum return to Council.
  - If a lessee requests a variation to a lease, Council reserves the right to consider the variation only as part of a new lease for the enterprise.
  - The lessee will reimburse all Council's costs associated with the development and implementation of the lease.
  - The City will insure the buildings that it owns and recover the cost of the premium from the lessee.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Council may consider not approving an extension to the existing lease with a view to relocate this business to a more suitable location as soon as the term of the current lease expires.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**SUMMARY CONCLUSION**

18. Nil.

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

THAT Council APPROVE a new lease Albany Enterprise Group Inc at Lot 5, corner Chester Pass and Mercer Roads Albany, to bring the expiry date into line with expiry of the neighbouring lease of South Coast Natural Resource Management Inc, as follows:

- Council agree to the surrender of the current lease;
- Council agree the new lease expiring 20<sup>th</sup> January 2013;
- The rental be set at minimum land rate in accordance with Council policy; and
- All costs associated with the preparation of leases to be payable by Albany Enterprise Group Inc.

Mayor Evans (MOVED) and Councillor Dufty (SECONDED) the Officer Recommendation.

Mayor Evans and Councillor Dufty withdrew his support for the motion, therefore the MOTION lapsed.

**ALTERNATE MOTION BY MAYOR EVANS**

THAT COUNCIL LAY ITEM 14.11.1 on the table till the September 2009 Ordinary Council Meeting.

**ITEM 14.11.1 – ALTERNATE MOTION BY MAYOR EVANS  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS  
SECONDED: CR WOLFE**

**THAT COUNCIL LAY ITEM 14.11.1 on the table till the September 2009 Ordinary Council Meeting.**

**MOTION CARRIED 7-0**

**Reason:**

The terms and options of the new lease needs to be clearly understood by the Council.

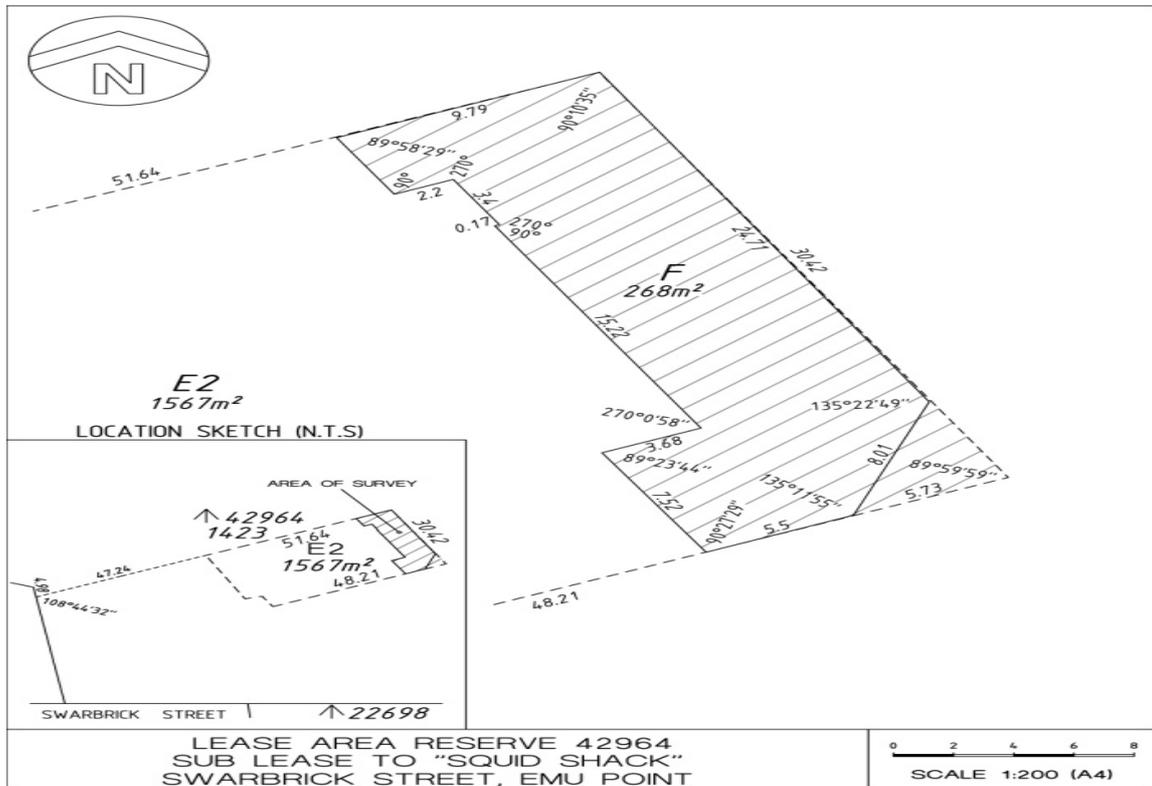
**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER:** 14.11.2  
**ITEM TITLE:** NEW SUB-LEASE BETWEEN ALBANY SEA RESCUE SQUAD INC. AND THERESA LEWIS TRADING AS THE SQUID SHACK ON LOT 1423 PORTION OF RESERVE 42964

**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 281 (Breaksea Ward)
- Summary of Key Points** : Consider request for a new sub-lease between Albany Sea Rescue Squad Inc and Theresa Lewis trading as The Squid Shack on Lot 1423 portion of Reserve 42964 effective from 1 July 2009
- Land Description** : Crown Reserve 42964
- Proponent** : Theresa Lewis
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 19.8.08 - Item 13.5.2
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council's Policy - Property Management - Leases
- Maps and Diagrams** :



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.2 continued.

**BACKGROUND**

1. Reserve 42964 is under a Management Order issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of marine and associated purposes for a term not exceeding 50 years.
2. The reserve is located on Swarbrick Street at the Emu Point Marina. The land area is 3.5 hectares in size.
3. Council has at present various leases on this Reserve including a lease for a portion of Reserve 42964 to the Albany Sea Rescue Squad Inc. The term of this lease is for a term of 21 years expiring 29 October 2029.
4. The Squid Shack is currently operating from this location on a temporary 'holding over' basis as a month to month tenant until a formal sub-lease agreement is considered.
5. A written request has been received from the Albany Sea Rescue Squad Inc. requesting that a sub-lease for a term of 5 years with an option of a further 5 year term be permitted on a portion of their current leased area.
6. The current lease has provisions for sub-leasing, however requires the approval of Council and the Minister for Lands prior to any such arrangement being formalised.

**DISCUSSION**

7. Albany Sea Rescue Squad Inc. are a not for profit organisation providing a vital emergency assistance service to the community.
8. The proposed sub-lease will provide the Squad with additional funds of \$500.00 plus GST per month to assist with operating expenses, ensuring the continuance of this service.
9. The proposed sub-lease is for a food and refreshment van including an enclosed dining area which covers 268m<sup>2</sup> area.
10. As the Emu Point Marina is a popular tourist destination the provision of this service adds to promoting the area.
11. All costs associated with the development and implementation of the sub-lease will be met by the proponent.

**PUBLIC CONSULTATION / ENGAGEMENT**

12. Nil.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.2 continued.

**GOVERNMENT CONSULTATION**

13. As this is Crown land, Ministerial approval is required. Preliminary approval for the sub-lease has been obtained and formal approval will be requested if the recommendation is adopted by Council.

**STATUTORY IMPLICATIONS**

14. 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.
15. As this is Crown land, under a Management Order issued to the City of Albany for the purpose of marine and associated purposes, Ministerial approval will be required.
16. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.

**FINANCIAL IMPLICATIONS**

17. Council will not receive any financial benefit from the sub-lease rental income of \$500.00 plus GST per month, nor incur any charges.
18. All costs associated with the development and implementation of the sub-lease will be met by the proponent.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

19. 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.*

**POLICY IMPLICATIONS**

20. The recommendation is consistent with Council’s Policy – Property Management – Leases adopted in 2007.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.2 continued.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

21. Council has the following options in relation to this item, which are:
  - a. Approve the request for a new sub-lease, or
  - b. Decline the request.
22. Should Council not support the new sub-lease request, The Squid Shack will have to cease trading from this site, find an alternative location to relocate all buildings and infrastructure should they wish to continue to operate.
23. Albany Sea Rescue Squad will also have to source other revenue opportunities to help offset the costs of providing this vital service to the community.

**SUMMARY CONCLUSION**

24. In view of the assistance the sub-lease income provides to the Albany Sea Rescue Squad Inc to help offset operating costs and that the sub-lease adds to promoting tourism in the area, at no cost to Council, the proposed request for a new sub-lease is recommended.
25. It is considered that all lease/sub lease arrangements should be reviewed, and this will be undertaken on acceptance of the legal services contract, although this review would take account of the invaluable community service that the Sea Rescue Squad provides.

**ITEM 14.11.2 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT – SIMPLE MAJORITY**

**MOVED: CR PAVER  
SECONDED: MAYOR EVANS**

**THAT Council, subject to section 3.58 of the Local Government Act 1995 and section 18 of the Land Administration Act 1997 APPROVES a new sub-lease between Albany Sea Rescue Squad Inc. and Theresa Lewis trading as The Squid Shack on Lot 1423 portion of Reserve 42964 effective from 1 July 2009, the sub-lease to include terms and conditions being in compliance with Council's Policy – Property Management - Leases, and all costs associated with the preparation and implementation of the new sub-lease be met by the proponent.**

**MOTION CARRIED 7-0**

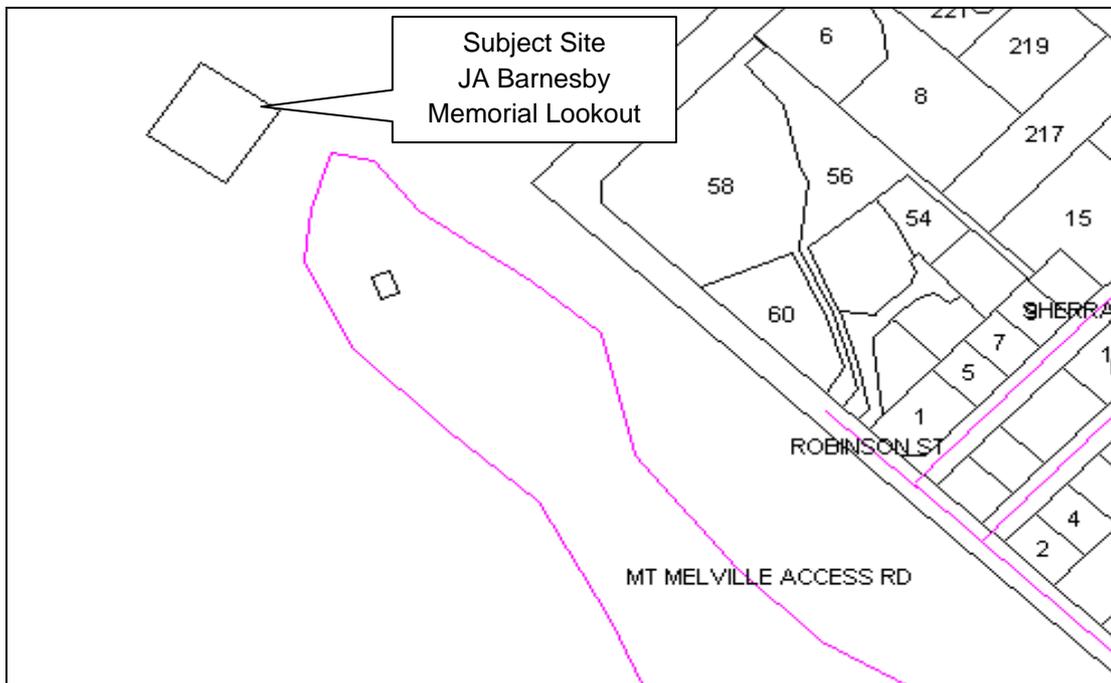
**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER:** 14.11.3  
**ITEM TITLE:** GRANT NEW LEASE AND LICENCE TO BELCAP INVESTMENTS PTY LTD FOR RADIO BEARER SYSTEM LOCATED ON JA BARNESBY MEMORIAL LOOKOUT, MT MELVILLE

**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 373 (Frederickstown Ward)
- Summary of Key Points** : Consider request for a new lease and licence on portion of Reserve 2681, Mt Melville to Belcap Investments Pty Ltd for the purpose of radio bearer system for a 5 year term commencing 21 September 2009, with an option for a further term of 5 years
- Land Description** : Portion of Reserve 2681
- Proponent** : Belcap Investments Pty Ltd
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council's Policy - Property Management - Leases
- Maps and Diagrams** :



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.3 continued.

**BACKGROUND**

1. JA Barnesby Memorial Lookout commonly referred to as Mt Melville Lookout is located on portion of Reserve 2681 under a Management Order issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of Public Park for a term not exceeding 21 years.
2. A written request has been received from Radiowest and Hot FM Networks, as Belcap Investments Pty Ltd a subsidiary of Australian Company, Macquarie Southern Cross Media Group a part of the Macquarie Media Group, for a lease and licence to install and operate a radio bearer system from the Mt Melville Lookout.
3. The radio bearer system being a licensed UHF radio link used to send 6VA Radiowest and Hot FM audio programs from the studios located in York Street to the Mt Melville site and then redistributed to transmission sites in Cull Road and Mt Barker.
4. Currently Radiowest and Hot FM have an agreement to provide this service from Telstra's communications site at Mt Melville, adjacent the Mt Melville Lookout
5. Telstra has advised they will be removing audio program lines from this site within the next few months, of which Radiowest and Hot FM rely upon to deliver both AM and FM programs, so they require an alternative location to continue providing this service to the local community.
6. Council has at present the following various licences and leases utilising the tower and the 2 utility rooms at the Mt Melville Lookout located on portion of Reserve 2681 for communication purposes.
  - Optus Mobile
  - Vodafone Mobile
  - Fire and Emergency Services
  - Albany Business Telephones
  - Tarossa Pty Ltd

The 2 utility rooms located on the ground floor of the lookout building are being used to capacity.

**DISCUSSION**

7. Radiowest and Hot FM Networks as Belcap Investments Pty Ltd propose to lease the unused kiosk washroom area to house transmission equipment as well as a licence for installing three antennas on the tower allowing the delivery of both AM and FM programs to the Albany community to continue.
8. If the proposed lease and licence are granted the lessee would upgrade the washroom to allow for housing of electronic equipment by removing the existing sink, both paint and seal floor and walls and install a secure door.
9. Cable will be run via the existing outflow pipe from the washroom up to the tower via the cabling chamber located internally of the building. All cable will be securely and professionally mounted by qualified engineers and technicians.
10. All costs for construction, installation, ongoing maintenance and repairs of its equipment and power usage will be met by Belcap Investments Pty Ltd.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.3 continued.

11. Belcap Investments Pty Ltd provides a commitment all equipment will be designed, installed and maintained in accordance with the manufacturer's specifications and the Radio Communications Act 1992 (Cth) and will not impact on or cause interference to any other user of telecommunications equipment or any other infrastructure or persons or service within or outside of the land area.
12. Radiowest and Hot FM Networks have been a part of both Albany and the Great Southern communities since 1956 providing regionally focused news, weather, style and social happenings. They have continuously supported community groups, charities and services and promote community awareness on local issues.
13. In accordance with the licence agreement between the City of Albany and Optus for Mt Melville Lookout, all new requests for leases and licences must be presented to Optus for approval. Optus have advised they have no objections to this proposal.
14. It is proposed the new lease and licence be for a 5 year term commencing 21 September 2009, with an option for a further 5 year term.
15. The new lease and licence rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

**PUBLIC CONSULTATION / ENGAGEMENT**

16. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
17. 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.
18. The proposed new lease and licence will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

**GOVERNMENT CONSULTATION**

19. Nil.

**STATUTORY IMPLICATIONS**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.3 continued.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

25. 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.*

**POLICY IMPLICATIONS**

26. The recommendation is consistent with Council's Policy – Property Management – Leases adopted in 2007.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

27. Council has the following options in relation to this item, which are:
  - a. Approve the request for a new sub-licence, or
  - b. Decline the request.
28. Should Council not support the request for a new lease and licence, Radiowest and Hot FM Networks, as Belcap Investments Pty will have to find an alternative location for installation of a radio bearer system to continue to provide Radiowest and Hot FM radio programs.

**SUMMARY CONCLUSION**

29. In view of the service provided to the community by Radiowest and Hot FM radio programs at no cost to Council, the proposed request for a new lease and licence is recommended.

Item 14.11.3 continued.

**ITEM 14.11.3 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT – SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR KIDMAN**

**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 and LICENCE to Belcap Investments Pty Ltd on portion of Reserve 2681, the lease and licence to include terms and conditions being in compliance with Council's Policy – Property Management - Leases, with the following conditions:**

- **the lease and licence term being 5 years commencing 21 September 2009, with an option for a further term of 5 years;**
- **the rental will be determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with rent reviews in line with Council's Policy - Property Management - Leases for this category of agreement;**
- **all costs associated with building renovations be met by the proponent; and**
- **all costs associated with the preparation of the new lease and licence be met by the proponent.**

**MOTION CARRIED 7-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE**

**ITEM NUMBER: 14.12.1**

**ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 16 JULY 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 – 16<sup>th</sup> July 2009

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.1 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY**

**SECONDED: MAYOR EVANS**

**THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 16 July 2009 be RECEIVED.**

**MOTION CARRIED 7-0**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.1 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR DUFTY**

**SECONDED: CR WOLFE**

**Item 9.2 – Seniors Advisory Committee Membership**

**THAT Council SUPPORTS the Committee's recommendation that Mr David Mattinson, be APPOINTED to the Seniors Advisory Committee representing the Association of Independent Retirees.**

**MOTION CARRIED 7-0  
ABSOLUTE MAJORITY**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.2**  
**ITEM TITLE: COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 24 JULY 2009**

**File Number or Name of Ward** : MAN 233 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Corporate and Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee meeting minutes – 24 July 2009

Committee recommendations 1,2,4,5 and 6 were resolved en bloc.

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**  
**SECONDED: CR DUFTY**

**THAT Committee Recommendation 1,2,4,5 and 6 be resolved en bloc.**

**MOTION CARRIED 7-0**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Community and Economic Development Strategy and Policy Committee held on Friday 24 July 2009 be RECEIVED.**

**CARRIED EN BLOC**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 2**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 5.1 - ANZAC Peace Park – Adoption Of Interpretation Strategy**

**THAT Council:**

- **RECEIVE the draft ANZAC Peace Park Interpretative Strategy produced by Freeman Ryan Design;**
- **STAGE implementation of the recommended interpretive systems on the Park, including the Memory Wall, Pier of Remembrance, Lone Pine Grove, interpretive seating and lighting, subject to securing the required funding, and;**
- **REJECT the recommendation to produce a 'City-wide interpretation strategy'.**

**CARRIED EN BLOC**

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.12.2 continued.

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

Item 5.2 - Naming Of Building Formerly Known As The Albany Entertainment Centre

THAT Council RECEIVE the following names from the Committee for determination of the name for the Albany Entertainment Centre:

- Princess Royal Performing Arts Centre
- Albany Princess Royal Performing Arts Centre
- Kalyenup Performing Arts Centre, and
- should Kalyenup Performing Arts Centre not be the preferred naming choice, Kalyenup become the preferred name for the studio space.

Cr Dufty spoke against the motion and foreshadowed the following motion in the event the Committee Recommendation was lost: THAT the name Albany Entertainment Centre be added to current list.

Cr Paver spoke against the motion and foreshadowed the following motion in the event the Committee Recommendation was lost: THAT this item lay on the table for 1 month, returning the September 2009 Ordinary Meeting of Council.

In accordance with clause 7.1(a) of the Standing Orders Local Law, Cr Bostock moved a procedural motion.

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR Bostock**

**SECONDED: CR TORR**

**THAT Committee Recommendation 3 - Item 5.2 - Naming of Building formerly known as the Albany Entertainment Centre, be laid on the table for one (1) month to allow further debate.**

**MOTION CARRIED 4-3**

**Record of Vote**

**For the Motion: Crs Bostock, Paver, Dufty and Torr**

**Against the Motion: Mayor Evans, Cr Wolfe and Kidman**

Item 14.12.2 continued.

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 4**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 5.3 - Request From Albany Light Opera And Theatre Company**

**THAT Council RECEIVE the advice from the Albany Light Opera and Theatre Company.**

**THAT Council continue to work with the group to find a suitable location.**

**CARRIED EN BLOC**

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 5**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 5.4 - Application For The Waiver Of Landing Fees**

**THAT Council APPROVE the application to WAIVE THE LANDING FEES for the Angel Flight Australia.**

**CARRIED EN BLOC**

**ITEM 14.12.2 - COMMITTEE RECOMMENDATION 6**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 6.1 - Council Policy – Community Financial Assistance & Events Funding Program**

**THAT Council ADOPT the Community Financial Assistance & Events Funding program policy, as amended by the Committee.**

**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: ACCEPT TENDER FOR THE SUPPLY OF ASPHALT 2009/10****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>	: C09006
<b>Summary of Key Points</b>	: Accept the tender from Gordon Walmsley for the supply of asphalt
<b>Land Description</b>	: All wards
<b>Proponent</b>	: Nil
<b>Owner</b>	: Nil
<b>Reporting Officer(s)</b>	: Manager City Works (M Richardson); Works Coordinator (M Swarbrick); and Works Project Design Engineer (M Bracknell)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 16/06/09 - Item 12.10.3
<b>Bulletin Attachment(s)</b>	: Nil
<b>Consulted References</b>	: Nil

**BACKGROUND**

1. Tenders were called for the supply of asphalt for Councils requirements for road and pathway construction proposed for the 2009/10 capital works program. Council's current contract for the supply of asphalt expired 30<sup>th</sup> June 2009.

**DISCUSSION**

2. During the tender evaluation process for the asphalt tender (OCM 16/06/09 Item 12.10.3), inconsistencies were noted with the information supplied by the tenderers relating to the calculation and formatting of costs for traffic management. Subsequently this tender has been rewritten and a new tender called.
3. The tender documentation stated that the following criteria and weightings would be used to evaluate the submissions.

<b>Criteria</b>	<b>% Weighting</b>
Cost	60
Experience and Reliability	30
Other Considerations	10
<b>Total</b>	<b>100</b>

4. The following table summarize those four submissions received by the close of the tender period.

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

<b>TENDERER</b>	<b>SUBMITTED PRICE (Inc. GST)</b>	<b>WEIGHTING</b>
<b>Gordon Walmsley Pty Ltd</b>	<b>\$547,000.00</b>	<b>565.8</b>
<b>BGC Asphalt</b>	\$491,194.00	561.2
<b>Downer EDI</b>	\$550,850.00	551.6
<b>Pioneer Road Services</b>	\$601,050.00	511

5. All of the contract submissions were deemed acceptable to Council, however the level of documentation provided by some contractors was poor. All the contractors have the appropriate skills, experience and resources to undertake the works.
6. Local contractors scored favourably when the Regional Price Preference Policy was applied to the cost evaluation weightings. These weightings have contributed to Gordon Walmsley Pty Ltd achieving the highest score overall even though the price submitted by them was not the lowest.
7. Mobilisation/Demobilisation costs varied greatly between the contractors – pricing for this service ranged from \$500 to \$17,600.
8. The tender from Gordon Walmsley improves Council's ability to be more reactive, provide greater flexibility and reduced mobilisation costs for these works.

**PUBLIC CONSULTATION / ENGAGEMENT**

9. A request for tenders was published in the West Australian on 24<sup>th</sup> June 2009, the Albany Advertiser on 25<sup>th</sup> June 2009 and Albany Extra on 26<sup>th</sup> June 2009.

**GOVERNMENT CONSULTATION**

10. There is no government consultation relating 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 the CEO to advise each tenderer in writing the result of Council's decision.

**FINANCIAL IMPLICATIONS**

14. The funds for these works are included in the overall road construction and routine maintenance programs. The tendered prices are within those allocations.

**WORKS & SERVICES REPORTS**

Item 15.2.1 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.”*

**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 tender submission from Gordon Walmsley Pty Ltd scored the highest total weighting for all of the required evaluation criteria.

**ITEM 15.2.1 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ACCEPT the tender for the supply of asphalt C09010 from Gordon Walmsley Pty Ltd for the price submitted of \$547,000.00 (inc. GST)

**ITEM NUMBER 15.2.1 – ALTERNATE MOTION BY COUNCILLOR WOLFE**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR DUFTY**

**THAT Council ACCEPT the tender from Gordon Walmsley Pty Ltd to supply asphalt for 12 months at a cost of \$547,000.00 (inc. GST).**

**MOTION CARRIED 6-1**

**Record of Vote**

**For the Motion: Mayor Evans, Crs Bostock, Paver, Wolfe, Dufty and Kidman**

**Against the Motion: Cr Torr**

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

**Councillors Reason:**

To provide clarity to the motion and clearly indicate that the contract is for a period of 12 months.

**OFFICERS REPORT:** Author: Executive Services Manager Business Governance (S Jamieson)

**STATUTORY IMPLICATIONS:** Nil.

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:** Nil

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:** Nil

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:** Nil

**COMMENT:** The suggest amendment provide clarity to the motion.

**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**

Nil.

**GENERAL MANAGEMENT SERVICES REPORTS**

**16.2 GENERAL MANAGEMENT SERVICES COMMITTEE**

**16.2.1 CORPORATE STRATEGY AND GOVERNANCE STRATEGY AND POLICY COMMITTEE  
MEETING MINUTES -9<sup>TH</sup> JULY, 23<sup>RD</sup> JULY AND 30<sup>TH</sup> JULY 2009**

<b>File Number or Name of Ward</b>	: MAN 234 (All Wards)
<b>Summary of Key Points</b>	: Committee items for Council consideration
<b>Reporting Officer(s)</b>	: Manager Executive Services (S Jamieson)
<b>Disclosure of Interest</b>	: Nil.
<b>Bulletin Attachment(s)</b>	: Committee meeting minutes.

Committee recommendations 1,3 and 4 resolved en bloc.

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR KIDMAN**

**THAT Committee Recommendations 1,3 and 4 be resolved en bloc**

**MOTION CARRIED 7-0**

**ITEM 16.2.1 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the:**

- **CONFIRMED minutes of the Corporate Strategy and Governance Strategy and Policy Committee meeting minutes of 9<sup>th</sup> July and 23<sup>rd</sup> July 2009; and**
- **UNCONFIRMED Corporate Strategy and Governance Strategy and Policy Committee minutes of 30<sup>th</sup> July 2009.**

**CARRIED EN BLOC**

**ITEM 16.2.1 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

Item 4.2 - Elected Members Seeking Legal Advice

- THAT Council prepare a DRAFT Legal Representation Policy;
- THAT the Mayor, Deputy Mayor and Councillors are covered by the POLICY; and
- THAT the Draft Legal Representation Policy is presented to the August 2009 Corporate Strategy and Governance Strategy and Policy Committee meeting.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.2.1 continued.

**ITEM 16.2.1 – COMMITTEE RECOMMENDATION 2 – ALTERNATE MOTION BY CR BOSTOCK  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR BOSTOCK**

**SECONDED: MAYOR EVANS**

**Item 4.2 – Elected Members Seeking Legal Advice**

- **THAT Council prepare a DRAFT comprehensive Legal Representation Policy;**
- **THAT the Mayor, Deputy Mayor, to all Councillors and all staff are covered by the POLICY; and**
- **THAT the Draft Legal Representation Policy is presented to the September 2009 Corporate Strategy and Governance Strategy and Policy Committee meeting.**

**MOTION CARRIED 7-0**

**ITEM 16.2.1 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 6.0 – Amendment to timings for future committee meetings**

**THAT Council AMEND the Governance and meeting framework policy , Corporate Strategy and Governance Strategy & Policy Committee Terms of Reference meeting start time to read 3.30pm.**

**CARRIED EN BLOC**

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.2.1 continued.

**ITEM 16.2.1 - COMMITTEE RECOMMENDATION 4**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**Item 4.2 – Local Government Reform Submission – Draft Report**

**THAT Council RECEIVE the Draft City of Albany Structural Reform Report (Version 1 with the following committee recommended amendments (Pages 4 & 5):**

**City of Albany (at this time) is a sustainable Local Government , which:**

- **retains its current boundaries;**
- **resolves to conduct a Ward Review with the preferred intention of introducing 4 wards with two Elected Members per ward and a popularly elected Mayor – thereby reducing its Elected Members from 12, plus a popularly elected Mayor, to 8 plus a popularly elected as of October, 2011;**
- **works with the Shire of Katanning as a Regional Grouping;**
- **further develops the ‘Regional Cities Alliance’ proposal with our partners for high profile projects across WA;**
- **scopes, introduces and develops its own bespoke business unit to assist service delivery to interested Local Governments, with relevant and required technical and business skills on a fee for service basis; and**
- **welcomes the opportunity of further discussion on Local Government Reform post this voluntary stage instigated by the Minister.**

**CARRIED EN BLOC**

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.2.1 continued.

**ITEM 16.2.1 – COMMITTEE RECOMMENDATION 5 – RESOLVED BEHIND CLOSED DOORS  
(ITEM 22.1)**

ITEM 16.2.1 - COMMITTEE RECOMMENDATION 5  
VOTING REQUIREMENT: SIMPLE MAJORITY

Item 4.3 – Cull Road Subdivision Report

THAT COUNCIL close the meeting to the public to discuss Committee Item 4.3 - Cull Rd Report (File Ref: STR276/RPT1871) in accordance with Section 5.23(2)(c) and (d) of the Local Government Act 1995, being:

*“(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.”*

**ITEM 16.2.1 – COMMITTEE RECOMMENDATION 6 – RESOLVED BEHIND CLOSED DOORS**

**ITEM 16.2.1 - COMMITTEE RECOMMENDATION 6  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

Item 4.4 – Tender - Provision of Legal Services

THAT Council ACCEPT the Tender from Hudson, Henning & Goodman for C09011 (Provision of Legal Services) for a 12 month period at an all inclusive price (including disbursements) of \$175,000 (plus GST), recognising that the City will at times have no option other than to engage other specialist legal services.

**MOTION LOST 3-4**

**Record of Vote**

**For the Motion: Mayor Evans, Councillors Wolfe and Dufty**

**Against the Motion: Councillors Kidman, Torr, Paver and Bostock**

**17.0 ADOPTION OF THE INFORMATION BULLETIN**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR PAVER  
 SECONDED: CR WOLFE**

**THAT Council RECEIVE and note the contents of the Information Bulletin, as circulated.**

**MOTION CARRIED 7-0**

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

**ITEM 18.1 WITHDRAWN FROM THE AGENDA BY PROPOSER**

**ITEM NUMBER: 18.1  
 ITEM TITLE: GRAVEL EXTRACTION – RESERVE 15606 - RESCISION MOTION BY COUNCILLOR TORR**



**RESCIND A MOTION**

In accordance with Regulation 10(1a) of the Local Government (Administration) Regulations 1996, we the undersigned hereby move to have the **Motion of Report Item 13.4.1 - CONTRACT C08003 – SUPPLY OF GRAVEL** which was moved at the Ordinary Council Meeting held on **21<sup>st</sup> April 2009**, be reconsidered.

<u>D. J. Wolfe</u>	<u>[Signature]</u>	<u>10. 8. 09.</u>
Name	Signature	Date
<u>VA TORR</u>	<u>[Signature]</u>	<u>10. 8. 09.</u>
Name	Signature	Date
<u>D. M. Price</u>	<u>[Signature]</u>	<u>11. 8. 09</u>
Name	Signature	Date
<u>MILTON JOHN EVANS</u>	<u>[Signature]</u>	<u>11. 8. 09</u>
Name	Signature	Date
<u>A. D. DUFFY</u>	<u>[Signature]</u>	<u>11- 8- 09</u>
Name	Signature	Date

Item 18.1 continued.

**RESCISSION MOTION**

**THAT the Motion Item 13.4.1 - Contract C08003 – Supply of Gravel at the Ordinary Council**

**Meeting dated 21<sup>st</sup> April 2009 as follows:**

"ITEM 13.4.1 - OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY MOVED COUNCILLOR WALKER SECONDED COUNCILLOR DUFTY THAT COUNCIL AWARDS

- i) *AD Contractors Pty Ltd for pits: the tender C08003 for the supply of gravel from various pits during 2008/2009 and 2009/2010 to the following tenderers:*
- *Wilcox Road at a price of \$34,750.00,*
  - *Mount Boyle Road at a price of \$22,500.00,*
  - *Drawbin Road at a price of \$35,550.00,*
  - *Cochrane Road at a price of \$20,750.00,*
  - *Douglas Road at a price of \$18,500.00, and*
  - *Southcoast Highway at a price of \$57,000.00.*
- ii) *Palmer Earthmoving Australia Pty Ltd for pits:*
- *Takenup Road at a price of \$43,125.00,*
  - *Morrialup Road at a price of \$9,280.00,*
  - *Hunwick Road at a price of \$24,270.00,*
  - *Kojaneerup Springs Road at a price of \$22,452.50; and*
  - *Millbrook Road at a price of \$42,600.00."*

**Be AMENDED by RESCINDING the award of tender to Palmer Earthmoving Australia Pty Ltd for the Millbrook Road gravel pit (part ii) point 5) for the amount of \$42,600.00.**

*Voting Requirement: Absolute Majority.*

*[Section 5.25 (1)(e) of the Local Government Act 1995 refers]*

**Councillor Reason:**

The Millbrook Gravel Reserve contains old growth vegetation (Established Jarrah, Red Gum, with no dieback.

In accordance with Council Policy 'Applying for an Extractive Industry Licence: A Guideline for Developers, adopted by Council on the 25 July 2000, I believe this site should be protected as it contains a unique biodiversity in line with the City of Albany vision, being:

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

When Council awarded the Contracts for gravel extraction, Council was unaware of the potential environmental impact.

Item 18.1 continued.

**OFFICERS REPORT:** Author: Executive Director Works & Services

**STATUTORY IMPLICATIONS:**

The Statutory Implications of a rescission motion detailed at Regulation 10(1a) of the Local Government (Administration) Regulations 1996, being:

*“Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.”*

has been met.

**POLICY IMPLICATIONS:**

Reserve 15605 is currently classified for gravel extraction. If the rescission motion is supported, the reserve would have to be reclassified.

**FINANCIAL IMPLICATIONS:**

As the tender has been awarded, Palmer Earthmoving Australia Pty Ltd can claim the loss of potential earnings.

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

The impact of this rescission motion will increase the cost of road maintenance in the surrounding area, due to increased transport costs.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:**

As detailed at financial implications.

**COMMENT:**

The cost detailed in the report detailed at 13.4.1 was based on the following assumption.

1. That the gravel pit had an expected production life of at least 10 years.
2. That the annual operating cost would be approximately \$42, 600 at current tendered rates.
3. That the potential total production would be in the order of 100, 000 cubic metres over the full reserve.

Therefore the additional anticipated cost of not producing gravel at this site would be in excess of \$700, 000 over the potential (10 year) life span of the pit, based on current alternative supply costs. (approximately \$7.00 per cubic metre).

**ITEM 18.1 WITHDRAWN FROM THE AGENDA BY PROPOSER**

**19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING**

In accordance with Standing Orders Local Law 2009, clause 3.6 (a), a matter may, by an absolute majority decision, be raised without notice and decided at a meeting.

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR WOLFE  
SECONDED: CR DUFTY**

**THAT in accordance with the Standing Orders Local Law 2009, clause 3.6, Report Item 19.1 be considered.**

**MOTION CARRIED 7-0  
ABSOLUTE MAJORITY**

**ITEM NUMBER: 19.1  
ITEM TITLE: ACCEPT TENDER FOR THE CONSTRUCTION OF A CONCRETE FOOTPATH ON ULSTER ROAD**

**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** : C09013 (Breaksea Ward)
- Summary of Key Points** : Accept the tender from WP Reid for the construction of a concrete footpath on Ulster Road
- Land Description** : Nil
- Proponent** : Nil
- Owner** : City of Albany
- Reporting Officer(s)** : Manager City Works (M Richardson),  
Works Coordinator (M Swarbrick)  
Works Project Design Engineer (M Bracknell)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 17/02/09 Item 12.1.5
- Bulletin Attachment(s)** : Nil
- Consulted References** : Nil

**BACKGROUND**

1. In December 2008, the Western Australian Government, through the Royalties for Regions Program, allocated funding to local authorities. One part of the initiative is the Country Local Government Fund. Council at the Ordinary Council Meeting in February determined that part of this funding would be put towards the acceleration of the pathways asset plan of which Ulster Road has been highlighted.

Item 19.1 continued.

## DISCUSSION

2. Tenders were called for the construction of concrete footpaths on Ulster Road.
3. Royalties for Regions funding is contingent on Council completing all of the nominated works by the end of September. Tenderers were asked to provide costs for the construction of the Ulster Road footpath in two stages – From Rycraft to Collingwood Road and from the existing footpath on Ulster Road to Hardie Road.
4. Given the tight timeframes, the availability of contractors and the remaining works required to be completed by September 30, staff recommend that the footpath from Hardie Road to the existing pathway on Ulster Road is achievable by the September 30 deadlines and is within budgetary guidelines.
5. The tender documentation stated that the following criteria and weightings would be used to evaluate the submissions.

Criteria	% Weighting
Cost	50
Experience and	30
Reliability	20
<b>Total</b>	<b>100</b>

6. The following table summarize those three submissions received by the close of the tender period. The tendered prices listed are to complete all stages of the Ulster Road footpath.

TENDERER	SUBMITTED PRICE (Inc. GST)	SCORE
<i>WP Reid</i>	\$259,001.00	540
<i>Campbell Contracting</i>	\$263,366.00	532
<i>Double H Concrete</i>	\$278,685.00	478

7. All of the contract submissions were deemed acceptable to Council; however the level of documentation provided by some contractors was poor. All of the contractors have the appropriate skills, experience and resources to undertake the works. Whilst Council has not previously dealt with Double H Concrete they did provide references to give background knowledge on their level of skills and work detail.
8. The tender from WP Reid was deemed to be the most acceptable offer to Council.

## PUBLIC CONSULTATION / ENGAGEMENT

9. A request for tenders was published in the West Australian on 22<sup>nd</sup> July 2009, the Albany Advertiser on 23<sup>rd</sup> July 2009 and Albany Extra on 24<sup>th</sup> July 2009.

## GOVERNMENT CONSULTATION

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

Item 19.1 continued.

### **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 the CEO to advise each tenderer in writing the result of Council's decision.

### **FINANCIAL IMPLICATIONS**

14. Royalties for Regions funds have been allocated for these works to the amount of \$154,000 for the works including contingencies.

### **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.

Item 19.1 continued.

**SUMMARY CONCLUSION**

18. The City has undergone a competitive process in line with the relevant legislation and established policies. The tender submission from WP Reid scored the highest total weighting for all of the required evaluation criteria.

**ITEM 19.1 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR DUFTY  
SECONDED: CR WOLFE**

**THAT Council:**

- (i) **ACCEPT the tender C09013 from WP Reid for construction of the concrete footpath on Ulster Road between Hardie Road and the existing pathway for the price submitted of \$121,976.36 (excl. GST) and that**
- (ii) **Allocate an allowance for contingencies to the amount of \$32,023.64.**

**MOTION CARRIED 7-0**

## 20.0 REQUEST FOR REPORTS FOR FUTURE CONSIDERATION

Nil

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

Nil

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

### VOTING REQUIREMENTS: SIMPLE MAJORITY

**MOVED: CR WOLFE**

**SECONDED: CR DUFTY**

**THAT Council close the meeting to the public to consider:**

- **Item 22.1 – Internal Review Of The Cull Road Subdivision;**
- **Item 22.2 – Financial Options for the Balance of Lot 247 Cull Road, Lockyer;**
- **Item 22.3 – Internal Review Committee Minutes dated 4<sup>th</sup> August 2009.**
- **Item 16.2.1 - Committee Recommendation 5 – Cull Rd Subdivision Report**
- **Item 16.2.1 – Committee Recommendation 6 - Provision of Legal Services**

*In accordance with 5.23 (2)(b)(c)(d) of the Local Government Act 1995; being:*

- (a) a matter affecting an employee or employees;*
- (b) the personal affairs of any person;*
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

**MOTION CARRIED 7-0**

In accordance with the Standing Orders Local law 2009, clause 7.9, the meeting was closed to the public. The Mayor declared the meet [9:35:14 PM](#) – member of the public left the Chambers.

The Mayor adjourned for a 5 minute recess.

Meeting resumed, behind closed at [9:42:18 PM](#)

Mr Schober left the Chambers at [9:46:29 PM](#)

Ms Wignall joined the Chambers at [9:46:40 PM](#)

Item 22.0 continued.

Item 16.2.1 – Committee Recommendation 6 was discussed and resolved behind closed doors.

Cr Paver declared an impartial interest and remained within the Chamber. The nature of his interest is that he has had previous dealings with Hudson Henning and Goodman.

**16.2.1 CORPORATE STRATEGY AND GOVERNANCE STRATEGY AND POLICY  
COMMITTEE MEETING MINUTES -9<sup>TH</sup> JULY, 23<sup>RD</sup> JULY AND 30<sup>TH</sup> JULY 2009**

**File Number or Name of Ward** : MAN 234 (All Wards)  
**Summary of Key Points** : Committee items for Council consideration  
**Reporting Officer(s)** : Manager Executive Services (S Jamieson)  
**Disclosure of Interest** : Nil.  
**Bulletin Attachment(s)** : Committee meeting minutes.

**ITEM 16.2.1 – COMMITTEE RECOMMENDATION 6**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: CR DUFTY**

**Item 4.4 – Tender – Provision of Legal Services**

**THAT Council ACCEPT the Tender from Hudson, Henning & Goodman for C09011 (Provision of Legal Services) for a 12 month period at an all inclusive price (including disbursements) of \$175,000 (plus GST), recognising that the City will at times have no option other than to engage other specialist legal services.**

**MOTION LOST 3-4**

**Record of Vote**

**For the Motion: Mayor Evans, Councillors Wolfe and Dufty**

**Against the Motion: Councillors Kidman, Torr, Paver and Bostock**

**ITEM NUMBER: 22.1**

**ITEM TITLE: INTERNAL REVIEW OF THE CULL ROAD SUBDIVISION**

**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** : STR238
- Summary of Key Issues** : Consideration of Internal Review
- Land Description** : Lot 247 Cull Road, Lockyer
- Owner** : City of Albany
- Reporting Officer(s)** : Executive Services Manager – Planning  
(G Bride)  
Executive Manager Business Governance  
(S Jamieson)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/04/09 Item 19.1
- Bulletin Attachment(s)** : Nil
- Consulted References** : Copy of Cull Road Subdivision Review (previously distributed)
- Councillors Lounge** : Package including previously answered Councillor questions and initial scoping review.

*Cr Kidman declared an impartial interest in this item and remained within the Chamber. The nature of his interest is that his daughter's partner is employed by Opus, a contractor of the Cull Rd subdivision.*

*Cr Duffy declared an impartial interest in this item and remained within the Chamber. The nature of his interest is he is a member of the Albany Cottage Board.*

**ITEM 22.1 - INTERNAL REVIEW OF THE CULL ROAD SUBDIVISION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR WOLFE**

**SECONDED: MAYOR EVANS**

**THAT Council:**

- i) **RECEIVES** the internal review on the Cull Road Subdivision.
- ii) **ACKNOWLEDGES** that the internal review on the Cull Road Subdivision Report will be forwarded to the Department of Local Government.
- iii) **ADOPTS** the following recommendations/findings as contained within the review:
  - (1) The contribution plan should be updated as soon as the intersection designs are finalised and costed to ensure landowners are aware of all contribution amounts prior to subdivision.
  - (2) The CEO be authorised to negotiate with the Woods to purchase 1636m2 of land within the determined range detailed at paragraph 11(a) of Confidential Report Item 22.1.

Item 22.1 continued.

- (3) On resolution of point 2 above, the extension of Mueller Street be undertaken within the 2009/10 financial year, either at an urban standard as part of the subdivision of Stage 1B and 2, or where Council does not proceed with Stage 1B and 2 at a rural standard (bitumen sealed, no kerbing and open drains) to allow the connection to be carried through.**
- (4) In the event that Mueller Street is extended to a rural standard, any offer from the owners of Lot 260 to contribute to Mueller Street as a refundable contribution shall be considered by Council.**
- (5) That the use of version controls be used for all future planning studies / structure plans prepared by the City.**
- (6) That the structure planning assessment process as outlined in the planning review recently undertaken by Council be implemented no later than 1 October 2009, which seeks to consult with affected landowners at the initial stages.**
- (7) That a project office be established to review all aspects of a project on a regularly basis to ensure projects are on time and on budget.**
- (8) Legal advice being received to ascertain whether there is any scope of retrospectively applying the contribution for the upgrading of Mueller Street as identified in the South Lockyer Structure Plan to the subdivision of Lot 260 (WAPC 131863), and to confirm whether contributions from subdivisions with the Structure Plan area towards the refunding of trunk sewer and water mains in part to Lot 260 be directed towards the upgrade of Mueller Street.**
- (9) A 'lessons learnt' exercise be undertaken with the consultants used by Council to review the design and construction issues associated with the project.**
- (10) That should a variation to contract claim be received by OPUS for a sum exceeding \$25,000 this claim shall be forwarded to Council with an independent report on the validity of the claim.**
- (11) A business plan being prepared as per Council's 21 April 2009 resolution, with full financial analysis on the options of developing or selling of Lot 247. A joint venture partnership may be the most cost effective way of generating revenue from of Lot 247 whilst reducing expenditure and subsequently financial risk.**

**MOTION LOST 4-3**

**DID NOT ACHIEVE ABSOLUTE MAJORITY**

**Record of Vote**

**For the Motion: Mayor Evans, Councillors Wolfe, Kidman and Paver.**

**Against the Motion: Cr Dufty, Bostock and Torr**

**ITEM NUMBER:** 22.2  
**ITEM TITLE:** FINANCIAL OPTIONS FOR THE BALANCE OF LOT 247 CULL ROAD, LOCKYER

**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** : STR238  
**Summary of Key Issues** : Consideration of options for the balance of Lot 247 Cull Road, Lockyer  
**Land Description** : Lot 247 Cull Road, Lockyer  
**Owner** : City of Albany  
**Reporting Officer(s)** : Executive Services Manager – Planning & Councillor Liaison (G Bride)  
 Manager Finance (P Wignall)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 21/04/09 Item 19.1  
**Bulletin Attachment(s)** : Valuers Report  
 Costings from Opus Engineering  
 Staging Map for subdivision of Lot 247  
**Consulted References** : Cull Road Subdivision – Internal Review  
**Councillors Lounge** : Nil

**ITEM 22.2 - FINANCIAL OPTIONS FOR THE BALANCE OF LOT 247 CULL ROAD, LOCKYER**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: CR DUFTY**

**SECONDED: CR WOLFE**

**THAT Council:**

- i) **AUTHORISE** the CEO to seek potential joint venture partners through an Expression of Interest process in accordance with the requirements of Section 21 and 22 of the Local Government (Functions and General) Regulations 1996 for the development of the balance of Lot 247 Cull Road, Lockyer; and
- ii) **INSTRUCT** the CEO to review any expressions of interest arrangements (accompanied by a detailed financial analysis) on the potential revenue for the City from such arrangement and to submit a report for consideration to the next available Ordinary Council Meeting before any action is taken by the CEO or City of Albany staff on the expressions of interest.

**MOTION LOST 5-2**

**DID NOT ACHIEVE ABSOLUTE MAJORITY**

**Record of Vote**

**For the Motion:** Mayor Evans, CRs Paver, Wolfe, Dufty and Kidman

**Against the Motion:** CR Bostock and Torr

Ms Wignall left the Chambers at [10:51:52 PM](#)

**ITEM NUMBER: 22.3**  
**ITEM TITLE: INTERNAL REVIEW COMMITTEE MINUTES – 4<sup>TH</sup> AUGUST 2009**

**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 180 (All Wards)
<b>Summary of Key Points</b>	: Receive the minutes of the Internal Review Committee
<b>Reporting Officer(s)</b>	: Chief Executive Officer (P. Richards)
<b>Disclosure of Interest</b>	: Nil.
<b>Bulletin Attachment(s)</b>	: Nil.

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 22.3 - INTERNAL REVIEW COMMITTEE MINUTES – 4<sup>TH</sup> AUGUST 2009**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR PAVER**  
**SECONDED: CR WOLFE**

**THAT Council RECEIVE the UNCONFIRMED Internal Review Committee Minutes (AM809047) dated 4<sup>th</sup> August 2009 distributed under CONFIDENTIAL cover in accordance with sections 5.23 (2)(a) and (b) of the Local Government Act 1995; being and the following actions be endorsed:**

**4.1 SERVICE COMPLAINT: ONGOING NOISE ISSUES**

- (1) That the City of Albany take steps to stop any unauthorised industrial activity taking place at addressed detailed within the Internal Review meeting minutes; and**
- (2) That the CEO investigate issues associated with the use and application of the noise monitoring equipment in relation to the complainant and report his findings and recommendations to members of this committee within two weeks.**

**4.2 SERVICE COMPLAINT: APPROVAL OF BUILDING LICENSE**

- (1) That the City of Albany write to the complainant and inform them that no remedial options were available to the Committee and that legal redress would not be recommended by the Committee to full Council; and**
- (2) That the CEO instigate a change of focus by the Development Services business area to ensure that privacy is accorded greater weight when assessing applications lodged under performance standards or the Residential Design codes and neighbour objection has been received.**

**MOTION CARRIED 7-0**

Item 22.3 continued.

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: CR WOLFE**  
**SECONDED: CR PAVER**

**THAT Council reopen the meeting to the public.**

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

**MOTION CARRIED 7-0**

The meeting was reopened to the public; no members of the public were present.

**23.0 NEXT ORDINARY MEETING DATE**

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

**24.0 CLOSURE OF MEETING**

There being no further business the Mayor declared the meeting closed at 11:07 PM.

Confirmed as a true and accurate record of proceedings.

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Milton John Evans, JP  
**MAYOR**

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

<b>Meeting Date</b>	<b>Item Number</b>	<b>Details</b>	<b>Status</b>
21/07/09	13.2.1	Scheme Amendment Request – Lots 36-38, 41-45 and 47-52 Federal St and Lots 39,40, and 46 Gladville Rd, McKail.	To be brought back to the September 2009 Ordinary Council Meeting.
21/07/09	13.2.4	Initiation of Scheme Amendment 173 – Zoning 19 & 20 Monck Way, Centennial Park from the 'Public Use' Reserve and to the 'Industry Zone'	Detailed at report 13.2.1.

**NOTICE OF DISCLOSURES**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Councillor Kidman	22.1	Impartiality. The nature of his interest is that his daughter's partner is employed by OPUS.
Councillor Dufty	16.2.1	Impartiality. The nature of his interest being that he is a member of the Cottage Scheme Board.
Councillor Paver	16.2.1	Impartiality. The nature of his interest is that he has had previous dealings with Hudson Henning and Goodman.

**SUMMARY OF ACCOUNTS CERTIFICATE**

**Municipal Fund**

Trust	Totalling	\$141,450.48
Cheques	Totalling	\$191,615.17
Electronic Fund transfer	Totalling	\$3,265,619.10
Credit Cards	Totalling	\$6,892.10
Payroll	Totalling	<u>\$1,187,449.72</u>
	<b>Total</b>	<b>\$4,793,026.57</b>

**CHIEF EXECUTIVE OFFICER**

This schedule of accounts to be passed for payment totalling \$4,793,026.57 which was submitted to each member of the Council, dated 31<sup>st</sup> July 2009, has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

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**Paul Richards**

Chief Executive Officer

**MAYOR**

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$4,793,026.57, dated 31<sup>st</sup> July 2009, was submitted to the Council, and that the amounts are recommended to the Council for payment.

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**Milton John Evans, JP**

Mayor

**APPENDIX D**

**TABLED DOCUMENTS**

<b>Document Tabled By</b>	<b>Document Reference</b>
Cr Bostock	Council address regarding items 13.2.3 and 16.2.1. (Ref: FN8087549) 13.2.3 – Page 141 16.2.1 – Page 142 & 143
Mr Justin Hardy	Public Reserve – Millbrook Road. (Ref: AM8087546) Page 145 & 146
Mr Tony Stanton	Country Council Reform. (Ref: FN8087548) Page 147 & 148

OCM 18 August 09

Item 13.2.3 Scheme Amendment, Big Grove, Rural to Residential Development.

Mayor and councillors the land in question is detailed as an area of regional significance in the Lower Great Southern Strategy. It is therefore imperative that every care is taken preserve this heritage during any change. Rezoning is the single most important step and is the last chance for Council to have a significant influence in the way an area is developed. Reassurances that things can be done at a later stage is simply not realistic.

I have been studying the State Administrative Tribunal, Decisions Database and was interested to learn that SAT considers the examination of an Outline Development Plan at the rezoning stage to be of crucial importance. A draft ODP is available and held by our planning department, it is essential that Councillors are aware of what is envisaged for this area and properly consider its likely impact on this sensitive coastal environment.

The second imperative is State Planning Policy 2.6, the consideration of this document at this stage is not only desirable but MANDATORY.

Section 77 (1) (a) of the Planning and Development Act 2005 requires that every Local Government is to have “due regard” to any State Planning Policy when adopting amendments to its local planning scheme.

SAT found that “due regard” requires serious and detailed consideration and where an amendment to a planning scheme is inconsistent with a SPP strong justification for such variation is expected.

Do we know the requirements of SPP2.6 or established justifications for waiving them?

Councillors this deferment is to allow us proper consideration of the draft ODP and SPP 2.6, this site is too precious to our community to allow unchecked dense development.

The problem is not lack of awareness, knowledge or appropriate legislation, WA has some excellent policies, the destructive force is the lack of consistent application.

We have time to do this properly, involve the community and get it right. This deferment would allow committee time to properly examine the ODP, its impact on the environment and how SPP 2.6 can be implemented to ensure sympathetic development.

I hope you can all support this motion.

Councillor Jill Bostock.

OCM 18 August 09

Item 16.2.1 Tender for Provision of Legal Service.

Speak against:

One can appreciate the reasoning behind the concept of an in house or retained lawyer for our legal requirements but the practical application is more complex and problematical than one might first envisage.

The legal needs of this organisation are varied and within the motion this is reflected in the acceptance that we will have to seek alternative services on occasion. The question is to what extent and how frequently this occurs. By employing a local firm, the “conflict of interest” issue will inevitably result in this being more often than would otherwise be necessary. Equally to be tied into one firm is detrimental, to achieve the best specialist advice available in all areas, one would require freedom to employ the most experienced firm for each discipline, rather than a one size fits all approach.

The initiative to reduce our expenditure on legal services is admirable and the formulation of a comprehensive legal service policy will afford the opportunity to examine the most effective and prudent method of obtaining the best service for the city.

I do not believe that this tender is to our best advantage and greater consideration of this subject is necessary.

Councillor Jill Bostock.

OCM 18 August 09

Item 16.2.1 Elected members seeking legal advice.

Amendment to Motion:

That Council prepare a draft comprehensive legal representation Policy;  
That the Mayor, Deputy Mayor, all Councillors and all staff are included in the policy; and  
That the Draft Legal Representation Policy is presented to the September 2009 Corporate Strategy and Policy Committee meeting.

Simply added the words, comprehensive; all staff and changed the date to allow time for the policy to be prepared.

It seems unlikely that anyone could prepare this in one day.

Speak for the motion:

If a policy regarding legal advice is being formulated it makes sense to compile a comprehensive policy.

The governing body is legally responsible for all decisions in the organisation, we are not a separate entity but the head of this Local Government, it follows therefore that any legal advice obtained is through Council that is by the authority of full Council not individual Councillors or individual members of staff.

It is important that any policy reflects this authority, whilst paying attention to the possible need for individual members of Council or staff requiring legal assistance.

Too many policies become impossible to manage, indeed become counter productive, policies should be kept to a minimum and be as concise as possible. It is for this reason that one policy should cover all aspects of legal representation for the City.

Councillor Jill Bostock.

Your Ref:  
Our Ref: Justin Hardy  
Enquiries: 9844 3554  
Date: 18 August 2009

His Worship the Mayor Milton Evans, JP,  
City of Albany,  
102 North Road,  
Yakamia,  
**ALBANY**, WA, 6330.

**Public Reserve (Title P195425 3800) Millbrook Rd**

His Worship the Mayor Milton Evans and fellow councillors,

I am resident of the Millbrook area and also a member of the Friends of the King River and Bila Boya Reserves an affiliated sub-group of the Oyster Harbour Catchment Group Inc.

The Friends of the King River and Bila Boya Reserves have over the last several years we have been volunteering our time and effort to remove weeds from taking over the area and have made efforts towards the preparation of a management plan for the area. In October 2008 we began some initial Watsoni control in the public reserve P195425 3800 Millbrook road. We planned to continue these efforts in the spring of 2009 in the same reserve however we now feel our efforts are thwart.

As a member of the group it has only recently come to my attention that this key block within our area of concern, some 17 hectares in size, of remnant vegetation is planned to be quarried for gravel. I am concerned that many of the locals are as yet unaware of the significance of this activity and that it is counter productive to our recent efforts and our vision for the connectivity of the remnant vegetation with the river reserves in the area.

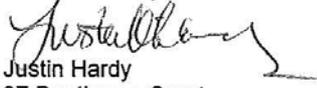
We are also concerned that the vehicle and truck access points that appear to have been chosen to obtain the gravel are extremely hazardous due to the heavy traffic and the dangerous S bends.

We ask that council rescind the decision to take gravel from this reserve and the likely damage it will do to the flora and fauna that it held of high value to the residents of the area.

I hope that you can please protect this valuable reserve and remnant vegetation and the unique flora and fauna that it contains for local residents to continue to value and appreciate as part of on-going community management plan for the area.

Thank you for your time

Yours sincerely

  
Justin Hardy  
37 Bonthorpe Court  
King River  
Albany

PS I would like to table this letter and map.

**Reserves**

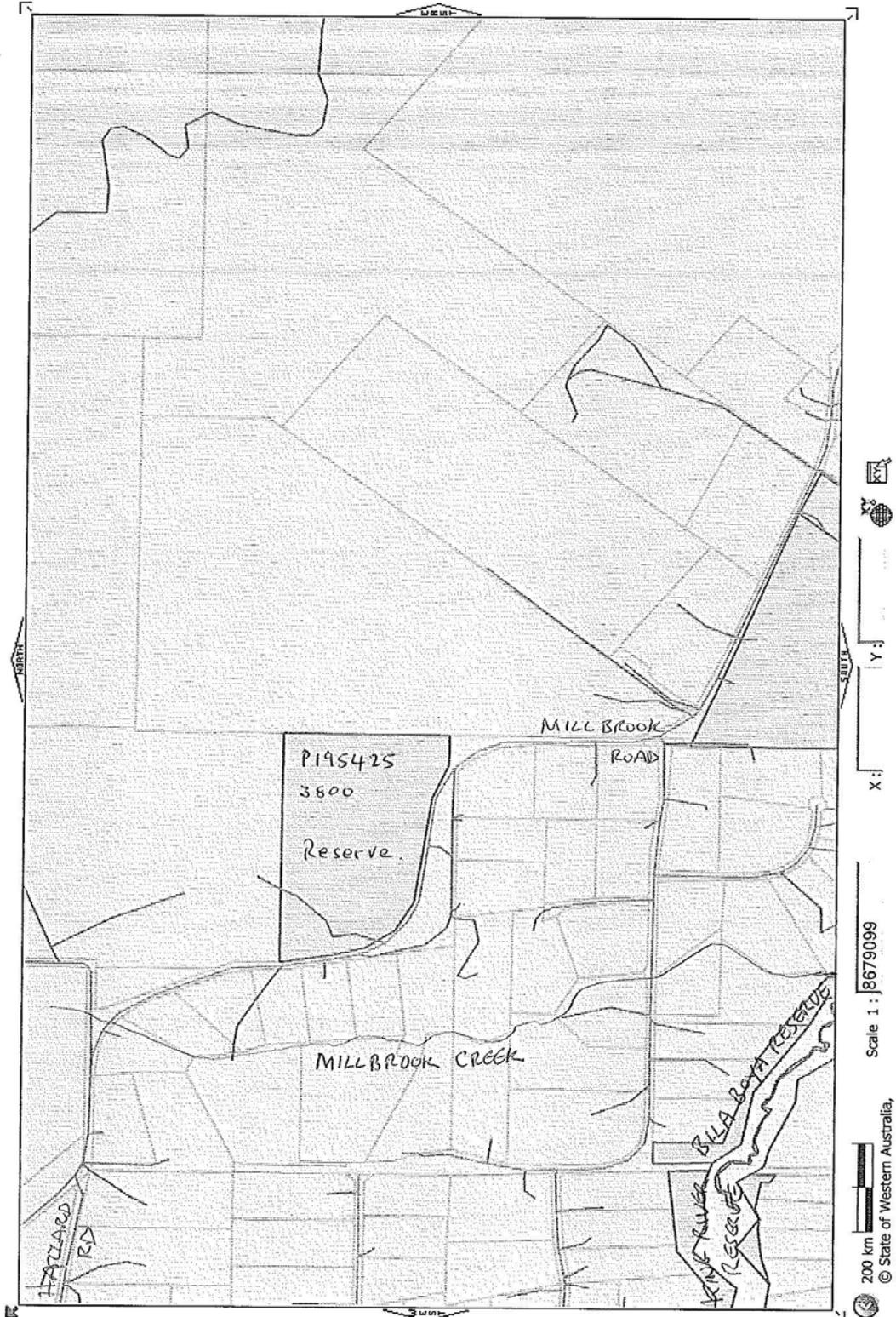
<b>Parcel id</b>	40220168
<b>Owner names</b>	STATE OF WA
<b>Parcel code</b>	P195425 3800
<b>Parcel type</b>	1
<b>Lga</b>	ALBC
<b>Calc area</b>	17.915012

**Certificate of title**

<b>PFX</b>	<b>Volume</b>	<b>Folio</b>	<b>SFX</b>
LR	03082	00080	

**Parcel title details**

<b>Title type</b>	<b>Title</b>
Survey/Lot	P195425 3800
Crown Allotment	PLANTL 03800
Miscellaneous	R 15605



### Proposed State Council Mergers

I am concerned at the proposed merger of country Councils in WA.

It appears to be blatant political manipulation using “Executive Dominance” at the expense of country communities. It is the erosion of individual rights & affects country people without their input.

Governing Political Parties, both Federal & State, are making crucial policy decisions without debate or consulting the people. Both this & the last State Government gave ~~giver~~ more power to the Metro area. Some examples - One Vote, One Value, cost country people 7 lower house representatives. A forced 3 year trial of “daylight saving” knowing country people were its greatest opponents. The introduction of GM crop trials, ignoring a previous undertaking, without country consultation. This “Executive Dominance” has reduced country representation & is not democratic.

Did any country community, council or Local Member suggest amalgamation to be a good idea? It is the Executive Direction of the Minister for Local Government, John Castrilli. With no choice but to carry out his executive instructions, councils have graded themselves into categories where they could be “required to undertake significant structural reform”. To ensure they toe the line, a Mafia like “offer they can’t refuse” has been reported in the press, with small communities told if they don’t form “an alliance”, they will loose 50% of their Royalties for Regions. Blackmail or standover tactics? This is designed to by-pass the people & is undemocratic.

Why does an individual community have to be larger than the Premier’s suggested 1000? Smaller communities are also extremely successful. Perth is looking for its lost community spirit. Community spirit is alive & well in country WA. Woodanilling is concerned it will be ‘gobbled up’ & their rates will rise, representation will go down & services will decrease.

If Albany is suddenly over stretched by amalgamation with other towns, this could also happen to our community. “Suddenly” bigger is not necessarily better.

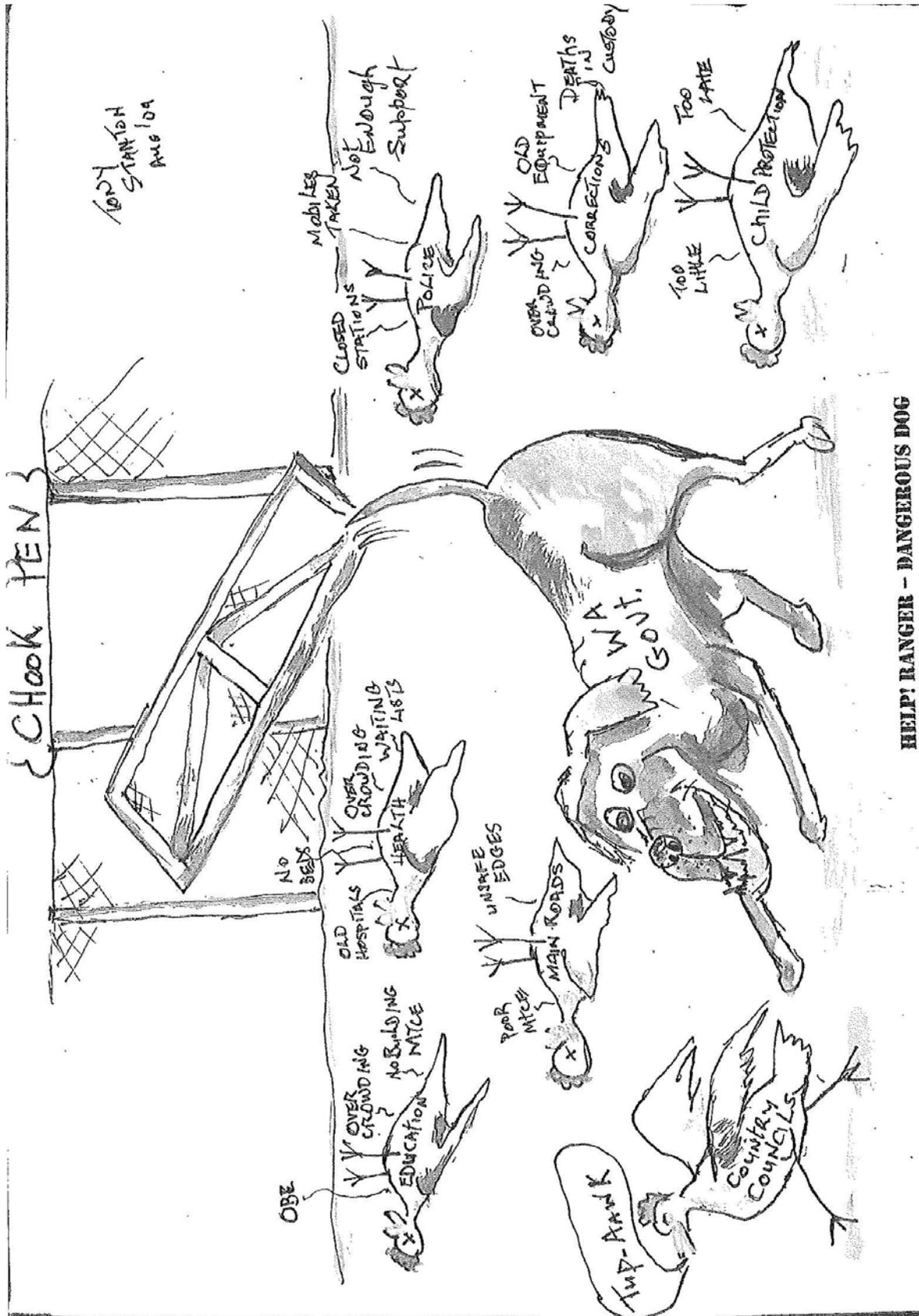
I trust Councillors will carefully appraise how the situation will affect our community by canvassing their constituents. Small communities should not just be broken up to concentrate power. Country communities are not all the same; consider the diversity of Wyndham & Albany, Carnarvon & Giles.

In a recent news poll\*, 94% of all Australians said we are over governed, 85% claim it is at State level & 91% want it to go to a referendum. Executive domination is not democracy; neither is forcibly breaking up country communities.

Tony Stanton  
55 Chipana Drive  
Little Grove, 6330  
18<sup>th</sup> August 2009

\*Courier Mail

\*\*REFER DISCLAIMER\*\*



HELP! RANGER - DANGEROUS DOG