

MINUTES

ORDINARY MEETING OF COUNCIL

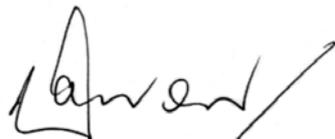
**Held on
Tuesday, 18th December 2007
7.00pm
City of Albany Council Chambers**

City of Albany

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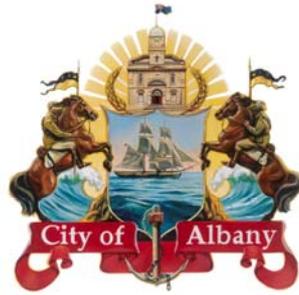
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Signed _____

Andrew Hammond
Chief Executive Officer

Date: 21st December 2007



NOTICE OF AN ORDINARY COUNCIL MEETING

His Worship The Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday, 15th January 2008 in the Council Chambers, North Road, Yakamia commencing at 7.00 pm.

(Signed)

A handwritten signature in black ink, appearing to read 'Andrew Hammond', with a long, sweeping stroke at the end.

Andrew Hammond
CHIEF EXECUTIVE OFFICER

21st December 2007

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1.0 DECLARATION OF OPENING

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

Mayor -	MJ Evans, JP
Councillors -	J Bostock
	DM Price
	CA Morris
	RC Buegge
	R Paver
	EK Stanton
	DJ Wolfe
	NE Williams
	DR Wiseman
	GA Kidman

Chief Executive Officer	A Hammond
Executive Director Works & Services	L Hewer
Manager Planning and Ranger Services	G Bride
Customer Services Manager	WR Parker
Senior Planning Officer	K Hughes

Minute Secretary	S Jamieson
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Approximately 10 members of the public were in attendance.

2 media representatives.

Apologies/Leave of Absence:

Councillor	J Matla
Councillor	JM Walker
Executive Director Development Services	R Fenn
Executive Director Corporate & Community Services	WP Madigan

Mayor Evans asked all in attendance to be upstanding and requested Councillor Kidman to read the opening prayer.

3.0 OPENING PRAYER

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

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.0 PUBLIC QUESTION TIME

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

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

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

The following members of the public addressed Council:

- **Barbara McAllister, Sussex St, Albany**

Ms McAllister addressed Council to raise awareness of rising sea levels and storm surges. The following details Ms McAllister's address:

Mr Mayor and Councillors,

I would earnestly recommend that you, all councillors, and City officers source this program on the net to see how Byron Bay Council is protecting itself against future liability due to rising sea levels and storm surges:

www.abc.net.au/rn

The Radio National Background Briefing Sun 16th December: coastal planning in Byron Bay.

Barbara McAllister

- **Mr Neil Smithson, 364 Middleton Loop**

Mr Neil Smithson of Smithson Planning, provided Council with an update on Albany's UNESCO World Heritage Nomination, Australian Convict Colonial Settlements and spoke in regards to Item 14.2.2, Albany Insight – Beyond 2020 City of Albany Corporate Planning Process.

The following details Mr Smithson's address to Council:

Thank you Mister Mayor / Councillors

Neil Smithson of Smithson Planning, 364 Middleton Loop, Albany

Albany's UNESCO World Heritage Nomination – Australian Convict Colonial Settlements

Item 4.0 continued

Further to my comments to Council in June, July, August, October and November 2007, I can advise that the Hon. Kim Chance MLC, Minister for Agriculture and Food; Forestry; and the Great Southern, also now supports the world heritage nomination. I am still waiting on a reply from the Premier, and the Minister's Cabinet colleagues for Heritage and Tourism, and the Opposition's Spokesperson for Tourism.

Excluding you Mayor Evans, none of the other City of Albany Councillors has contacted our office to express an opinion on the matter.

Albany Insight – Beyond 2020 City of Albany Corporate Planning Process

With reference to Item 14.2.2 on this evening's agenda, that report bears an uncanny resemblance to Item 14.1.1 of 17 June 2003 relating to Albany's 3D Future and that City of Albany Corporate Planning Process.

Aside from a Budget variation and the 'quirky branding' name change to Albany Insight, it will be professionally interesting to see if the same process produces a different outcome given half the councillors are newly elected, and there are now a great many more people taking direct interest in the strategic affairs of the City of Albany.

With reference to Item 14.1.1 of 18 November 2003, Paragraph 19 indicates that by 2025, Albany will be a Learning City; a Healthy City; and a Thriving City, with eighteen (18) attendant key result areas. Three of those performance indicators relate to the Albany Waterfront Project, the Albany Entertainment Centre and the Albany Regional Hospital.

I would now like to table our Rainbow 2000[®] Project Major Statements file for Council's consideration: it is 62 pages long including author notes, and canvasses major statements by various players associated with the project over the last 10 years, the latest of which is an extract from Council's report this evening on Corporate Planning.

For some entries, the Major Statements file also contains follow-up remarks such as :

Following up – the City of Albany Draft Local Planning Strategy 2007 does not address Australia's World Heritage Nomination for Convict Colonial Settlement; Renewable Energy Supply; Global Warming & Greenhouse Emissions; Nuclear Power; Indigenous Land Rights (Native Title); Risk Management (Port Access); Peak Oil & Gas; Anzac 2014-18 or the Western Bicentennial 2026-27.

It is sufficient to refer to it by reference (unless you want to include the text), and for members of the public, it is available from Smithson Planning's website, along with a range of other public discussion papers.

There was an excellent article in today's West Australian (18 Dec 2007 – Page 10), 'Opposition draws up plan for Fremantle port to head south', enunciating the opposition's major infrastructure strategy for resolving port access constraints associated with Fremantle's Inner Harbour, and industrial relocation to Kwinana / Cockburn Sound with conversion of port land to residential and commercial tourism / retail / office as a finance strategy.

If the State Opposition's strategy sounds familiar, it may be that it strongly resembles Smithson Planning's copyright Rainbow 2000[®] Project strategy for Albany documented in 1997, and subsequently translated to both Bunbury and Geraldton in abridged versions of regional development.

Item 4.0 continued

These regional cities will attract several hundred million in government infrastructure investment in the next decade, complemented by several billion private sector investment in a range of commercial land use activities.

Further, the Weekend Australian last Saturday (15 Dec 2007 – Page 45) carried an advertisement from the government of the Australian Capital Territory calling for tenders to 'Help shape the celebration of the century – Canberra's Centenary Celebrations 2013'.

I bid Canberra well, but that project is small compared to the National Celebration Strategy for Anzac 2014-18 Smithson Planning has proposed to the Federal Government, and the Western Bicentennial 2026-27 (which at this stage may well be usurped by Perth, and Western Australia's Bicentennial 2029).

If you need reminding Mister Mayor / Councillors, the Rainbow 2000[©] Project proposes in excess of \$5 billion in investment, the creation of 30,000 jobs, and a population increase in the order of 5% per annum or 150,000 people in Albany / 250,000 people in the Great Southern Region by 2029.

The Rainbow 2000[©] Project Major Statements file concludes with the words:

It is not our place to judge the politics – that will be for the electorate, and the Commonwealth Director of Public Prosecutions. All in all – things are looking very good. A general disclaimer applies to this material – don't assume, please ask.

With the introduction of the Timber industry, the consolidation of Grains export, and the potential for Iron Ore and Oil & Gas, no-one could justly describe the last decade as a waste of time. However, there is only so much blame that can be attributed to the past Council, and you Councillors are now the decision-makers for the future.

Smithson Planning is a consultant in Corporate Management to Local Government around Australia, and I would suggest an alternative strategy that Council might pursue at this time to completely review its Organisational Structure and Service Delivery Program in light of assessed performance against future community need.

If you are interested, I would be pleased to brief the elected members.

Thank you Mister Mayor / Councillors.

Yours faithfully
SMITHSON PLANNING

Item 4.0 continued

- **Mr John Boulwood, Worra Street, Yakamia**

Mr Boulwood addressed Council in regards to the foreshore development on two issues.

Issue 1 – Pollution. Mr Boulwood stated that he believed that visitors to the proposed hotel development on the foreshore would expect to swim in the harbour. Mr Boulwood pointed out that increased shipping activity in the port, may contribute to increased pollution that could be harmful to visitors. Mr Boulwood indicated that the Port Authority advised him that it takes three weeks for the Harbour to be completely flushed.

Mr Boulwood requested Council to 'Carefully' police any proposed or current development to ensure the appropriate actions are taken to minimize the introduction of pollutants to the harbour.

Issue 2 – Heavy Transport.

Mr Boulwood appealed to Council to look at heavy transport in the vicinity of the foreshore development. Mr Boulwood opened his address on this issue by asking Council to imagine what a human would like after being hit by a semi-trailer.

Mr Boulwood requested Council to answer the following question:

Q1. What will Council do to minimise the risk to pedestrians?

In closing Mr Boulwood stated to Council that the foreshore development will be one of the most important developments in the history of Albany, changing the area forever, and hoped that Council have made and will make the right decisions.

- **Mr Jack Palmer, Manager, Balneaire Seaside Resort, Middleton Beach**

Mr Palmer addressed Council in relation to Item 11.1.2, Development Application – Extended Upper Floor Area to Restaurant – 20 Adelaide Crescent, Middleton Beach.

Mr Palmer requested Council to take into consideration the following issues, when it came time to make a decision on this development:

- Currently the restaurant is used for day time and ad hoc evening functions serving liquor.
- The close proximity to holiday units, in particular the close proximity to visitors' bedrooms.
- BYO is a better situation, as it limits the amount of alcohol consumed.

Mr Palmer stated that as the resident manager of the Balneaire Seaside Resort he has had to deal with complaints from resort residents, as a result of the noise that emits from the alfresco area late at night.

Mr Palmer expressed that he feels this proposed development application is contrary to the current tourism residential accommodation zoning and that the granting of a liquor license would increase vandalism as a result of drunkenness.

Item 4.0 continued

In closing Mr Palmer pointed out that the current car parking is inadequate for the proposed development, considering the current parking situation is congested, not allowing for a flow through of traffic when the car park is full.

- **Ms Barbara Bassan, Stirling Terrace**

Ms Bassan addressed Council and requested if any progress has been made to address the seating layout within the chamber, to alleviate the current situation of having Councillors backs to the public gallery.

The Mayor responded to Ms Bassan and explained that there are plans in placed to change the seating layout within the Council Chambers. The Mayor advised that timber has been selected to make the new tables; however it is still in the curing stage and a definitive date for the upgrade is not known.

The Mayor explained that he spent the last four years as a Councillor with his back to the gallery, and it should be noted that Councillors address the Chair not the public gallery.

In closing Ms Bassan expressed to Council that regular guests to Albany have expressed to her, that as a result of the footbridge, and if the foreshore development goes ahead they will not be returning to Albany.

Ms Bassan explained that the individual who made this comment was unable to represent themselves at the meeting.

- **Ms Vera Torr, Sussex Street**

Ms Torr addressed Councillors and apologised to Mr Parker for addressing Council when she said she wouldn't, thanked Mr Jamieson for promptly amending the minutes of the Annual General Meeting of Electors, in particular Ms Torrs address to Council. Ms Torr also passed on her thanks to the CEO, Mr Hammond and Councillor Morris for looking after her at the AGM.

Ms Torr requested 3D modelling of the AEC (Albany Entertainment Centre) as a matter of urgency, stating that to provide comment on a design with access only to pictures is not good enough.

Ms Torr asked Council:

- If 3D modelling is available?
- If the modelling does exists? How does the public get access to it?

(Note: Minute Secretary contacted Ms Torr Post meeting to verify type of modelling, Ms Torr confirmed a physical scale model)

The Mayor responded to Ms Torrs informing her questions would be addressed in the Mayor's report.

Item 4.0 continued

- **Mr Robert Decker,**

Mr Decker addressed Council in relation to Item 12.3.1 - Library Opening Hours.

Mr Decker spoke in defence of the current library hours. Mr Decker stated that his family have taken the stance not to own a television and utilise the library every Friday night at 7pm.

Mr Decker appealed to the Council to look at other options to keep the library open on Friday nights.

- **Mr Neil Smithson, 364 Middleton Loop**

Mr Smithson addressed Council for the second time in regards to the prospect of having the Western Australian Symphony Orchestra play in Albany.

In closing Mr Smithson stated that he had knowledge of four professional organisations that would be very interested in holding a conference in Albany, so keep up the good work.

The CEO through the Mayor responded to Mr Smithson, and stated that the CEO of the Symphony Orchestra wants to attend the opening night of the AEC (Albany Entertainment Centre).

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

DRAFT MOTION:

THAT the following minutes:

- Special Council Meeting held on the 06th November 2007;
- Ordinary Council Meeting held on 20th November 2007;
- Annual General Meeting of Electors on 4th December 2007;

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

Item 6.0 continued

AMENDED OFFICER RECOMMENDATION

THAT the following minutes:

- Special Council Meeting held on the 06th November 2007, dated 12th November 2007;
- Ordinary Council Meeting held on the 20th November 2007, dated 26th November 2007; and
- Annual General Meeting of Electors on the 4th December 2007, dated 18th December 2007;

as previously distributed be confirmed as a true and accurate record of proceedings subject to the following changes:

Ordinary Council Meeting held on the 20th November 2007

11.1.6 Planning Compliance - Fish Processing - Lot 12 Kitson Road, Gledhow, page 64.

Amended from:

The CEO, Mr Andrew Hammond, through the Mayor, addressed Council and advised that the appropriate course of action would be to defer Item 11.1.6 till the information presented by Cr Bostock is assessed.

Amended to:

The CEO, Mr Andrew Hammond, through the Mayor, addressed Council and advised that the appropriate course of action would be to defer Item 11.1.6 till the next Ordinary Council Meeting to allow the information presented by Cr Bostock to be assessed.

Item 5.0 Public Question Time

Amended Mr Woods Address, page 14 to read:

Mr Woods addressed Council in regards to the Closure of a portion of Little Oxford Street, Gledhow, Item 11.4.5.

Mr Woods raised concern over access to his property (block 8) in Gledhow in the vicinity of Cumming Road. Mr Woods sighted poor drainage and stated that he has made several appointments with Council Officers; however the meetings have not resolved his concerns.

Mr Woods wanted Council to provide him with a course of action, if Cumming Road is not extended.

The Mayor extended an invitation to Mr Woods to make an appointment with Council Officers to address his concerns, and the issue was taken on notice.

Item 6.0 continued

Item 11.3.1 Scheme Policy – Final Adoption – City of Albany Sloping Land Policy, Page 84.

Amended from:

MOVED COUNCILLOR WALKER, SECONDED COUNCILLOR PAVER

Amended to:

MOVED COUNCILLOR PAVER, SECONDED COUNCILLOR WALKER

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR STANTON**

THAT the following minutes:

- **Special Council Meeting held on the 06th November 2007, dated 12th November 2007;**
- **Ordinary Council Meeting held on the 20th November 2007, dated 26th November 2007; and**
- **Annual General Meeting of Electors on the 4th December 2007, dated 18th December 2007;**

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Item 6.0 continued

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The Mayor extended an invitation to Mr Woods to make an appointment with Council Officers to address his concerns, and the issue was taken on notice.

Item 11.3.1 Scheme Policy – Final Adoption – City of Albany Sloping Land Policy, Page 84.

Amended from:

MOVED COUNCILLOR WALKER, SECONDED COUNCILLOR PAVER

Amended to:

MOVED COUNCILLOR PAVER, SECONDED COUNCILLOR WALKER

MOTION CARRIED 11-0

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

8.0 DISCLOSURE OF FINANCIAL INTERESTS

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

Nil

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

11.0 REPORTS – DEVELOPMENT SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on green –
See Pages 15-45]

12.0 REPORTS – CORPORATE & COMMUNITY SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on yellow –
See Pages 46-65]

13.0 REPORTS – WORKS & SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on pink –
See Pages 66-79]

14.0 REPORTS – GENERAL MANAGEMENT SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on buff –
See Page 80-107]

Development Services

REPORTS

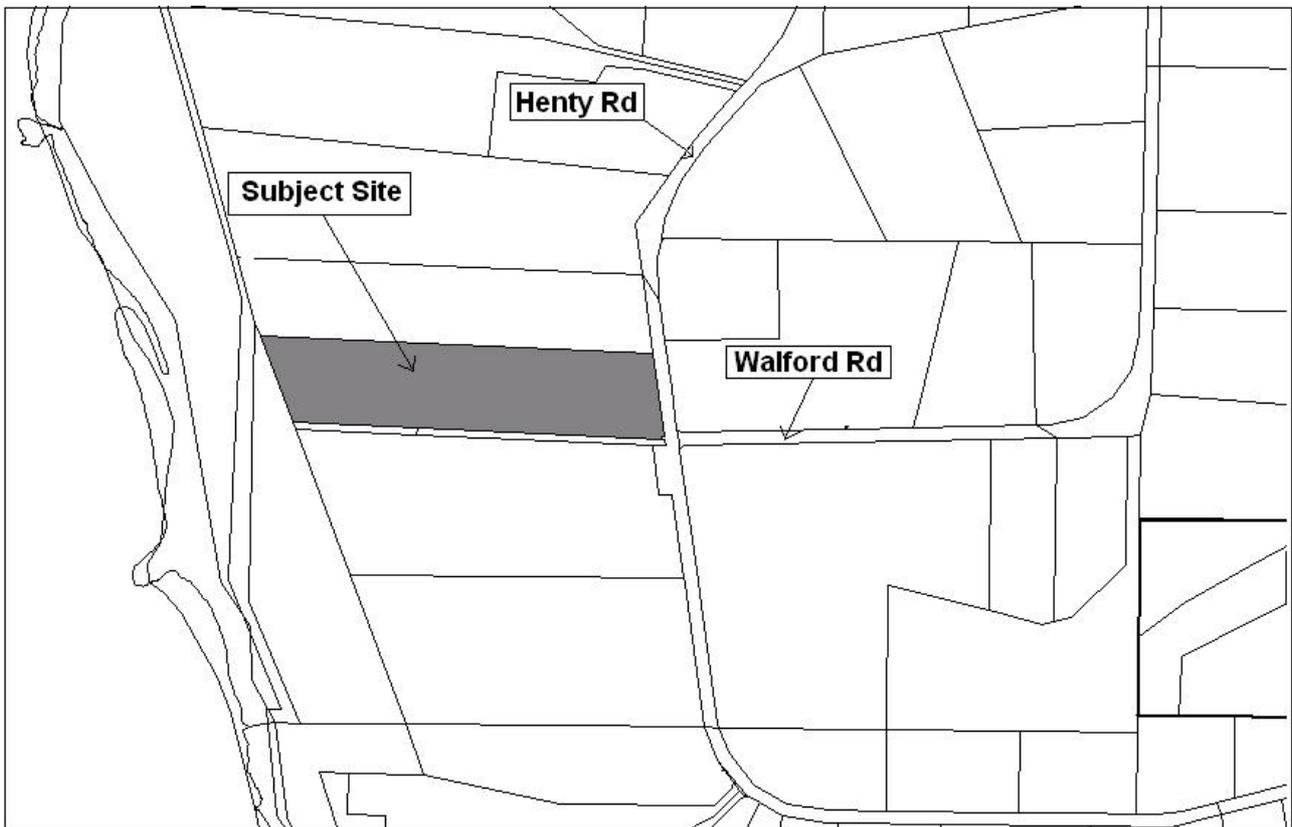
DEVELOPMENT SERVICES REPORTS

- R E P O R T S -

11.1 DEVELOPMENT

11.1.1 Development Application - Over Height Dwelling - Lot 149 Henty Road, Kalgan

File/Ward	:	A196916 (Kalgan Ward)
Proposal/Issue	:	Overheight Dwelling
Subject Land/Locality	:	Lot 149 Henty Road, Kalgan
Proponent	:	G Eaton
Owner	:	G Eaton
Reporting Officer(s)	:	Senior Planning Officer (K Hughes)/Planning Cadet (T Gunn)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Issue Notice of Planning Scheme Consent
Bulletin Attachment	:	Applicant's letter of justification Neighbour comments
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

BACKGROUND

1. An application has been received to construct a single dwelling at Lot 149 Henty Road, Kalgan. The proponent has requested that Council consider a relaxation of the maximum ridge height permitted within area 6 of the Special Rural Zone of Town Planning Scheme 3, which has been set at 7.5m.
2. The applicant proposes a maximum ridge height of 8.6m, a relaxation of 1.1m. This ridge height results from a dwelling of 8.1m and 500mm of fill to create a level building pad. The applicant's justification for this proposal is included in the Elected Member's Report / Information Bulletin.

STATUTORY REQUIREMENTS

3. The land is zoned 'Special Rural (Area No. 6)' under Town Planning Scheme No 3. The scheme requires compliance with a range of provisions inclusive of building setbacks, height, materials, colour, fire control and the provision of services.
4. An application for Planning Scheme Consent and substantial justification is required where the provisions of the policy cannot be met.
5. Section 2.0 of Special Rural Area No.6 states;

"The objective of Swan Point Special Rural Area 6 is to provide a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export"

6. Section 5.4 of the Scheme also states:
"The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application:
 - (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*
 - (i) the compatibility of a use or development with its setting;*
 - (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
 - (n) the preservation of the amenity of the locality;*
 - (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal; and*
 - (y) any relevant submission received on the application."*
7. Section 5.16 of the Scheme also states:
"5.16.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning consent and does not comply with a standard or requirement prescribed under the Scheme, the Council may, despite that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

5.16.2 In considering an application for planning consent under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council is to:

- (a) consult the affected parties by following one or more provisions for advertising uses pursuant to clause 5.1.4; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation.*

5.16.3 The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 5.1A; and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.”*

POLICY IMPLICATIONS

- 8. There are no Policy Implications relating to this item.

FINANCIAL IMPLICATIONS

- 9. There are no Financial Implications relating to this item.

STRATEGIC IMPLICATIONS

- 10. There are no Strategic Implications relating to this item.

COMMENT/DISCUSSION

- 11. The proposed height relaxation is considered acceptable. The proposed dwelling is located on an area of the site, which is substantially lower than the balance of the site (where a dwelling may also be constructed).
- 12. A 7.5m dwelling erected 15m from Henty Road could result in a ridge height of 19.98m above the Australian Height Datum (AHD). The applicant is proposing a dwelling within a ridge height of 8.6m, on a lower part of the site resulting in a maximum ridge height of 18.4 m above AHD. Therefore the siting of the dwelling (even allowing for the 1.1m height relaxation) will result in a reduced impact on adjoining properties and the landscape in general.
- 13. The proposed dwelling is set back 51m from Henty Road, while the provisions of Special Rural Zone No. 6 permit dwellings to be constructed within 15m of Henty Road. The proposal will result in a lesser visual impact when viewed from properties to the north and from pedestrian and vehicular traffic on Henty Road.
- 14. Town Planning Scheme 3 permits applicants to fill to 600mm without the need to obtain a Planning Scheme Consent. It should be noted that the applicant can achieve a ridge height of 8.1m (7.5m provided in Scheme, plus 600mm of fill) without the need for a Planning Scheme Consent.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

15. The proponent has submitted a schedule of material and colours, (reds and browns/brick finish). The proposed dwelling is to be constructed of suitable materials and is sympathetic to, and in harmony with the landscape and surroundings, as per the requirements of the scheme.
16. Staff have visited the subject property and believe that the proposed development site has been ideally positioned to minimise impacts to surrounding properties, as it is located in a low lying area.
17. Comments have been received from the adjoining neighbours. The owners of Lot 9000 Henty Road adjoining to the south have indicated their support. However the owner of Lot 148 to the north has objected to the proposal on the grounds that the development could block views from Lot 148.
18. It is considered that, given the topography of the area and the siting of the proposed development on a lower part of the subject site, the proposed development will in fact result in a reduced impact on Lot 148. In summary, staff believe the proposal is acceptable and should be supported on the following grounds:
 - The proposed development meets all the environmental and landscaping objectives in the scheme provisions;
 - The proposal is finished in colours that harmonise with the natural environment; and
 - The position of the proposal on a relatively low lying area of the block minimises the overall impact of the development.

RECOMMENDATION

THAT Council resolves to issue a Notice of Planning Scheme Consent for a single dwelling to be constructed at Lot 149 Henty Road, Kalgan subject to the following conditions:

- i) **All runoff from impervious surfaces being contained within the property and disposed of to Council’s satisfaction.**
- ii) **The proposal shall be constructed of red/brown materials.**

Voting Requirement Simple Majority

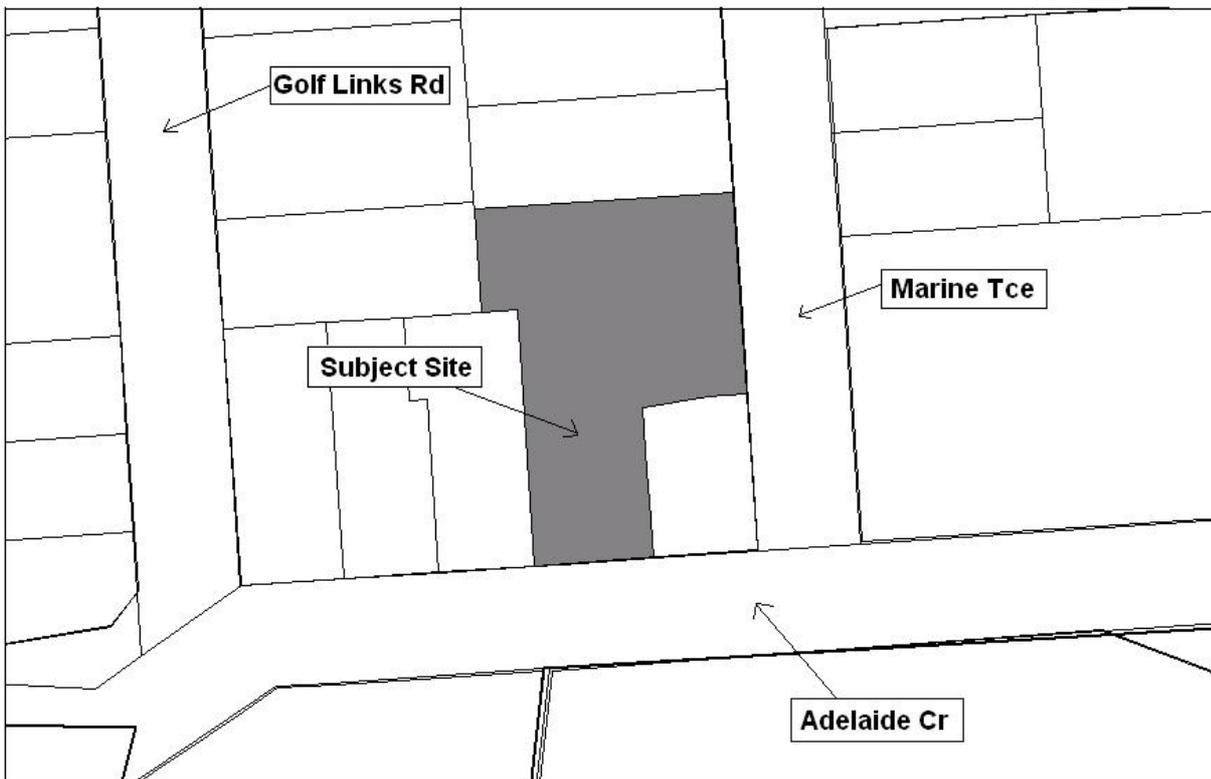
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<p>MOVED COUNCILLOR WILLIAMS SECONDED COUNCILLOR WISEMAN</p> <p>THAT Council resolves to issue a Notice of Planning Scheme Consent for a single dwelling to be constructed at Lot 149 Henty Road, Kalgan subject to the following conditions:</p> <ol style="list-style-type: none">i) All runoff from impervious surfaces being contained within the property and disposed of to Council’s satisfaction.ii) The proposal shall be constructed of red/brown materials. <p style="text-align: right;">MOTION CARRIED 9-2</p>

DEVELOPMENT SERVICES REPORTS

11.1.2 Development Application – Change of Land Use (Function Centre to Restaurant) - 20 Adelaide Crescent, Middleton Beach

File/Ward	:	A193401 (Frederickstown Ward)
Proposal/Issue	:	Proposal to change the use from a function room to a restaurant, and request for a Section 40 Certificate for a Restaurant liquor licence
Subject Land/Locality	:	20 Adelaide Crescent, Middleton Beach
Proponent	:	M Abraham
Owner	:	T & H Kowald
Reporting Officer(s)	:	Senior Planning Officer (I Humphrey)/ Planning Cadet (T Gunn)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Issue a notice of Planning Scheme Consent
Bulletin Attachment	:	Proponent's Submission Copy "Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals" policy Submission from landowner



DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

BACKGROUND

1. An application has been received to extend the restaurant known as the “Mids Blue Water Restaurant” at 20 Adelaide Crescent, Middleton Beach to the upper level of the building which is currently approved as a function room. The proponent has also requested a Section 40 Certificate for the extension of the licensed area to include the upper floor area. Included in the Elected Member’s Report / Information Bulletin is a copy of the proponent’s justification for the proposed change of use and a site plan.
2. The function room, existing restaurant and holiday units originally traded and operated as a single development. However a built strata application, approved in 2003, split 11 units and the restaurant into separate ownerships. A further development application was approved in 2005 for a change of use from a “Guest Restaurant” to a “Restaurant”, (i.e. lifting the planning condition tying the trade to those occupying the holiday units only). An area to the north east of the restaurant was included within the application to be used as car parking which is sufficient for the ground level use.
3. The application is presented to Council due to the upper floor area becoming a licensed premise and therefore cannot be approved under planning officer’s delegated powers.
4. The proponent also seeks a car park relaxation for the additional bays required by the change of use, as there is insufficient space to accommodate the car parking bays on the site.

STATUTORY REQUIREMENTS

5. Town Planning Scheme 1A (TPS 1A), Clause 7.3(c) states that:

“Without limiting the generality of the expression ‘development’, for the purposes of the scheme the Council’s planning consent is required for a change from one use to another.”
6. The land is zoned Tourist Residential in Town Planning Scheme 1A (TPS 1A) and the restaurant use is a “SA” which means a use that is not permitted unless approval is granted by Council and not before advertising has been undertaken.
7. Clause 4.10 of the TPS 1A allows Council to relax development standards where, in it’s opinion, the variation is unlikely to affect and owners or occupiers in the general locality.
8. The “Use Development Table” in Appendix IV of TPS 1A states the provision for car parking, is 1 car parking bay per every 4 seats in the restaurant. Mids Blue Water Restaurant has 3 car parking spaces associated with the existing use.
9. Prior to the issuing of a Liquor License, the Department of Racing Gaming and Liquor requires the applicant to seek approval from the local authority via a Section 40 Certificate under the *Liquor Licensing Act 1988*. A Section 40 Certificate states the intended use is in accordance with a planning approval granted by Council.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

POLICY IMPLICATIONS

10. A car parking deficit could be considered under the “Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals” policy. A copy of the Policy is attached in the Elected Member’s Report / Information Bulletin.

11. The proponent seeks to utilise Council’s existing “on street” parking. The City’s policy states that providing the car parking shortfall for a development on one site, or an adjoining or nearby site, can only be considered on land which forms a separate Certificate of Title (of with Councils roads are not).

12. Section 3.0 of the policy states that the use of the road verge for car parking may only be approved if it complies with the conditions outlined below:
 - *The planning merit of approving use of the road verge for car parking is established.*
 - *With the exception of the Seppings Street precinct in the Middleton Beach Area or other nominated precincts verge parking should only be approved if:*
 - *There is an existing development for which insufficient car parking is available to meet current demand; or*
 - *A building of heritage significance is being redeveloped for a contemporary use and development of sufficient car parking on-site will compromise that heritage significance.*
 - *Use of a road verge for car parking does not reduce traffic safety.*
 - *The car parking areas are landscaped and constructed using finishes and materials (paving, kerbing etc) consistent with the surrounding streetscape or with any plan that Council may have for the redevelopment of that streetscape.*
 - *The car parking is designed and constructed by Council at the applicant’s expense to the satisfaction of Council.*
 - *The applicant contributes toward the upgrading or installation of footpaths in the road verge adjoining the car parking to ensure pedestrian safety.*
 - *Car parking bays constructed in a road verge are directly accessible from the adjoining road (not via private property).*
 - *Any car parking constructed in the road verge is considered as being a general public car park under the care and control of Council.*
 - *Council retains the discretion to utilise any section of the road reserve adjoining the site to construct the necessary car parking.*

13. Section 4.0 of the policy addresses the issue of cash payment in lieu where car parking is deficient, which can only be approved if it complies with the following;
 - *The planning merit of accepting a cash payment in lieu of providing car parking is established.*
 - *Providing a cash payment in lieu of providing car parking is only acceptable in the Middleton Beach or Albany Central Areas as defined in sections 1.1 & 1.2 of this policy.*
 - *Providing a cash payment in lieu of providing car parking is not proposed for residential or holiday accommodation uses.*
 - *The cost of providing a cash payment in lieu of providing car parking will be calculated on the basis of 26m² per bay and include the following elements-*

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

- a. *The cost of land on the development site as determined by a licensed valuer.*
- b. *Asphalt paving on a basecourse equivalent to a public parking area.*
- c. *Drainage.*
- d. *Linemarking.*
- e. *Landscaping.*
- f. *Lighting.*

FINANCIAL IMPLICATIONS

14. Should Council request cash in lieu as a condition of approval, there will be an expectation that the received funds will need to be expended on parking facilities in the area.

STRATEGIC IMPLICATIONS

15. Albany Local Planning Strategy (ALPS) defines this site as a tourist accommodation node.
16. This item directly relates to the following elements from the City of Albany 3D Corporate Plan:

“Community Vision:

Albany’s community will enjoy healthy, fulfilling lifestyles, and a flourishing natural environment through...

- *Diverse and affordable cultural, recreational and sporting opportunities;*

Albany’s community will enjoy economic growth and outstanding opportunities for our youth through:

- *Innovative development complementing Albany’s unique character, natural environment and heritage.*
- *Being the regional retailing and services hub;*

Mission Statement:

*The City of Albany is committed to ...
Providing sound governance;*

Priority Projects:

Nil’.

COMMENT/DISCUSSION

17. Following the advertising period, only one submission was received from a nearby landowner objecting to the proposal, see copy of submission in the Elected Member’s Report / Information Bulletin. The concern raised was regarding an increase of noise that would be caused by the proposed change of use.
18. Due to the separate ownership of the restaurant and the holiday units, there could be an issue of noise affecting the amenity of the people staying in the units. The additional noise emanating from the building, affecting the units, is expected to be minimal. There are two bedrooms that share a wall with the proposed restaurant that may require some noise attenuation measures. This could be controlled by a planning condition, requiring further details on sound attenuation.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

19. The main concern is the lack of on-site car parking, and the request to seek a full relaxation for the bays required for the changed land use. The proponent is unsure of how many seats and tables he will be using, but expects the approximate maximum patronage of 40 persons, which would require an additional 10 bays.
20. In justifying the relaxation, the proponent has stated in his covering letter that there are sufficient public car parking spaces located approximately 50m away from the entrance to the restaurant. The majority of customers stay in the locality and they are able to travel to the restaurant on foot.
21. It is noted that the restaurant will be utilised in the evening when other businesses in the locality are closed. If a cash in lieu payment was taken, the only area suitable for parking bays would be the area of reserve opposite the restaurant. Alternatively, it may be possible to provide further parallel bays by widening Adelaide Crescent, or extending the existing lay-by. It is unlikely that Council could achieve all of the required bays in adjacent reserves.
22. The proponent has applied for a “Restaurant” licence from the Department of Racing, Gaming & Liquor, as he has just recently received approval for a restaurant licence for the ground level of the building. This licence is consistent with similar developments within the building.

RECOMMENDATION

THAT Council delegates to the Manager of Planning and Rangers the authority to issue a Notice of Planning Scheme Consent for the change of use from a “function room” to a “restaurant” for the upper floor of the building at 20 Adelaide Crescent, Middleton Beach, subject to the following conditions:

- i) A detailed noise report is to be submitted to Council by a suitably qualified person to demonstrate that any potential noise impacts on the adjoining accommodation units shown on the plans can be combined within the *Environmental Protection (Noise) Regulations 1997*.
- ii) The identified parking shortfall being accommodation by the provision of additional parking bays within the road reserve or a cash in lieu contribution being provided in accordance Council’s Policy “Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals”.

Voting Requirement Absolute Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

ALTERNATE MOTION BY COUNCILLOR WILLIAMS

THAT Council defer consideration of this item until a full briefing is undertaken with staff.

Voting Requirement Simple Majority

.....

Reason:

There are concerns relating to parking provision, liquor licensing and noise that need to be further investigated, in order to allow Councillors to make an informed, well researched and fact based decision.

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR WISEMAN**

THAT Council defer consideration of this item until a full briefing is undertaken with staff.

MOTION LOST 4-7

FORESHADOWED MOTION

Councillor Paver for shadowed the following motion, taken from the original officer recommendation.

THAT Council directs the Manager of Planning and Rangers to issue a Notice of Planning Scheme refusal for the change of use from a “function room” to a “restaurant” for the upper floor of the building at 20 Adelaide Crescent, Middleton Beach.

Voting Requirement Simple Majority

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Reason:

There are concerns relating to parking provision, liquor licensing and noise that need to be further investigated, in order to allow Councillors to make an informed, well researched and fact based decision.

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR PRICE**

THAT Council directs the Manager of Planning and Rangers to issue a Notice of Planning Scheme refusal for the change of use from a “function room” to a “restaurant” for the upper floor of the building at 20 Adelaide Crescent, Middleton Beach.

MOTION CARRIED 7-4

11.2 HEALTH, BUILDING & RANGERS

Nil

DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

11.3.1 Scheme Policy - Final Adoption - City of Albany Sloping Land Policy

File/Ward	:	STR033 (All Wards)
Proposal/Issue	:	Draft Policy dealing with earthworks and retaining walls on sloping land
Subject Land/Locality	:	Entire City
Proponent	:	Harley Survey Group
Owner	:	N/A
Reporting Officer(s)	:	Strategic Planner (A Nicoll)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 20/11/07 - Item 11.3.1 OCM 18/09/07 - Item 11.3.1
Summary Recommendation	:	Finally Adopt Sloping Land Policy
Bulletin Attachment	:	Sloping Land Policy
Locality Plan	:	N/A

BACKGROUND

1. At it's meeting dated 21 August 2007, Council resolved the following:
“THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to adopt the draft policy entitled “Local Planning Policy - Sloping Land” for the purpose of advertising the policy.”
2. The policy was placed on advertising and at the close of public submissions one (1) submission was received. (A copy of this letter was attached to the previous report item).
3. The policy was then referred to the 20 November 2007 Council meeting for final adoption where it was resolved:
“THAT the matter is laid on the table till the planned restrictions on retainer wall heights are reviewed at an agenda briefing session.”
4. The Councillors have now been briefed on the 'planned restrictions', a summary of which is provided for in the comment section of this report.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

STATUTORY REQUIREMENTS

5. Town Planning Schemes 1A and 3 state at Clauses 7.21 and 6.9 respectively that;

“In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme Policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the Control of Development.

A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:

- (a) *The Council having prepared and having resolved to adopt a Draft Town Planning Scheme Policy, shall advertise a summary of the Draft Policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the Draft Policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.*
- (b) *The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the Draft Policy with or without amendment, or not proceed with the Draft Policy.*
- (c) *Following Final Adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme Documents for inspection during normal office hours.”*

POLICY IMPLICATIONS

6. The City of Albany - Sloping Land Policy would be a Town Planning Scheme Policy adopted by Council under the provisions of Clause 7.21 of Town Planning Scheme 1A and Clause 6.9 of Town Planning Scheme 3.

FINANCIAL IMPLICATIONS

7. There are no Financial Implications relating to this item.

STRATEGIC IMPLICATIONS

8. There are no Strategic Implications relating to this item.

COMMENT/DISCUSSION

9. Purpose
The purpose of this report is to consider the final adoption of the policy which was included in the Elected Member’s Report / Information Bulletin, 20 November 2007 and which applies to the development of specified land only (included on Schedule 1 of the policy) generally with a slope greater than 1:10.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

10. The City of Albany “*Subdivision and Development Guidelines* (January 2006)” (refer to pg. 19) and the “*Local Government: Guidelines for Subdivisional Development* (1998)” (refer to section 2 pg 2-8) suggest that subdivision and development should be avoided on land with a gradient greater than 1:10. Where a gradient of less than 1:10 cannot be achieved, it is suggested that additional subdivision and development controls (policy) are introduced to force landowners to respond to the slope on those sites.
11. This alternative form of control has been demonstrated on lots fronting Angove Street, within the Woodrise Estate, where the development has responded to the site, rather than the site modified to suit the development.
12. Albany is largely characterised by land with a gradient greater than 1:10. This policy will therefore establish development requirements for the subdivision of that land, retaining on property boundaries, retaining within the confines of the lot, screening, liaison with neighbours and building height within the City of Albany.
13. The schedule to the policy lists the sites that the policy will be applied to and a set of illustrations has been included to provide examples of acceptable site solutions.

RECOMMENDATION

THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to finally adopt the policy entitled “Local Planning Policy - Sloping Land”.

Voting Requirement Simple Majority

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AMENDED OFFICER RECOMMENDATION

THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to finally adopt the policy entitled “Local Planning Policy - Sloping Land”, subject to Clause 5.5 of the Policy being amended as follows:

5.5 Height Bonus

Where a house design meets the requirements of the policy the maximum building heights identified in Clause 3.7.1 of the Residential Design Codes 2002 (Category B) may be increased by 1.5 metres as follows:

Top of External Wall (roof above)	7.5 metres
Top of External Wall (concealed roof)	8.5 metres
Top of pitched roof	10.5 metres

Voting Requirement Simple Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR BUEGGE**

THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to finally adopt the policy entitled “Local Planning Policy - Sloping Land”, subject to Clause 5.5 of the Policy being amended as follows:

5.5 Height Bonus

Where a house design meets the requirements of the policy the maximum building heights identified in Clause 3.7.1 of the Residential Design Codes 2002 (Category B) may be increased by 1.5 metres as follows:

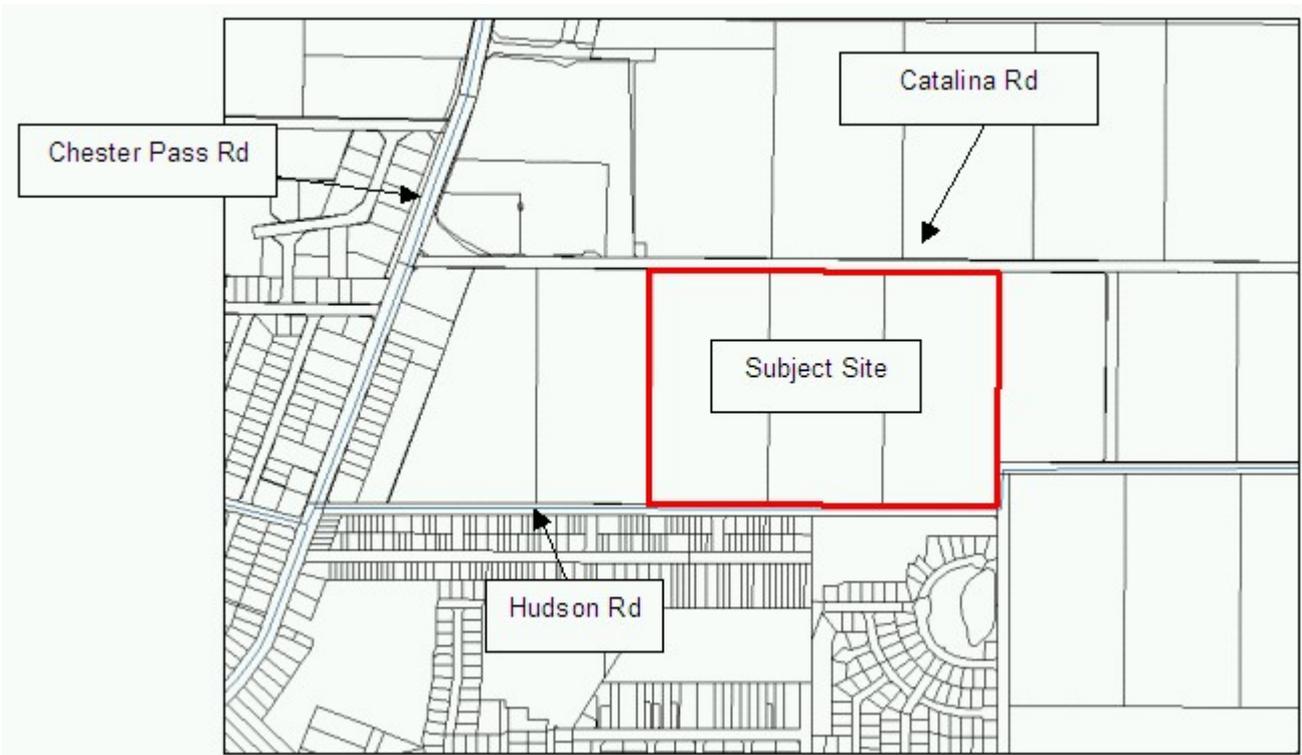
Top of External Wall (roof above)	7.5 metres
Top of External Wall (concealed roof)	8.5 metres
Top of pitched roof	10.5 metres

MOTION CARRIED 11-0

DEVELOPMENT SERVICES REPORTS

11.3.2 Scheme Amendment Request - Lots 32, 33 & 34 Catalina Road, Yakamia

File/Ward	:	SAR124 (Yakamia Ward)
Proposal/Issue	:	Request to rezone land from “Rural” to part “Residential R20” and part “Residential R30” to include “Park Home Park” as an “Additional Use”
Subject Land/Locality	:	Lots 32, 33 & 34 Catalina Road, Yakamia
Proponent	:	Allerding & Associates
Owner	:	C & T Powell, W & I Steinert and P & L Pocock
Reporting Officer(s)	:	Senior Planning Officer (K Hughes)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 22/11/2007 - Item 11.3.5
Summary Recommendation	:	Support the Scheme Amendment Request
Bulletin Attachment	:	Scheme Amendment Request
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

BACKGROUND

1. The application received is a “Scheme Amendment Request” (SAR) to rezone Lots 32, 33 and 34 Catalina Road, Yakamia from “Rural” to “Residential R20” to include “Park Home Park” as an “Additional Use”. The SAR also proposes to code lots adjoining the boundaries of the land “Residential R30”. A copy of the request is included in the Elected Member’s Report/Information Bulletin.
2. The subject site is situated 3.5km north of Albany town centre. The subject lots are bordered by Catalina Road to the north and Hudson Road to the south. The site has a total area of 24.5921 ha.
3. The SAR was referred to the Department of Planning and Infrastructure (DPI), the Department of Environment and Conservation (DEC), the Water Corporation and the Department of Agriculture and Food.
4. This item was included on the agenda for the Ordinary Council Meeting on 22 November 2007, but withdrawn by the Mayor prior to the meeting.

STATUTORY REQUIREMENTS

5. The subject lots are zoned “Rural” in Town Planning Scheme 3. The objective of the rural zoning in TPS3 identified under Clause 3.1.13 is:

“To ensure that high quality agricultural land is retained for primary production. To regulate uses which conflict with farming interests, and foster uses which are complimentary to such interests. To preserve rural land within easy reach of urban areas.”
6. A Scheme Amendment Request (SAR) is not a statutory process under the *Planning and Development Act 2005*. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
7. If an applicant decides to pursue a Scheme Amendment, Council will be required to formally consider that request.

POLICY IMPLICATIONS

8. The WA Planning Commission (WAPC) Statement of Planning Policy (SPP) No.’s 1 & 3 establish the general principles for planning in Western Australia. Their primary aim being to provide for the sustainable use and development of land by reducing energy consumption.
9. Local Government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment. Advice given should be consistent with these policies and strategies.

FINANCIAL IMPLICATIONS

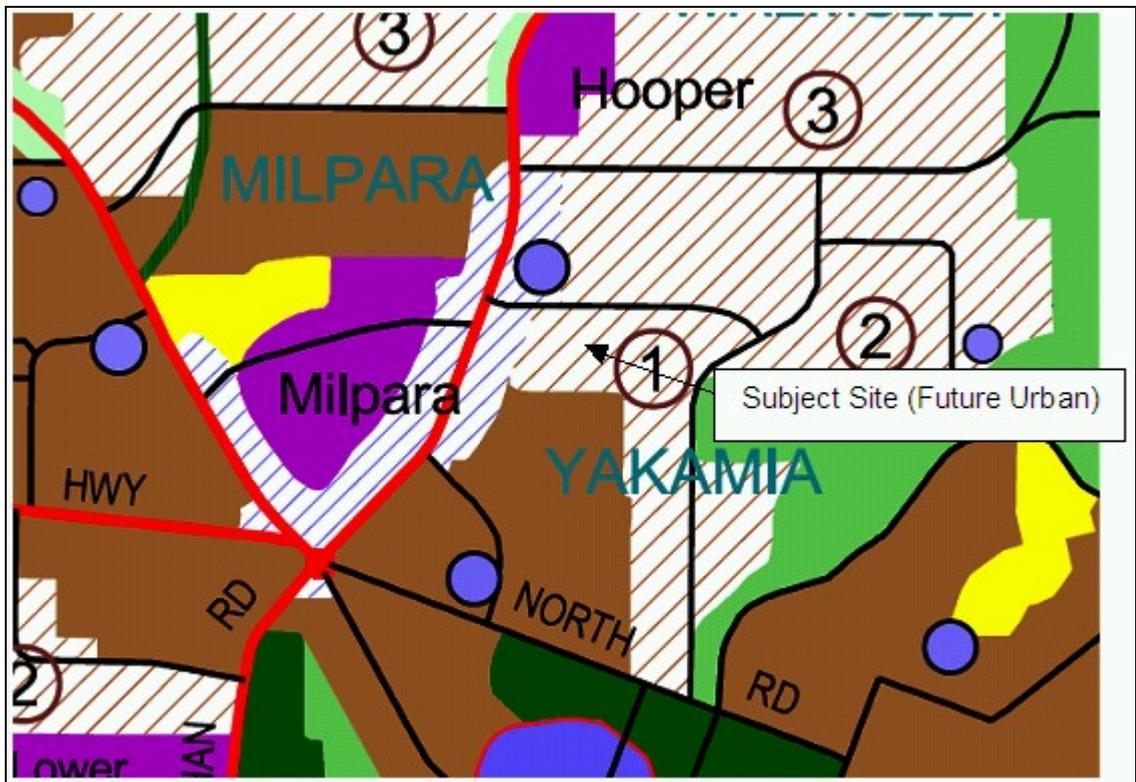
10. There are no Financial Implications relating to this proposal.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

STRATEGIC IMPLICATIONS

11. The subject site is designated as a “Future Urban” within the Albany Local Planning Strategy (ALPS). ALPS requires planning and development of such areas in an efficient and co-ordinated manner as logical extensions of existing settlements that have retail, service and community infrastructure.
12. The State Planning Strategy recommends the consolidation of existing housing stock and provision for a variety of housing available to residents in the City.
13. The subject site is located within the Yakamia Structure Plan area, which is currently being prepared on behalf of the City. This Structure Plan will address the specific layout of the area including the road hierarchy, Public Open Space allocation, residential density and the location of commercial/community facilities (including schools).



14. The Water Corporation has raised no objection to the proposed SAR. The Department for Planning and Infrastructure have not objected to the proposal but have raised concerns regarding the detailed design of the proposed “Park Home”. However these issues (relating to gated developments and street layout) are being considered in a separate officer report and are not relevant to this request for strategic rezoning.

Positives

15. The request to rezone the subject land to allow for residential development with “Park Home Park” as an “Additional Use” complies with the policy and strategic planning for the area (Future Urban) as set out in the Albany Local Planning Strategy (ALPS).

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

16. The site is relatively level and cleared, with the exception of small pockets of remnant vegetation. The rezoning of the land to allow for residential development is not expected to impact on the visual amenity or environmental quality of the area.
17. The site is close to the Catalina neighbourhood centre and associated community and commercial facilities.

Negatives

18. The applicant has proposed to introduce a Residential R30 coding to the boundaries of the subject site. Staff consider that it is not possible to consider increased density at isolated locations within the Yakamia Structure Plan (YSP) area. The appropriate density coding for the land should be determined by the forthcoming Yakamia Structure Plan, which may support increased density on part of the subject site. The decision to prepare the YSP was taken to ensure subdivision coordination over a large geographic area; assessment of proposals on a lot by lot basis promotes ad-hoc and uncoordinated suburb development.

Conclusion

19. Due to the compatibility of the application with the strategic intent for the area, staff support the application to rezone the land to “Residential Development” and to include “Lifestyle Village” as an “Additional Use”. This additional use would be subject to the Park Home provisions of the *Caravan Parks and Camping Grounds Regulations 1997*. It is also considered appropriate that the amendment documents should include Design Guidelines as Special Conditions to the “Lifestyle Village” Additional Use site.
20. The special conditions/design guidelines should include planning controls on density, building height/finish/floor area, landscaping, road upgrading, communal facilities, public open space, access and egress to the site, storm water management, development contributions and future subdivision.
21. It is also recommended that Lots 30, 31 and 35 Catalina Road be included in the amendment documents to be rezoned to “Residential Development” as they are immediately adjacent to the subject land and share similar site characteristics (cleared farmland). These lots are lots designated “Future Urban” within the ALPS strategy.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

RECOMMENDATION

THAT, subject, but not limited to, the following matters being addressed to the satisfaction of Council:

- i) Identification of servicing needs and infrastructure requirements to accommodate future development;
- ii) A land capability assessment;
- iii) Lots 30, 31 and 35 Catalina Road being incorporated into the zoning boundary, but not subject to the “Lifestyle Village” Additional Use; and
- iv) The preparation of design guidelines to form Special Conditions for the “Lifestyle Village” Additional Use site.

Council advises that it is prepared to entertain the submission of a formal application for the rezoning of Lots 30, 31, 32, 33, 34 and 35 Catalina Road, Yakamia to “Residential Development” and to include “Lifestyle Village (subject to the Park Home Provisions of the *Caravan Parks and Camping Grounds Regulations 1997*)” as an “Additional Use” on Lots 32, 33 and 34, Catalina Road.

Voting Requirement Simple Majority

.....
ALTERNATE MOTION BY COUNCILLOR WILLIAMS

THAT, subject to, but not limited to, the following matters being addressed to the satisfaction of Council:

- i) Identification of servicing needs and infrastructure requirements to accommodate future development;
- ii) A land capability assessment;
- iii) Lots 30, 31 and 35 Catalina Road being incorporated into the zoning boundary;
- iv) All references to the Additional Use of “Lifestyle Village” being removed from the subsequent amendment documentation.

Council advises that is prepared to entertain the submission of a formal application for the rezoning of Lots 30, 31, 32, 33, 34 and 35 Catalina Road, Yakamia to “Residential Development”.

Voting Requirement Simple Majority

.....
Reason:

In line with the Statutory Planning Division of the Department of Planning of Infrastructure notification on 8 October 2007, the additional use requested is not consistent with the principles of the Liveable Neighbourhood Policy in its current form.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR BOSTOCK**

THAT, subject to, but not limited to, the following matters being addressed to the satisfaction of Council:

- i) Identification of servicing needs and infrastructure requirements to accommodate future development;**
- ii) and capability assessment;**
- iii) Lots 30, 31 and 35 Catalina Road being incorporated into the zoning boundary;**
- iv) All references to the Additional Use of “Lifestyle Village” being removed from the subsequent amendment documentation.**

Council advises that is prepared to entertain the submission of a formal application for the rezoning of Lots 30, 31, 32, 33, 34 and 35 Catalina Road, Yakamia to “Residential Development”.

MOTION CARRIED 7-4

DEVELOPMENT SERVICES REPORTS

11.3.3 Initiate Scheme Amendment - Lots 7683 to 7688 Chester Pass Road and Lot 7146 Kelly Street, Orana

- File/Ward** : AMD164 (West Ward)
- Proposal/Issue** : Rezoning Lots 7683 to 7688 (inclusive) Chester Pass Road and Lot 7146 Kelly Street, Orana to the “Other Commercial” zone and changing the land use “Public and local authority” to an “AA” use in the “Other Commercial” zone
- Subject Land/Locality** : Lots 7683 to 7688 Chester Pass Road and Lot 7146 Kelly street
- Proponent** : Harley Survey Group
- Owner** : Main Roads
- Reporting Officer(s)** : Planning Officer (J van der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : Initiate the amendment with modifications
- Bulletin Attachment** : Town Planning Scheme No.1A, Amendment No.164(1A)
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

BACKGROUND

1. An application has been lodged seeking to re-zone:
 - i) Lot 7688 Chester Pass Road, Orana from the “Residential R20” zone to the “Other Commercial” zone;
 - ii) Rezoning Lots 7687, 7686, 7685, 7684 and 7683 Chester Pass Road, Orana from the “Residential R20” and “Public Use” reserve to the “Other Commercial” zone; and
 - iii) Rezoning Lot 7146 Kelly Street, Orana from a “Public Use” reserve to the “Other Commercial” zone.
2. Reclassifying “Public and Local Authority” in the “Other Commercial” zone in Appendix 1 - Zoning Table as an “AA” use.

STATUTORY REQUIREMENTS

3. All Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* including referral to the Environmental Protection Authority, 42 day public advertising, and endorsement by the WA Planning Commission and the Minister for Planning and Infrastructure.
4. On completion of advertising, the amendment will be referred back to Council to consider final adoption, with or without modification.

POLICY IMPLICATIONS

5. There are no Policy Implications relating to this item.

FINANCIAL IMPLICATIONS

6. There are no Financial Implications relating to this item.

STRATEGIC IMPLICATIONS

7. The amendment has been assessed having regard for the requirements of the Albany Local Planning Strategy (ALPS). The amendment is consistent with the strategy as:
 - a. The lot has been earmarked as a “Mixed Business” development area in ALPS. “Other Commercial” as defined in the Town Planning Scheme 1A and as proposed is consistent to the designation in ALPS.
 - b. The “Other Commercial” zone of Town Planning Scheme No.1A. allows for light industrial, showroom warehouse and bulky goods outlets style use of development.
 - c. The proposal is also in line with and responds to the following strategic issues as set out in ALPS.
 - Settlement (Section 8.3)
 - Protect future fully serviced urban areas from inappropriate land uses, subdivision and development

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

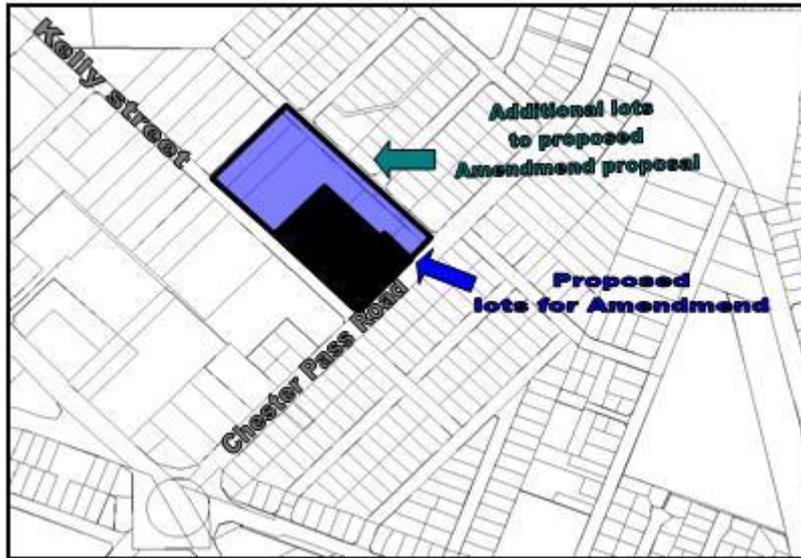
- Environment (Section 8.4)
 - Manage land use conflict and impacts within acceptable community standards and protect industry, infrastructure and special uses from the encroachment of incompatible uses;
- Economy (Section 8.5)
 - Promote economic development and encourage local employment opportunities;
 - Support the growth in other business activity, in the form of bulky goods outlets, office developments, consulting rooms and home businesses that are compatible with existing uses;

COMMENT/DISCUSSION

8. Some of the lots are inappropriately zoned in the context of ALPS. The proposed rezoning will see these conflicting/inappropriate zonings removed and will improve Town Planning Scheme 1A efficiency.
 9. The proposal will allow for the removal of old and dilapidated housing and, with a consolidated access to Chester Pass Road, will see an improvement to the streetscape of Chester Pass Road. The removal of multiple crossovers will in addition also reduce potential traffic conflicts on Chester Pass Road.
 10. The rezoning to the “Other Commercial” zone will enable the future flexibility of use of the subject site. In addition, it will also be complimentary to a range of appropriate commercial uses, present in the surrounding area.
 11. The proposed amendment will allow a “Public and Local Authority” land use to be a discretionary land use, approved by Council, within the “Other Commercial” zone.
 12. The *Planning and Development Act 2005* defines a “Public Authority” as:
“Public authority’ means a Minister of the Crown acting in his official capacity, a State Government Department, State trading concern, State Instrumentality, State public utility any other person or body, whether corporate or not, who or which under the authority of any Act, administers or carries on for the benefit of the State, a social service or a public utility.”
 13. In the broader context of the City, the proposed amendment will enable the development of government style land uses within the “Other Commercial” zones. This will not be detrimental to the operation of these zones; and will in fact compliment their operation.
- Conclusion
14. The merits of this application has been assessed and the amendment as proposed can be supported, with the following modifications;
 - i) The inclusion of lots 14, 15, 7860 and 7859,
 - ii) Reclassifying “Public and Local Authority” in the “Other Commercial”, “Central area” and “Clubs and Institutions” zone in Appendix 1 - Zoning Table as an “AA” use.
 15. The modification on the area of the amendment will ensure a more consistent zoning on the block, without affecting the current land uses. All public use reserve zoned sites will be changed to the “Other Commercial” zone.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued



16. The inclusion of Public and local Authority as a discretionary use in the “Central Area” and “Clubs and Institutions” zone will allow greater flexibility to the discretion of Council in the placement of public and local authority facilities.

RECOMMENDATION

THAT Council:

Resolves, upon receiving amended scheme documentation, pursuant to Section 75 of the *Planning and Development Act 2005* to initiate Amendment 164 to amend the City of Albany’s Town Planning Scheme No. 1A by:

- i) Rezoning Lot 7688 Chester Pass Road, Orana from the “Residential R20” zone to the “Other Commercial” zone;
- ii) Rezoning Lots 7859, 7860, 7687, 7686, 7685, 7684 and 7683 Chester Pass Road, Orana from the “Residential R20” and “Public Use” reserve to the “Other Commercial” zone;
- iii) Rezoning Lot 14, 15 and 7146 Kelly Street, Orana from a “Public Use” reserve to the “Other Commercial” zone;
- iv) Amending the Scheme Maps accordingly; and
- v) Amending Appendix 1 - Zoning Table to include “Public or Local Authority” as an “AA” use in the “Other Commercial”, “Central Area” and “Clubs and Institutions”.

Voting Requirement Simple Majority

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

**MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR STANTON**

THAT Council:

Resolves, upon receiving amended scheme documentation, pursuant to Section 75 of the *Planning and Development Act 2005* to initiate Amendment 164 to amend the City of Albany's Town Planning Scheme No. 1A by:

- i) Rezoning Lot 7688 Chester Pass Road, Orana from the "Residential R20" zone to the "Other Commercial" zone;**
- ii) Rezoning Lots 7859, 7860, 7687, 7686, 7685, 7684 and 7683 Chester Pass Road, Orana from the "Residential R20" and "Public Use" reserve to the "Other Commercial" zone;**
- iii) Rezoning Lot 14, 15 and 7146 Kelly Street, Orana from a "Public Use" reserve to the "Other Commercial" zone;**
- iv) Amending the Scheme Maps accordingly; and**
- v) Amending Appendix 1 - Zoning Table to include "Public or Local Authority" as an "AA" use in the "Other Commercial", "Central Area" and "Clubs and Institutions".**

MOTION CARRIED 11-0

11.4 RESERVES PLANNING

Nil

DEVELOPMENT SERVICES REPORTS

11.5 EMERGENCY MANAGEMENT

11.5.1 Bush Fire Management Committee Meeting - 12 December 2007

File/Ward	:	MAN089 (All Wards)
Proposal/Issue	:	Committee items for Council consideration
Reporting Officer(s)	:	Emergency Management Coordinator (B de Vries)
Summary Recommendation	:	That the minutes of the Bush Fire Management Committee Meeting held on 12 December 2007 be received and recommendations adopted

RECOMMENDATIONS

1. THAT the Minutes of the Bush Fire Management Committee meeting held on 12 December 2007 be received (copy in the Elected Member's Report / Information Bulletin).

Voting Requirement Simple Majority

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2. THAT the Minutes of the Bush Fire Advisory Committee Meeting held on 15 October 2007 be received (copy in the Elected Member's Report / Information Bulletin).

Voting Requirement Simple Majority

.....

3. Item 8.1
THAT a working party be formed as a matter of urgency, comprising four brigade Fire Control Officers and the Deputy Bush Fire Control Officers from the South West and the North East sectors, together with the Emergency Management Coordinator and representatives from FESA, to develop a radio replacement strategy for the City of Albany and that the working party report back to a specially convened meeting of this committee to be held no later than February 2008.

Voting Requirement Simple Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued

4. Item 8.3

- v) THAT an expression of interest be distributed amongst volunteer Bush Fire Brigade volunteers seeking the nomination of persons wishing to be placed upon the State register of volunteers for Intrastate and Interstate deployments and that the conditions of deployment be made available to nominees.
- vi) THAT the City of Albany maintain its current practice of making available two heavy duty and one light tanker for intrastate development during a major fire emergency, with the appliances and crews selected in consultation with the Chief Bush Fire Control Officer.
AND
- vii) THAT, depending on staffing levels and prevailing local bush fire threats at the time, the City makes available employees to attend interstate deployments.

Voting Requirement Simple Majority

.....

5. Item 8.4

THAT the City of Albany endorse the decision of staff to recommend that fire appliances be replaced under the ESL capital works program on the basis of the age of manufacture of the vehicle.

Voting Requirement Simple Majority

.....

6. Item 8.5

THAT the appointment of Mr Charlie Butcher as the City of Albany's Chief Bush Fire Control Officer be terminated and that Mr Ken Johnson be appointed the City of Albany's Chief Bush Fire Control Officer and Mr Kevin Martin be appointed Deputy Chief Bush Fire Control Officer (South West).

Voting Requirement Simple Majority

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AMENDED OFFICER RECOMMENDATION

- 1. THAT, Cr Des Wolfe is appointed Chairman of the Bush Fire Management Committee.

Voting Requirement Simple Majority

.....

- 2. THAT the Minutes of the Bush Fire Management Committee meeting held on 12 December 2007 be received (issued as a late item to the Elected Member's Report / Information Bulletin).

Voting Requirement Simple Majority

.....

- 3. THAT the Minutes of the Bush Fire Advisory Committee Meeting held on 15 October 2007 be received (copy in the Elected Member's Report / Information Bulletin).

Voting Requirement Simple Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued

4. Item 8.1

THAT a working party be formed as a matter of urgency, comprising four brigade Fire Control Officers and the Deputy Bush Fire Control Officers from the South West and the North East sectors, together with the Emergency Management Coordinator and representatives from FESA, to develop a radio replacement strategy for the City of Albany and that the working party report back to a specially convened meeting of this committee to be held no later than February 2008.

Voting Requirement Simple Majority

.....

5. Item 8.3

i) THAT an expression of interest be distributed amongst Bush Fire Brigade volunteers seeking the nomination of persons wishing to be placed upon the State register of volunteers for Intrastate and Interstate deployments and that the conditions of deployment be made available to nominees.

ii) THAT the City of Albany maintain its current practice of making available two heavy duty and one light tanker for intrastate development during a major fire emergency, with the appliances and crews selected in consultation with the Chief Bush Fire Control Officer.

AND

iii) THAT, depending on staffing levels and prevailing local bush fire threats at the time, the City makes available employees to attend interstate deployments.

Voting Requirement Simple Majority

.....

6. Item 8.4

THAT the City of Albany endorse the decision of staff to recommend that fire appliances be replaced under the ESL capital works program on the basis of the age of manufacture of the vehicle.

Voting Requirement Simple Majority

.....

7. Item 8.5

THAT the appointment of Mr Charlie Butcher as the City of Albany's Chief Bush Fire Control Officer be terminated and that Mr Kevin Martin be appointed the City of Albany's Chief Bush Fire Control Officer.

THAT the City of Albany, on behalf of the Albany community and Volunteer Bush Fire Brigades, forward a letter of thanks to Charlie Butcher for his outstanding service as the City of Albany Chief Bush Fire Control Officer.

Voting Requirement Simple Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PRICE**

1. **THAT, Cr Des Wolfe is appointed Chairman of the Bush Fire Management Committee.**
2. **THAT the Minutes of the Bush Fire Management Committee meeting held on 12 December 2007 be received (issued as a late item to the Elected Member's Report / Information Bulletin).**
3. **THAT the Minutes of the Bush Fire Advisory Committee Meeting held on 15 October 2007 be received (copy in the Elected Member's Report / Information Bulletin).**

4. **Item 8.1**

THAT a working party be formed as a matter of urgency, comprising four brigade Fire Control Officers and the Deputy Bush Fire Control Officers from the South West and the North East sectors, together with the Emergency Management Coordinator and representatives from FESA, to develop a radio replacement strategy for the City of Albany and that the working party report back to a specially convened meeting of this committee to be held no later than February 2008.

5. **Item 8.3**

- i) **THAT an expression of interest be distributed amongst Bush Fire Brigade volunteers seeking the nomination of persons wishing to be placed upon the State register of volunteers for Intrastate and Interstate deployments and that the conditions of deployment be made available to nominees.**
- ii) **THAT the City of Albany maintain its current practice of making available two heavy duty and one light tanker for intrastate development during a major fire emergency, with the appliances and crews selected in consultation with the Chief Bush Fire Control Officer.**

AND

- iii) **THAT, depending on staffing levels and prevailing local bush fire threats at the time, the City makes available employees to attend interstate deployments.**

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued

6.	Item 8.4 THAT the City of Albany endorse the decision of staff to recommend that fire appliances be replaced under the ESL capital works program on the basis of the age of manufacture of the vehicle.
7.	Item 8.5 THAT the appointment of Mr Charlie Butcher as the City of Albany's Chief Bush Fire Control Officer be terminated and that Mr Kevin Martin be appointed the City of Albany's Chief Bush Fire Control Officer. THAT the City of Albany, on behalf of the Albany community and Volunteer Bush Fire Brigades, forward a letter of thanks to Charlie Butcher for his outstanding service as the City of Albany Chief Bush Fire Control Officer. MOTIONS CARRIED 11-0 EN BLOC

11.6 DEVELOPMENT SERVICE COMMITTEES

Nil

Corporate & Community Services

REPORTS

- R E P O R T S -

12.1 FINANCE

12.1.1 List of Accounts for Payment

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

COMMENTS / DISCUSSION

- The list of account for payment for the City of Albany is included within the Elected Members Report & Information Bulletin and contains the following:-

Municipal Fund			
Cheques		Totalling	\$156,681.09
Electronic Fund transfer		Totalling	\$2,800,305.84
Credit Cards		Totalling	\$10,672.52
Payroll		totalling	\$680,273.00
Total			<u>\$3,647,932.45</u>

- As at 3rd December 2007, the total outstanding creditors, stands at \$883,670.26.
- Cancelled cheques – 023690.

RECOMMENDATION

THAT the following City of Albany accounts be passed for payment:-

Municipal Fund	Totalling	<u>\$3,647,932.45</u>
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Voting Requirement Simple Majority

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR WISEMAN**

THAT the following City of Albany accounts be passed for payment:-

Municipal Fund	Totalling	<u>\$3,647,932.45</u>
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MOTION CARRIED 11-0

CORPORATE & COMMUNITY SERVICES REPORTS

12.1.2 Financial Activity Statement – Month Ending (30 November 2007)

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

COMMENT/DISCUSSION

1. The Financial Activity Statement was introduced by the Department of Local Government from 1st July 2005. The change was implemented to provide elected members with a better idea of operating and capital revenues and expenditure. It was also intended to link operating results with balance sheet items and reconcile with the end of month cash balances.

STATUTORY REQUIREMENTS

2. Section 6.4 of the Local Government Act 1995 requires that financial reports be prepared and presented in the manner and form prescribed in the regulations. Regulation 34 has been amended to require that Councils report on the sources and applications of funds on a monthly basis, and that the report be noted by Council.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

4. There are no financial implications. The Financial Activity Statement is a report only.

STRATEGIC IMPLICATIONS

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

COMMENT/DISCUSSION

6. The Financial Activity Report and report on major variances follow.

RECOMMENDATION

THAT Council note the attached Financial Activity Statement for the month ending 30 November 2007.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR PAVER**

THAT Council note the attached Financial Activity Statement for the month ending 30 November 2007.

MOTION CARRIED 11-0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

Financial Activity Statement - Nov 07

	Actual Year to Date	Current Budget Year to Date	Budget Variance
OPERATING INCOME			
Rates	17,797,064	17,653,893	143,171
Grants & Subsidies	1,504,041	1,538,221	(34,180)
Fees & Charges	4,579,314	4,735,875	(156,561)
Interest Earned	395,953	356,519	39,434
Other Revenue / Income	512,397	422,698	89,698
Net Controlled Trust Revenue	260,494	0	260,494
	25,049,261	24,707,206	342,055
OPERATING EXPENDITURE (excluding depreciation)			
Employee Costs	(4,588,449)	(4,905,092)	316,643
Utilities	(264,921)	(278,986)	14,065
Interest Expenses	(114,894)	(153,666)	38,772
Contracts, materials & other	(4,098,899)	(4,013,537)	(85,362)
	(9,067,164)	(9,351,281)	284,117
CAPITAL INCOME			
Grants & Subsidies	2,401,500	2,419,071	(17,571)
Contributions, Reimb & Donations, Other	5,792	0	5,792
Proceeds from sale of assets	528,230	500,000	28,230
Other Income	9,468	0	9,468
	2,944,989	2,919,071	25,918
CAPITAL EXPENDITURE			
Asset Masterplans	(1,652,195)	(1,679,119)	26,924
ALAC Redevelopment	(4,920,622)	(5,120,000)	199,378
Plant Replacement	(905,116)	(910,000)	4,884
Developers' Subdivisions	0	0	0
Other Capital	(517,483)	(534,569)	17,086
	(7,995,416)	(8,243,688)	248,272
CASH FLOWS FROM FINANCING ACTIVITIES			
Loan Principal Repayment	(161,237)	(79,897)	(81,340)
Loan Principal Reimbursements	24,055	0	24,055
Proceeds from new loans	0	0	0
	(137,182)	(79,897)	(57,285)
OTHER BALANCE SHEET ITEMS			
Change in stock position	949		
Change in Debtors	(3,212,987)		
Change in Creditors	(1,095,129)		
	(4,307,167)		
NET CASH FLOW			
Opening balance	17,673,710		
NET FUNDS AT BALANCE DATE	24,161,032		

Funds Summary

Municipal Account (Commonwealth Bank)	1,127,622
Reserve Account (Commonwealth Bank)	695,896
Trust Account (Commonwealth bank)	2,657,497
Fixed Term Investments (Aust Banks) Muni	12,100,000
Fixed Term Investments (Aust Banks) Reserves	1,078,731
Financial Instruments (at June 07 Valuation)	6,501,286
Total Bank / Investments	24,161,032

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

BALANCE SHEET - 30 NOV 07	Actual 30-Nov-07	Budget 30-Jun-08	Actual 30-Jun-07
CURRENT ASSETS			
Cash	13,227,622	1,271,680	1,574,493.10
Restricted cash (Trust)	2,657,497	2,146,786	2,376,093.34
Reserve Funds - Financial Assets	6,501,286	4,795,204	13,723,123.46
Reserve Funds - Other	1,774,627		
Receivables & Other	5,716,510	2,450,742	2,524,996.27
Investment Land	1,115,000	1,130,000	1,115,000.00
Stock on hand	659,977	750,000	660,925.86
	31,652,519	12,544,412	21,974,632.03
CURRENT LIABILITIES			
Borrowings	689,847	1,060,904	851,084.01
Creditors prov - Annual leave & LSL	1,498,197	2,051,208	1,609,095.00
Trust Liabilities	2,134,104	1,900,000	2,113,194.85
Creditors prov & accruals	2,386,795	2,784,874	3,316,038.10
	6,708,943	7,796,986	7,889,411.96
NET CURRENT ASSETS	24,943,576	4,747,426	14,085,220.07
NON CURRENT ASSETS			
Receivables	200,760	154,350	200,760.28
Pensioners Deferred Rates	258,533	274,279	258,533.48
Investment Land	2,150,000	2,150,000	2,150,000.00
Property, Plant & Equip	229,791,542	257,343,029	226,276,698.93
	232,400,836	259,921,658	228,885,992.69
NON CURRENT INVESTMENTS			
Local Govt House Shares	19,501	19,501	19,501.00
NON CURRENT LIABILITIES			
Borrowings	19,557,787	28,746,884	19,557,787.30
Creditors & Provisions	158,322	230,000	234,219.00
	19,716,109	28,976,884	19,792,006.30
NET ASSETS	237,647,803	235,711,701	223,198,707.46
EQUITY			
Accumulated Surplus	210,619,271	212,141,863	190,676,981.93
Reserves	8,253,899	4,795,204	13,747,091.53
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634.00
	237,647,803	235,711,701	223,198,707.46

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

	YTD Actual	Budget-Total	Actual
	2007/08	2007/08	2006/07
INCOME			
General Purpose Funding	19,710,765	21,819,463	21,351,621
Governance	82,085	76,800	278,427
Law Order & Public Safety	91,979	468,717	295,670
Health	14,582	47,500	49,873
Education & Welfare	276,770	775,772	664,115
Community Amenities	3,334,486	5,576,700	3,940,231
Recreation and Culture	1,630,764	5,675,585	2,349,058
Transport	1,377,773	11,542,352	9,451,800
Economic Services	246,562	3,558,600	1,168,592
Other Property and Services	736,153	551,080	1,089,906
	27,501,917	50,092,569	40,639,293
EXPENDITURE			
General Purpose Funding	107,918	405,263	602,000
Governance	1,928,118	2,293,724	2,230,643
Law Order & Public Safety	485,476	1,252,434	1,210,826
Health	161,303	399,729	413,043
Education & Welfare	392,437	1,222,911	957,737
Community Amenities	1,737,125	6,354,109	5,406,069
Recreation and Culture	2,664,466	8,052,444	6,990,788
Transport	4,776,602	13,454,248	12,617,408
Economic Services	338,079	1,911,203	1,968,601
Other Property and Services	461,298	375,976	489,107
	13,052,821	35,722,041	32,886,220
Change in net assets from operations	14,449,096	14,370,528	7,753,072

(b) Nature / Type

	YTD Actual	Budget-Total	Actual
	2007/08	2007/08	2006/07
INCOME			
Rates	14,903,877	17,786,405	16,720,703
Grants & Subsidies	4,687,366	10,564,472	7,666,764
Contributions. Reimb & Donations	1,529,865	8,417,684	5,391,320
Fees & Charges	6,426,209	8,026,820	7,502,688
Interest Earned	618,191	1,145,058	1,484,777
Profit (loss) on asset disposal	35,710	3,615,230	735,816
Other Revenue / Income	(677,827)	14,009,485	8,174,508
less: applicable to loan capital	(21,473)	(13,472,585)	(7,037,284)
	27,501,917	50,092,569	40,639,293
EXPENDITURE			
Employee Costs	8,717,398	12,844,626	12,758,807
Utilities	798,736	537,726	839,629
Interest Expenses	516,244	1,371,125	1,048,582
Depreciation on non current assets	3,958,649	9,840,000	9,164,626
Contracts & materials	2,190,821	45,144,850	28,015,358
Insurance expenses	264,896	384,837	389,791
Other Expenses	4,757,268	12,641,624	5,568,108
less: capital works & loan capital repayment	(8,151,191)	(47,042,747)	(24,898,680)
	13,052,821	35,722,041	32,886,220
Change in net assets from operations	14,449,096	14,370,528	7,753,072

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

FINANCIAL ACTIVITY STATEMENT

Nov-07

MAJOR VARIANCES FROM CURRENT BUDGET

Other Revenue / Income

Private works income (Main Roads)	108,945
Offset in other operating expenditure	

Operating Expenditure

Interest expenses

Accrual reversals - 0607
(accruals not used other than at year end)

12.2 ADMINISTRATION

Nil

CORPORATE & COMMUNITY SERVICES REPORTS

12.3 LIBRARY SERVICES

12.3.1 Library Opening Hours

File/Ward	:	INF007 (All Wards)
Proposal/Issue	:	Changing of Library Opening Hours
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Executive Director Corporate & Community Services (P Madigan)
Disclosure of Interest	:	Nil.
Previous Reference	:	Nil.
Summary Recommendation	:	That Council approve the proposed changes in library opening hours.
Bulletin Attachment	:	N/A
Locality Plan	:	N/A

BACKGROUND

1. The Manager of Library Services has requested to change the library's opening hours by closing at 6.00pm on Fridays, and opening at 9.00am on all weekdays.
2. This request has been brought about by the significant and consistent decline in the usage of the library on Friday evenings, together with the staff rostering.
3. The following statistics demonstrate the usage patterns:

Night Borrower Visits : 2004/2007					
				Projected	Actual Jan - June
6pm – 8pm	2004	2005	2006	2007	2007
Tuesday	2087	1531	1598	1796	898
Thursday	2508	2098	2033	1940	970
Friday	1753	1344	1531	1240	620

Night Loan Statistics : 2004/2007					
				Projected	Actual Jan - June
6pm – 8pm	2004	2005	2006	2007	2007
Tuesday	5306	4077	4043	4410	2205
Thursday	5789	5015	5483	5172	2586
Friday	4211	3597	4152	3172	1586

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.3.1 continued.

4. Customer feedback and behaviour patterns indicate the need for the library to open earlier on weekdays.

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. There are no financial implications relating to this item, and the changes would be effected within existing budget allocations.

STRATEGIC IMPLICATIONS

8. This item directly relates to sound governance under the City of Albany 3D Corporate Plan:

“Community Vision:

A Healthy City, Albany Community will enjoy healthy, fulfilling lifestyles, and a flourishing natural environment through..

- *Diverse and affordable cultural, recreational and sporting opportunities.*

A Thriving City, Albany’s community will enjoy economic growth and outstanding opportunities for our youth through..

- *Excellent community infrastructure and services.*

Mission Statement:

The City of Albany is committed to..

- *Sustainably Managing Albany’s municipal assets,*
- *Delivering excellent community services,*
- *Respect the Communities aspirations and resources.*

Priority Projects:

Nil”

COMMENT/DISCUSSION

9. The proposed changes would result in an overall increase in opening hours of 0.5 per week, improve customer service and be a more efficient use of existing staff resources and the Library’s casual staff budget allocation.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.3.1 continued.

10. The following table sets out the current opening hours and the proposed opening hours:

Current Opening Hours		Proposed Opening Hours	
Monday	9.30am – 6pm	Monday	9.00am – 6pm
Tuesday	9.30am – 8pm	Tuesday	9.00am – 8pm
Wednesday	9.30am – 6pm	Wednesday	9.00am – 6pm
Thursday	9.30am – 8pm	Thursday	9.00am - 8pm
Friday	9.30am – 8pm	Friday	9.00am – 6pm
Saturday	9.30am – 12.30pm	Saturday	9.30am – 12.30pm
TOTAL	51.5 hours per week	TOTAL	52 hours per week

11. Council had previously been briefed on this proposal, but deferred implementation of this recommendation until such time as the Business Improvement Districts Survey (B.I.D.S) was complete, particularly the question of Thursday or Friday late night trading.
12. Although this survey has not been finalised, the City has been provided with the data in relation to this question. Of those that responded: 80 (69%) favoured continuation of Thursday nights; and 36 (31%) opted for a change to Friday nights. Given this response, and the resounding majority to maintain the status quo, it is considered no change will occur.

RECOMMENDATION

THAT

- i) Council approve the proposed changes in library opening hours as follows:
- a. Friday night closure 6.00pm (currently 8.00pm); and
 - b. Weekday opening 9.00am (currently 9.30am).
- ii) These changes to become effective as from 1 January 2008.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WISEMAN
SECONDED COUNCILL WILLIAMS**

THAT

- i) Council approve the proposed changes in library opening hours as follows:**
- a. Friday night closure 6.00pm (currently 8.00pm); and**
 - b. Weekday opening 9.00am (currently 9.30am).**
- ii) These changes to become effective as from 1 January 2008.**

MOTION LOST 3-8

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.3.1

ALTERNATE MOTION BY COUNCILLOR BUEGGE

THAT Item 12.3.1 is laid on the table and deferred to the February 2008 Ordinary Council Meeting.

**MOVED COUNCILLOR BUEGGE
SECONDED COUNCILL STANTON**

THAT Item 12.3.1 is laid on the table and deferred to the February 2008 Ordinary Council Meeting.

MOTION CARRIED 11-0

12.4 DAY CARE CENTRE

Nil

12.5 TOWN HALL

Nil

12.6 RECREATION SERVICES

Nil

12.7 VISITORS CENTRE

Nil

12.8 CORPORATE & COMMUNITY SERVICES COMMITTEE

12.8.1 Regional Road Group Council Representation

File/Ward	: MAN 106 (All Wards)
Proposal/Issue	: Request for Council to appoint a deputy member for the Regional Road Group.
Subject Land/Locality	: N/A
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Executive Director Corporate & Community Services (P Madigan)
Disclosure of Interest	: Nil.
Previous Reference	: Nil.
Summary Recommendation	: That Council nominate a replacement member to the Committee.
Bulletin Attachment	: N/A
Locality Plan	: N/A

BACKGROUND

1. In making recommendations on external Committee representation, Council has adopted the following criteria:
 - The regional context of the committee and the relevance to development of the region or its essential infrastructure;
 - The affiliation with the WA Local Government Association;
 - The activity (or otherwise) of the committee and its relevance to Local Government operations; and
 - The previously conducted survey results demonstrating that the committee response and majority of Councillors desired representation to continue.

2. Using this criteria, the Council has decided to:
 - Maintain representation due to a regional context;
 - Maintain representation due to WALGA affiliations;
 - Cease representation on other committees but a staff member or Councillor will attend meetings on an as needed basis when City of Albany issues are listed on the agenda for discussion;
 - Treat nominations for all statutory appointments to Ministerial Advisory Committees on their merits when received from time to time; and
 - Encourage individual Councillors to apply for and sit on committees with State-wide WALGA affiliation.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.8.1 continued.

STATUTORY REQUIREMENTS

- 3. There are no statutory requirements relating to this item.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

- 6. This item directly relates to sound governance under the City of Albany 3D Corporate Plan.

COMMENT/DISCUSSION

- 7. Representation of Council on the Regional Road Group is necessary.
- 8. Councillor Williams has indicated she wishes to stand down from this committee.
- 9. It is necessary to appoint another member to in the Regional Road Group considering the input required by Council, to replace Councillor Williams.

RECOMMENDATION

THAT Council nominate Councillor _____ represent Council on the Regional Road Group.

Voting Requirement Absolute Majority

.....

The Mayor requested one nomination for representation on the Regional Road Group.

Councillor Wolfe advised Council that Council Walker would like to nominate for the position.

<p>MOVED BY COUNCILLOR WOLFE SECONDED BY THE MAYOR</p> <p>THAT Council nominate Councillor Walker represent Council on the Regional Road Group.</p> <p style="text-align: right;">MOTION CARRIED 11-0 ABSOLUTE MAJORITY</p>
--

CORPORATE & COMMUNITY SERVICES REPORTS

12.8.2 Finance Strategy Advisory Committee meeting minutes – 13th November 2007.

File/Ward	:	FIN 066 (All Wards)
Proposal / Issue	:	Committee Items for Council Consideration.
Reporting Officer(s)	:	Executive Director Corporate & Community Services (WP Madigan)
Summary Recommendation	:	That the Minutes of Finance Strategy Advisory Committee meeting held on 13 th November 2007 be adopted.

RECOMMENDATION

THAT the minutes of the Finance Strategy Advisory Committee meeting held on the 13th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin) and the following recommendations adopted:-

i) Item 6.0 – Review of Terms of Reference

That Council adopt the following terms of reference for the Committee:

- a) Oversee the review of a 5 year business plan for consideration by Council that contains:
 - Estimate of recurrent surpluses
 - Projected Project Cost Expenditure
 - Projected Major Capital Expenditure
 - Projected Service Delivery Expenditure
 - Projected Asset Master plan Expenditure
 - Projected revenues
 - Rates
 - Sale of surplus land
 - Major grant funding
 - Fees and Charges
 - Current and future loan position
 - Current and future reserves position
 - Business rules for City Business Units
 - Strategic financial performance indicators
 - Population growth impact analysis
 - Land acquisition policy;
- b) based on the adopted 5 year Business Plan oversee the preparation of a 15 year economic financial sustainability plan for Council consideration;
- c) make recommendations to Council on most appropriate mode and system of realising revenues from sale of surplus land; and
- d) review adopted 5 and 15 year plans annually and make recommendations to Council.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.8.2 continued

ii) Item 9.1 Possible Sale of York St Property

THAT Council defer any decision on the subdivision and sale of the York Street property until such time as the Patrick de Villiers report is considered.

Voting Requirement Simple Majority

.....

AMENDED OFFICER RECOMMENDATION

THAT the minutes of the Finance Strategy Advisory Committee meeting held on the 13th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin) and the following recommendations adopted:-

i) Item 6.0 – Review of Terms of Reference

That Council adopt the following terms of reference for the Committee:

a) Oversee the review of a 5 year business plan for consideration by Council that contains:

- Estimate of recurrent surpluses
- Projected Project Cost Expenditure
- Projected Major Capital Expenditure
- Projected Service Delivery Expenditure
- Projected Asset Master plan Expenditure
- Projected revenues

- Rates
- Sale of surplus land
- Major grant funding
- Fees and Charges

- Current and future loan position
- Current and future reserves position
- Business rules for City Business Units
- Strategic financial performance indicators
- Population growth impact analysis
- Land acquisition policy;

b) based on the adopted 5 year Business Plan oversee the preparation of a 15 year economic financial sustainability plan for Council consideration;

c) make recommendations to Council on most appropriate mode and system of realising revenues from sale of surplus land; and

d) review adopted 5 and 15 year plans annually and make recommendations to Council.

Voting Requirement Simple Majority

.....

Item 12.8.2 continued

**MOVED BY COUNCILLOR WOLFE
SECONDED BY COUNCILLOR PRICE**

THAT the minutes of the Finance Strategy Advisory Committee meeting held on the 13th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin) and the following recommendations adopted:-

i) Item 6.0 – Review of Terms of Reference

That Council adopt the following terms of reference for the Committee:

a) Oversee the review of a 5 year business plan for consideration by Council that contains:

- Estimate of recurrent surpluses
- Projected Project Cost Expenditure
- Projected Major Capital Expenditure
- Projected Service Delivery Expenditure
- Projected Asset Master plan Expenditure
- Projected revenues

- Rates
- Sale of surplus land
- Major grant funding
- Fees and Charges

- Current and future loan position
- Current and future reserves position
- Business rules for City Business Units
- Strategic financial performance indicators
- Population growth impact analysis
- Land acquisition policy;

b) based on the adopted 5 year Business Plan oversee the preparation of a 15 year economic financial sustainability plan for Council consideration;

c) make recommendations to Council on most appropriate mode and system of realising revenues from sale of surplus land; and

d) review adopted 5 and 15 year plans annually and make recommendations to Council.

MOTION CARRIED 11-0

CORPORATE & COMMUNITY SERVICES REPORTS

12.8.3 Finance Strategy Advisory Committee meeting minutes – 29th November 2007.

File/Ward	:	FIN 066 (All Wards)
Proposal / Issue	:	Committee Items for Council Consideration.
Reporting Officer(s)	:	Executive Director Corporate & Community Services (WP Madigan)
Summary Recommendation	:	That the Minutes of Finance Strategy Advisory Committee meeting held on 29 th November 2007 be adopted.

RECOMMENDATION

THAT the minutes of the Finance Strategy Advisory Committee meeting held on the 29th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin) and the following recommendations adopted:-

- i) Item 5.0 – Funding Of ALAC Re-Development (Sale Of Land)
 - THAT Council not proceed with the proposed sale of land in York Street.
 - THAT Council commence the process of selling the 5.58 hectare property at 55 Francis Street, Lower King by giving State-wide public notice of the availability of a business plan for a Major Land Transaction, in accordance with section 3.59 of the Local Government Act (1995).

Voting Requirement Simple Majority

- ii) Item 6.1 Comparative rates – Regional Centres

- THAT Council note the comparative Council rates as follow:

2006/07 Comparative Rates Source: Ray Hadlow Rates Comparison	Typical (GEHA)	Minimum Rate
Albany	\$ 877	\$ 508
Augusta/Margaret River	1,078	750
Bunbury	955	631
Busselton	755	653
Denmark	973	635
Esperance	875 est	521
Geraldton / Greenough calc	783	671
Kalgoorlie	947	540
Plantagenet	713	448

Voting Requirement Simple Majority

Item 12.8.3 continued

**MOVED BY COUNCILLOR WOLFE
SECONDED BY COUNCILLOR PRICE**

THAT the minutes of the Finance Strategy Advisory Committee meeting held on the 29th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin) and the following recommendations adopted:-

- i) **Item 5.0 – Funding Of ALAC Re-Development (Sale Of Land)**
- **THAT Council not proceed with the proposed sale of land in York Street.**
 - **THAT Council commence the process of selling the 5.58 hectare property at 55 Francis Street, Lower King by giving State-wide public notice of the availability of a business plan for a Major Land Transaction, in accordance with section 3.59 of the Local Government Act (1995).**
- ii) **Item 6.1 Comparative rates – Regional Centres**
- **THAT Council note the comparative Council rates as follow:**

2006/07 Comparative Rates Source: Ray Hadlow Rates Comparison	Typical (GEHA)	Minimum Rate
Albany	\$ 877	\$ 508
Augusta/Margaret River	1,078	750
Bunbury	955	631
Busselton	755	653
Denmark	973	635
Esperance	875 est	521
Geraldton / Greenough calc	783	671
Kalgoorlie	947	540
Plantagenet	713	448

**MOTIONS CARRIED 11-0
EN BLOC**

12.8.4 Albany Cultural Development Committee Meeting Minutes – 29th November 2007

- File/Ward** : MAN 223 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Cultural Development Committee held on the 29th November 2007 be accepted.

RECOMMENDATION

THAT the minutes of Albany Cultural Development Committee meeting held on the 29th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin), and the following recommendation adopted:

i) Item 6.4.2 – Public Art

THAT Council urge all relevant parties to agree that all of these projects are related, and to adopt an integrated approach in the development of the public art components.

ii) Item 6.4.3 – Streetscape Committee

THAT an invitation be extended to the Streetscape Committee to nominate a representative to attend meetings of the Cultural Development Committee on an “as needs” basis.

Voting Requirement Simple Majority

.....

**MOVED BY THE MAYOR
SECONDED BY COUNCILLOR WOLFE**

THAT the minutes of Albany Cultural Development Committee meeting held on the 29th November 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin), and the following recommendation adopted:

i) Item 6.4.2 – Public Art

THAT Council urge all relevant parties to agree that all of these projects are related, and to adopt an integrated approach in the development of the public art components.

ii) Item 6.4.3 – Streetscape Committee

THAT an invitation be extended to the Streetscape Committee to nominate a representative to attend meetings of the Cultural Development Committee on an “as needs” basis.

MOTION CARRIED 10-1

Works & Services

REPORTS

WORKS & SERVICES REPORTS

- R E P O R T S -

13.1 CITY ASSETS - ASSET MANAGEMENT

Nil

13.2 CITY SERVICES – WASTE MANAGEMENT

Nil

13.3 CITY SERVICES – AIRPORT MANAGEMENT

Nil

WORKS & SERVICES REPORTS

13.4 CITY SERVICES – CONTRACT MANAGEMENT

13.4.1 Purchasing Policy (Tenders and Quotes)

File/Ward	: GOV059/All Wards
Proposal/Issue	: Amendment of Purchasing Policy (Tenders and Quotes)
Subject Land/Locality	: City of Albany
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager City Services (I. Neil)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: That the City of Albany amends the Purchasing Policy (Tenders and Quotes) as per the recommendation of this report
Bulletin Attachment	: Policy Document
Locality Plan	: N/A

BACKGROUND

1. In the past Local Government Regulations required the City to undertake a tender process for purchases expected to exceed \$50,000. Recent amendments to the regulations will allow Councils to increase this threshold to \$100,000 from the 31st March 2007.
2. Municipalities wishing to work to the new threshold were required to adopt a Purchasing Policy that refers to certain matters. The Council at its meeting in June adopted such a policy.

STATUTORY REQUIREMENTS

3. The Local Government (Functions and General) Regulations 1996, Part 4 allows for the City to increase its tender threshold from \$50,000 to \$100,000

POLICY IMPLICATIONS

4. The adopted policy will have only minor changes to it to make in more practical in operational terms.

WORKS & SERVICES REPORTS

Item 13.4.1 continued

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

6. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision:

A Thriving City: Albany’s community will enjoy economic growth and outstanding opportunities for our youth through excellent community infrastructure and services

Mission Statement:

The City of Albany is committed to sustainably managing Albany’s municipal assets and delivering excellent community services

Priority Projects:

Nil”

COMMENT/DISCUSSION

7. The current policy recommends the following categories of purchase.

Category	Value	Minimum Protocol
Minor Purchase	0-\$1,000	Purchase Order
Minor Quotation	\$1,001-4,999	2 Verbal Quotes (Recorded as File Notes)*
	\$5,000-19,999	3 Verbal Quotes (Recorded as File Notes)*
Major Quotation	\$20,000-99,000	3 Written Quotes*
Tender	Over \$100,000	Tender Process

8. Since the policy was introduced staff have been monitoring its implementation to ensure it operates appropriately, two issues have arisen which necessitate minor amendments to the policy, they are
- a. The Minor quotation threshold is set too low at \$1,000 creating additional administration for staff; it is recommended that this threshold be raised to
 - \$5,000 for these minor purchases.
 - Minor quotations will be applicable in the range of \$5,001 to \$49,999
 - Major quotations increase to \$50,000 to \$99,999
 - Tenders must be called for amounts of \$100,000 or more.
 - b. The original policy was unclear regarding the application of GST. Advice from WALGA has confirmed that the amounts do not include GST.

WORKS & SERVICES REPORTS

Item 13.4.1 continued

9. The proposed table is as follows:

Category	Value (ex GST)	Minimum Protocol
Minor Purchase	0-\$5,000	Purchase Order
Minor Quotation	\$5,001-19,999	2 Verbal Quotes (Recorded as File Notes)*
	\$20,000-49,999	3 Verbal Quotes (Recorded as File Notes)*
Major Quotation	\$50,000-99,999	3 Written Quotes*
Tender	\$100,000 or more	Tender Process

RECOMMENDATION

That the City of Albany amends the Purchasing Policy (Tenders and Quotes) as outlined in this report.

Voting Requirement Simple Majority

.....

ALTERNATE MOTION BY COUNCILLOR WOLFE

THAT Item 13.4.1 is laid on the table till the State Government has amended their purchasing policy.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WISEMAN**

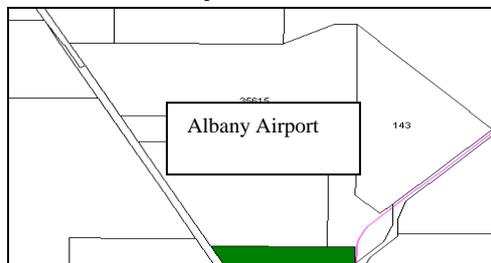
THAT Item 13.4.1 is laid on the table till the State Government has amended their purchasing policy.

MOTION CARRIED 11-0

WORKS & SERVICES REPORTS

13.4.2 Leases to Hire Car Companies at Albany Airport

File/Ward	:	PRO363 (Kalgan Ward) A64802
Proposal/Issue	:	New lease for Albany Aviation Pty Ltd at the Albany Regional Airport
Subject Land/Locality	:	35615 Albany Highway Albany Airport
Proponent	:	N/A
Owner	:	City of Albany
Reporting Officer(s)	:	Manager City Services (I Neil)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council approve a new lease for Albany Aviation for a 2 year term effective from 1 January 2007
Bulletin Attachment	:	Nil
Locality Plan	:	



BACKGROUND

1. Albany Aviation Pty Ltd has operated an air charter business from the Albany Regional Airport since 1992. This company currently provides a charter service for both business and tourist visitors to Albany and the Great Southern and undertakes flight training.
2. Since 1 September 2006, Albany Aviation Pty Ltd has temporarily occupied office space in the main terminal adjacent the Skywest counter. This has allowed passengers and customers to access safe check in from the counter area rather than previous ad hoc airside arrangements.

STATUTORY REQUIREMENTS

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

WORKS & SERVICES REPORTS

Item 13.4.2 continued

4. Section 3.58 (3) states that a Local Government must give public notice of its intention to lease, giving details of the property and proposed disposition and inviting submissions before a specified date. Any submissions received must be considered at an Ordinary Council Meeting and the decision regarding those submissions recorded in the minutes of the meeting at which the decision was made.

POLICY IMPLICATIONS

5. There are no policy implications relating to this Item

FINANCIAL IMPLICATIONS

6. There are no adverse financial implications attached to this Item. All costs associated with this lease, including solicitors' fees, valuation costs and all other costs are to be borne by the relevant lessee at the rate applicable to the City. The City will receive rental for the property.

STRATEGIC IMPLICATIONS

7. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision:

Albany’s community will enjoy economic growth and outstanding opportunities for our youth through excellent community infrastructure and services and dynamic promotion and marketing of Albany’s advantages and opportunities.

Mission Statement:

The City of Albany is committed to sustainable managing Albany’s municipal assets and delivering excellent community services.

Priority Projects:

Nil.”

COMMENT/DISCUSSION

8. A request has been received from Albany Aviation for a new lease for office space within the main Airport terminal, to provide checking services for its customers.
9. The company’s original occupancy was to lapse when the refurbishment of terminal commenced as the area was designated for hire cars. A better alternative has been found for the hire cars and this space is now available for letting.
10. By offering a short term lease to the tenant Council allows for alternative uses of the site in the future. The recently adopted business plan for the airport allows for this type of lease on a short-term basis.
11. The proposed rental is based on a market valuation of \$3,220 per annum.

WORKS & SERVICES REPORTS

Item 13.4.2 continued

RECOMMENDATION

THAT Council, in accordance with Section 3.58 of Local Government Act 1995, advertise its intention to enter into a new lease with Albany Aviation Pty Ltd for a term of 2 years from 1st January 2008, for an allocated area at the Albany Airport Terminal.

THAT Council enter into a new lease with Albany Aviation Pty Ltd for a term of 2 years, for an allocated area at the Albany Airport Terminal, subject to:

- i) There being no submissions received as a result of advertising;
- ii) The rental being \$3,220 per annum ex GST, with annual CPI increases; and
- iii) All costs associated with the preparation of leases be payable by applicant.

Voting Requirement Simple Majority

.....

<p>MOVED COUNCILLOR BUEGGE SECONDED COUNCILLOR WISEMAN</p> <p>THAT Council, in accordance with Section 3.58 of Local Government Act 1995, advertise its intention to enter into a new lease with Albany Aviation Pty Ltd for a term of 2 years from 1st January 2008, for an allocated area at the Albany Airport Terminal.</p> <p>THAT Council enter into a new lease with Albany Aviation Pty Ltd for a term of 2 years, for an allocated area at the Albany Airport Terminal, subject to:</p> <ul style="list-style-type: none">i) There being no submissions received as a result of advertising;ii) The rental being \$3,220 per annum ex GST, with annual CPI increases; andiii) All costs associated with the preparation of leases be payable by applicant. <p style="text-align: right;">MOTION CARRIED 11-0</p>

WORKS & SERVICES REPORTS

13.5 CITY SERVICES – PROPERTY MANAGEMENT

13.5.1 Rent – Wellstead Progress Association

File/Ward	:	PRO316, Hassell Ward
Proposal/Issue	:	To bring annual rental in line with other progress association rentals
Subject Land/Locality	:	Reserve 28228, Bouer Street Wellstead
Proponent	:	Wellstead Progress Association
Owner	:	Crown Land
Reporting Officer(s)	:	Manager City Services (I Neil)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council agree to decrease the Wellstead Progress Association rental on their community hall to a peppercorn rental, in line with other Progress Associations.
Bulletin Attachment	:	Nil
Locality Plan	:	



BACKGROUND

1. At the Ordinary Council Meeting on 23/05/2000 Item13.2.4, Council resolved to seek the Minister for Lands' approval to amalgamate Reserves 30505 and 28228 and make a minor adjustment to the boundary to include a bore site near Barr Street, Wellstead.

WORKS & SERVICES REPORTS

Item 13.5.1 continued

2. The new reserve was vested in the City of Albany under a Management Order with power to lease for up to 21 years, to the Wellstead Progress Association for the purpose of Community Hall, Recreation and Bore Site.
3. The lease rental was set at the equivalent to the minimum land rate per annum and the Wellstead Progress Association invited to apply annually for financial assistance to cover the rental.

STATUTORY REQUIREMENTS

4. Local Government Act 1995, Section 3.58 deals with Disposing of Property. Local Government (Functions and General) Regulations 1996 clause 30(2)(b)(i) provides an exemption to Council from the Local Government Act 1995, if the land is leased to a community based group.

POLICY IMPLICATIONS

5. There are no policy implication relating to this Item

FINANCIAL IMPLICATIONS

6. A decrease in rental would reduce the current rental from \$508 to \$10 per annum a difference of \$497 per annum.

STRATEGIC IMPLICATIONS

7. **“Community Vision:**
Albany’s community will enjoy healthy, fulfilling lifestyles and a flourishing natural environment through diverse and affordable cultural, recreational and sporting opportunities.

Mission Statement:

The City of Albany is committed to delivering excellent community services and at all times we will respect the Community’s aspirations and resources and demonstrate integrity, leadership and teamwork

Priority Projects:

Nil.”

COMMENT/DISCUSSION

8. The Wellstead Progress Association has requested the City look review the method by which rental is charged in comparison with other Community Progress Association rentals.
9. Of the eight Community Progress Associations to lease Crown Land from the City the Wellstead Progress Association is the only one with a rental fee equivalent to the minimum land rate per annum.
10. The remaining seven Community Progress Associations pay a peppercorn rental of \$10.00 per annum

WORKS & SERVICES REPORTS

Item 13.5.1 continued

- 11. If Council agree to a reduction in rental for the Wellstead Progress Association, it would take away the necessity for an annual request for financial assistance to cover the rent, which if agreed, pays the Associations rental on its behalf, and to bring then into line with the other Community Progress Associations.

RECOMMENDATION

THAT Council agree to reduce the Wellstead Progress Association rental from the minimum land rate per annum to a peppercorn rental of \$10.00 to bring into line with other similar Community Progress Associations.

Voting Requirement Simple Majority

ALTERNATE MOTION BY COUNCILLOR GUEGGE

THAT Council:

- i) Agree to reduce the Wellstead Progress Association rental from the minimum land rate per annum to a peppercorn rental of \$10.00 to bring into line with other similar Community Progress Associations.
- ii) The annual rental paid by the Wellstead Progress Association between 2005 and 2007 be re-imbursed minus the peppercorn rental value that would have been applied for those years.

Voting Requirement Absolute Majority

Reason:

There is no link between the current recommendation and the refund of the past years rental. The association had made the original request in 2005, and more recently in round 2 of the 2007 Community Grant Applications however the requests have been overlooked.

Councillor Wiseman requested a point of clarification in regards to Item ii) of the motion the actual amount that would be reimbursed between 2005 and 2007.

Executive Director Works and Services, Mr Les Hewer, advised the amount would be approximately \$996 dollars.

<p>MOVED COUNCILLOR BUEGGE SECONDED COUNCILLOR WILLIAMS</p> <p>THAT Council:</p> <ul style="list-style-type: none"> i) Agree to reduce the Wellstead Progress Association rental from the minimum land rate per annum to a peppercorn rental of \$10.00 to bring into line with other similar Community Progress Associations. ii) The annual rental paid by the Wellstead Progress Association between 2005 and 2007 be re-imbursed minus the peppercorn rental value that would have been applied for those years. <p style="text-align: right;">MOTION CARRIED 8-3 ABSOLUTE MAJORITY</p>
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WORKS & SERVICES REPORTS

13.6 CITY WORKS – CAPITAL WORKS

Nil

13.7 CITY WORKS – RESERVES, PLANNING & MANAGEMENT

13.7.1 Approval for Expenditure of Grant Funding

File/Ward	:	MAN108 (All Wards)
Proposal/Issue	:	Request for approval of additional grant funds for weed control on Bluff Rock
Subject Land/Locality	:	Reserve 24409 and City of Albany freehold land
Proponent	:	N/A
Owner	:	Crown and City of Albany
Reporting Officer(s)	:	Executive Support Officer Grant Funding and Finance (S Pepper)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council approves the expenditure of grants funding of \$2,600 for weed management on Bluff Rock reserve
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. In June 2005, Council adopted an Environmental Weeds Strategy for City of Albany Reserves 2005-2010, which provides a framework to control environmental weeds in areas for which the Council is responsible.
2. There are four components to the strategy, which include priority reserves/areas and their management; specific weed programs; supporting active community groups outside priority areas; and woody weed control along rural road reserves.
3. The City Mounts Management Plan, was adopted in April 2006 with a Council direction to implement the Plan through grant funding, future Council budgets and with the assistance of volunteer support. .
4. The Friends of Bluff Rock Working Group have sought Council support in addressing weed management and a general cleanup of the area known as Bluff Rock reserve, which is bounded by Tassel and Bathurst Streets. The Bluff Rock area includes City of Albany freehold land and reserve number 24409, which is vested in the City.

STATUTORY REQUIREMENTS

5. Under the Local Government Act, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

WORKS & SERVICES REPORTS

Item 13.7.1 continued

- a) is incurred in a financial year before the adoption of the annual budget by the local government
- b) is authorised in advance by a resolution (absolute majority required) or
- c) is authorised in advance by the mayor in an emergency

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

- 7. The cost of attending to the weed management and general cleanup of Bluff Rock reserve has been estimated by staff, to be \$6,000.00. The Friends of Bluff Rock have been successful in obtaining funding totalling \$2,600.00 from Southcoast Natural Resource Management.
- 8. With the volunteer help of the Friends of Bluff Rock Working Group, and the funding amount of \$2,600.00, the project costs, which would be sourced from the current Weeds Strategy budget, will be substantially reduced.

STRATEGIC IMPLICATIONS

9. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision

Albany’s community will enjoy healthy, fulfilling lifestyles, and a flourishing natural environment through *excellent community infrastructure and services*.

Mission Statement

The City of Albany is committed to: sustainably managing Albany’s municipal assets, and promoting our Community’s vision for the future.

Priority Projects

Nil.”

COMMENT/DISCUSSION

10. The funded project will benefit both Council and the local community, as volunteers will be involved in the works, educational signage will highlight the weed problem, and staff resources can be spread over a greater area, to better maintain Council reserves.

RECOMMENDATION

That Council approves the expenditure of grants funding of \$2,600 for weed management on Bluff Rock reserve.

Voting Requirement Absolute Majority

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WORKS & SERVICES REPORTS

Item 13.7.1 continued

**MOVED THE MAYOR
SECONDED COUNCILLOR WISEMAN**

That Council approves the expenditure of grants funding of \$2,600 for weed management on Bluff Rock reserve.

**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

13.8 WORKS & SERVICES COMMITTEES

Nil

General Management Services

REPORTS

GENERAL MANAGEMENT SERVICES REPORTS

14.1 STRATEGIC DEVELOPMENT

Nil

14.2 ORGANISATIONAL DEVELOPMENT

14.2.1 Code of Conduct for Elected Members and Employees

File/Ward	:	MAN118 (All Wards)
Proposal/Issue	:	Code of Conduct for Elected Members and Employees
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Manager Executive Services (C Grogan)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 08.07.98 Item 13.2.4 OCM 04.08.99 Item 13.2.1 OCM 29.02.00 Item 13.2.2 OCM 26.06.00 Item 12.2.1 OCM 17.07.01 Item 12.2.6
Summary Recommendation	:	That Council adopt the revised Code of Conduct
Bulletin Attachment	:	Draft revised Code of Conduct for Elected Members and Employees.
Locality Plan	:	Nil

BACKGROUND

- 1 In February 2000 the City of Albany adopted a Code of Conduct based on the Western Australian Municipal Authority's draft document (August 1999), and amended it in July 2001 to comply with changes to Local Government (Administration) Regulations relating to token gifts and disclosures of interest (February 2000).

STATUTORY REQUIREMENTS

2. Section 5.103 of the Local Government Act requires every Local Authority to prepare or adopt a code of conduct, which is to be observed by elected members, committee members and staff.

POLICY IMPLICATIONS

3. There are no policies relating to this item.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.1 continued

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

5. This item directly relates to the following elements from the City of Albany 3D Corporate Plan... *“At all times we will...*
 - *Respect the Community’s aspirations and resources;*
 - *Demonstrate integrity, leadership and teamwork; and*
 - *Provide sound governance”.*

COMMENT/DISCUSSION

6. Council’s Code of Conduct has been in operation since February 2000, and has proved to be a valuable management tool.
7. On the 21st October 2007 the *Local Government (Official Conduct) Amendment Act 2007* and its associated *Local Government (Rules of Conduct) Regulations 2007* came into operation. The Amendment Act establishes a disciplinary framework to deal with misconduct by any local government council member.
8. The new legislation and regulations directly relate to a number of the elements of the Code of Conduct for Elected Members and Employees, and as such a review of the Code of Conduct is warranted.
9. The document has been completely reviewed to ensure alignment with the new legislation and where relevant has been cross-referenced to the regulations to aid interpretation.
10. There are four key sections of the Code of Conduct that needed to be amended and/or cross referenced to bring it into line with the new legislation namely,
 - Section 1: Conflict and disclosure of interest;
 - Section 2: Personal benefit (including the issue of gifts);
 - Section 3: Conduct of Elected Members (including the relationship between Elected Members and employees); and
 - Section 4: Dealing with Council property.
11. The City of Albany’s employee induction processes have for many years included briefings on acceptable workplace behaviour, with particular reference to harassment, bullying and discrimination. It is proposed that these important workplace behaviour issues be incorporated in the Code of Conduct by inclusion of the following in section 3 of the Code of Conduct...

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.1 continued.

Acceptable Workplace Behaviour

Employees will abide by the following legal obligations and workplace behaviour standards:

- i) The Equal Opportunity Act 1984 requires that people should not be harassed or discriminated against because of race, sex, marital status, pregnancy, political conviction, religious conviction, impairment or disability, age, family responsibility or family status, sexual orientation or gender history.
- ii). In addition sexual harassment and racial harassment are unlawful.
- iii). It is also against the law to victimise someone for making a complaint or assisting with inquiries.

The City of Albany is obliged to provide a workplace free from discrimination and harassment and *will* deal with attitudes behaviours and practices that are in breach of this.

As a City of Albany employee you are responsible for three things...

- 1). Your decisions,
- 2). Your behaviour, and
- 3). The consequences of that behaviour.

a). Discrimination:

Discrimination is treating people unfairly or unequally simply because they belong to a group or category of people. *For example, refusing to employ or promote someone because they are too old (age) or isolating a person who has a disability or previous workers compensation claim (impairment).*

It is not discrimination to

- Make appropriate requests to carry out work
- Reprimand an employee based on a work or behaviour problem or
- Appropriately monitor a person's work or workplace behaviour.

b). Harassment:

Harassment is any unwelcome or uninvited comment or action that results in a person being intimidated, offended, humiliated or embarrassed. *For example, unwanted or deliberate physical contact such as touching or space invasion or making unfavourable comments about indigenous or other cultures.* Whether you intend harm or not is irrelevant in instances of harassment. The effect of your behaviour, not your intent is the key consideration.

c). Bullying:

Bullying is behaviour that intimidates, offends, degrades or humiliates a worker, possibly in front of others and is often indirect, subtle, hidden from view and hard to prove. *For example, criticism of ability and unnecessary blame, unreasonable job demands, constant checking and spreading destructive gossip.*

Bullying breaches our 'duty of care' to provide a safe and secure work environment, both physically and emotionally. As such it is considered an occupational safety and health issue.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.1 continued.

- d). Reporting of unacceptable workplace behaviour:
If you have a matter to report you are asked to, in the first instance:
 - 1). Speak with your Line Manager;
 - 2). Your Manager once removed, Executive Director;
 - 3). The Human Resources Coordinator (who is also the Grievance Officer); or
 - 4). Your Union Representative.

The City of Albany has a process for resolving reports or incidents of harassment, discrimination, and bullying or unacceptable behaviour. Reports of this nature will be taken seriously. They are sensitive matters and will be treated confidentially.

If a report has substance, it will be responded to accordingly and may include counselling, performance management and disciplinary action including termination of employment.

- 12. A full copy of the draft revised Code of Conduct for Elected Members and Employees is shown in the Bulletin.

RECOMMENDATION

THAT Council, in accordance with section 5.103 of the Local Government Act, agree to adopt the reviewed Code of Conduct for Elected Members and Employees such that ...

- i) *Sections 1 – 4 covering the issues of conflict and disclosure of interest, personal benefit, conduct of elected members and employees, and dealing with council property be amended to reflect the Local Government (Official Conduct) Amendment Act 2007 and the associated Local Government (Rules of Conduct) Regulations 2007; and*
- ii) *Section 3 covering conduct of elected members and employees be amended to incorporate rules regarding acceptable workplace behaviour, with particular reference to discrimination, harassment and bullying as specified above.*

Voting Requirement Simple Majority

.....

ALTERNATE MOTION BY COUNCILLOR PAVER

THAT:

Council lay this item on the table until a Working Committee comprising the Mayor, five Councillors and the CEO has been established, has considered submissions on matters for inclusion in the Code of Conduct, and has prepared with legal advice, a draft Code for Council's consideration and adoption.

Voting Requirement Simple Majority

.....

GENERAL MANAGEMENT SERVICES REPORTS

Reason:

The conduct of Councillors and employees of the City of Albany is already regulated by various statutes and regulations. A Code of Conduct that simply reiterates the legislative provisions and regulations is superfluous. Consideration needs to be given to the questions: What should be included in the Code of Conduct that is not covered by State legislation, and should the Code of Conduct be adopted as a Local Law? Proper consideration of these matters requires the establishment of a Working Committee to consider submissions on these matters and to prepare with legal advice, a draft Code of Conduct for Council's consideration and adoption.

**MOVED COUNCILLOR PAVER
SECONDED THE MAYOR**

THAT:

Council lay this item on the table until a Working Committee comprising the Mayor, five Councillors and the CEO has been established, has considered submissions on matters for inclusion in the Code of Conduct, and has prepared with legal advice, a draft Code for Council's consideration and adoption.

MOTION CARRIED 9-2

GENERAL MANAGEMENT SERVICES REPORTS

14.2.2 Albany Insight – Beyond 2020 City of Albany Corporate Planning Process

File/Ward	:	STR 070 /All Wards
Proposal/Issue	:	City of Albany Corporate (Strategic) Planning Process
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Manager Executive Services (C Grogan)
Disclosure of Interest	:	Nil
Previous Reference	:	Item 14.1.1 OCM 17/06/2003
Summary Recommendation	:	Adoption of the proposed “Albany Insight – Beyond 2020” corporate planning process to replace the Albany 3D Corporate Plan 2004-2007.
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. This report outlines a proposed process for the development of a new City of Albany Corporate Plan, to replace the “Albany 3D” corporate plan 2004 – 2007.
2. The purpose of an organisation’s corporate or strategic plan is to provide the medium to long-term direction, to provide guidance for decision making towards achieving the stated goals and to promote unity amongst the stakeholders of the organisation. Strategic Plans require regular review to ensure that the direction an organisation takes and the major objectives that it focuses on remain relevant and appropriate.
3. The City of Albany’s first strategic plan was entitled “Albany 2020 Charting Our Course” and was adopted on the 4th July 2000 following the first City of Albany Mayoral & Council elections. Following the Mayoral election in May 2003 “Albany 3D” was developed and was adopted on the 17th June 2003.
4. Following the October 2007 Mayor & Councillor elections a major review of the City of Albany strategic direction is now due.

STATUTORY REQUIREMENTS

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

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued

POLICY IMPLICATIONS

6. This item relates directly to the 'Strategic Functions' section of the Human Resources Operational Policies. See extract below
7. Acting within this structure, the Chief Executive Officer is directed and has delegated authority to achieve the strategic objectives of the Council as provided for in the City of Albany Corporate Plan – or any other strategic document as Council so decides subject to:
 - Resources to meet these objectives being provided by Council in its Annual Budget deliberations and strict compliance being observed with those budgets.
 - The maintenance and observance of any long-term financial plans that Council may choose to adopt from time to time.
 - The observance of policy and delegation constraints as adopted by the Council from time to time.
 - The observance of all relevant statute, regulations, ordinances, and industrial awards.
 - The observance and heed of legal advice received from the City's solicitors.

FINANCIAL IMPLICATIONS

8. The 2007/08 budget includes an allocation of \$16,000 for the review of the City's strategic plan. This allocation will fund the running of public workshops and other public consultation processes, hire of a facilitator, plus design and publication of the adopted corporate plan.
9. The implementation of the new City of Albany Corporate Strategic Plan must be budget compliant.

STRATEGIC IMPLICATIONS

10. This item directly relates to the following elements of the Albany 3D strategic plan...

"The City of Albany is committed to... providing sound governance and promoting our Community's vision for the future" and "The City of Albany will always be renowned for ... our strategic integration."

It is imperative that the adopted Albany 3D plan continues to guide Council's strategic decision making until such time as Council has adopted a replacement plan.

COMMENT/DISCUSSION

11. In preparation for the new planning process a comprehensive review of best practice approach to strategic planning (also often called corporate planning) has been undertaken.
12. All best practice approaches commence by determining a strong brand by which the entire process, as well as the resultant plan, is entitled. In determining the name for the new planning process every effort has been made to make it meaningful yet distinctive from previous Albany plans and those of other organisations.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued

13. The “Albany Insight – Beyond 2020” brand is proposed. The use of the word ‘Albany’ is self-evident in that it clearly defines it as a plan for Albany. The Macquarie dictionary definition for the word ‘insight’ includes ‘penetrating mental vision or discernment; faculty of seeing into inner character or underlying truth’ and as such describes the comprehensive analysis and visioning processes inherent in the planning process. The words ‘beyond 2020’ communicate that the plan’s objectives will be medium to long term in focus.
14. The new plan will be a community driven process and will aim to provide an agreed Vision of the future Albany and a number of priority major objectives for Albany for the next 15 - 20 years, with an indication of the community’s expectations of the role it wishes its Council to take in respect to each major goal.
15. The City of Albany Corporate Strategic Plan will be developed *after* the plan for Albany and will include:
 - A Vision for the organisation;
 - Core Mission & Values for the organisation; and
 - A set of strategic objectives for the organisation to pursue over the next five years, designed to support the implementation of the “Albany Insight – Beyond 2020” plan.
16. It is proposed that the “Albany Insight – Beyond 2020” Plan commence with Community Workshops entitled “Future Insights” workshops to be held during late January or early February. Participants will be identified by random selection to ensure that a representative group are involved. 500 residents from the electoral register will be invited to attend one of three workshops (held at different times – early morning, mid day & evening). In addition, arrangements will be made for under-18s to participate to ensure the voice of young people in our community is also heard.
17. The purpose of the “Future Insights” Workshops is to provide Councillors with ‘market research’ information, to guide the detailed strategic planning sessions and will be designed to identify the key aspirations of the community. This data will be supplemented by the results of other community consultation processes such as the recent Cultural Planning workshops.
18. Councillors and the City’s Executives will be invited to attend the workshops as observers.
19. In addition it is proposed that two reps from each workshop (a total of 6) be nominated to participate in the detailed strategic planning sessions with Councillors and the City’s Executive.
20. During February and March, the “Albany Insight – Beyond 2020” Planning Group consisting of Councillors, Community Workshop Reps, CEO & Executive Directors will then work with the facilitator to determine a new ‘Vision’ for Albany and to identify a core set of priority big goals, using the results of the Future Insights Community Workshops as a guide.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued.

21. The outcomes from the “Albany Insight – Beyond 2020” Planning sessions will then be subject to consultation with key stakeholders (eg State Govt Agencies, City of Albany Advisory Committees). Community consultation will be undertaken through community survey, involving the random selection of Albany residents. In addition feedback from the general community will also be invited. This consultation and draft plan refinement phase is expected to take about 6 weeks to complete.
22. At this stage it is anticipated that the “Albany Insight – Beyond 2020” plan will be presented to Council for endorsement in April 2008.
23. Following adoption of “Albany Insight – Beyond 2020” plan, the City will then prepare a Corporate Plan which will become the organisation’s principal strategic guide for the future. It is proposed that, in addition to Councillors and the Executives, the corporate strategy planning group will also involve Managers and a limited number of staff reps.
24. The core objective of the Corporate Strategic Plan is to ensure the implementation of the “Albany Insight – Beyond 2020” Plan. It is envisaged that the City plan will include...A Vision, Mission & Values for the organisation (complementary to the “Albany Insight – Beyond 2020” vision for Albany)
 - A set of key objectives for the organisation (again aligned to the major goals for Albany, plus any supporting objectives that the City needs to pursue to ensure it is capable of focusing on those goals)
 - An implementation plan to be pursued over the subsequent five years.
25. Before adoption of the City of Albany Corporate Plan there would need to be public, key stakeholder and staff consultation.
26. It’s expected that preparation of Albany insight – Beyond 2020 Plan will commence in January and be completed by the end of June 2008.

RECOMMENDATION

THAT Council endorse the proposals to undertake:

- i) The “Albany Insight – Beyond 2020” planning process as outlined above; and
- ii) The City of Albany Corporate Strategic Planning Process also outlined in this report.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR BUEGGE**

THAT Council endorse the proposals to undertake:

- i) The “Albany Insight – Beyond 2020” planning process as outlined above; and**
- ii) The City of Albany Corporate Strategic Planning Process also outlined in this report.**

MOTION CARRIED 11-0

GENERAL MANAGEMENT SERVICES REPORTS

14.3 ECONOMIC DEVELOPMENT

Nil

14.4 CORPORATE GOVERNANCE

14.4.1 Annual Review of Council Delegations – Local Government Delegations

File/Ward	:	MAN 122 (All Wards)
Proposal/Issue	:	Annual Review of Council Delegations
Subject Land/Locality	:	N/A
Proponent	:	City of Albany
Owner	:	N/A
Reporting Officer(s)	:	Corporate Governance Officer (S Jamieson)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 20/11/01 - Item 12.2.2 OCM 20/08/02 - Item 12.2.7 OCM 20/01/04 - Item 12.2.2 OCM19/04/05 - Item 12.2.4 OCM 18/04/06 - Item 12.2.3
Summary Recommendation	:	That Council agrees to renew the Chief Executive Officer's and Council committees' various delegations
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. Under the provisions of the Local Government Act 1995, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committee's of Council to help facilitate the many services it provides to the community.
2. At least once every financial year, the powers and duties delegated under the Local Government Act are required to be reviewed by the delegator.

STATUTORY REQUIREMENTS:

3. Section 5.42 of the Local Government Act 1995 enables the delegation of some powers and duties to the Chief Executive Officer:

"1) *A local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- 2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
4. Section 5.16 and 5.17 of the Local Government Act enables the delegation of some powers and duties to a committee:
 - “1) *Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than the power to delegate;*
 - 2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*”
5. Under the provisions of section 5.46 (2) of the Local Government Act, delegations must be reviewed by the delegator at least once every financial year.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

8. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision:
Nil

Mission Statement:
The City of Albany will always be renowned for... our customer focus and our high-performance system of governance.

Priority Projects:
Nil”

COMMENT/DISCUSSION

9. To comply with section 5.46(2) of the Local Government Act, the City of Albany has completed an internal review of its current delegations. In order to continue to provide a high level of service to the Community, it was established that a majority of the City’s delegations should continue. From a staff perspective, a few delegations can be removed from the register as their usefulness has expired.
10. As a result of the internal review, the City has established a new delegations register, which clearly indicates how each delegation relates back to the Local Government Act in an effort to improve compliance as an organisation.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued.

RECOMMENDATION

THAT Council:

- i) In accordance with the provisions of Section 5.42 of the Local Government Act 1995, agree to delegate to the Chief Executive Officer, the power to exercise the following powers or duties:
 - a) Review of City of Albany's Gross Rental Valuation (GRV) Rating Area.
Local Government Act, Section 6.28
Report Requirement FILE
 - b) Contracts – Power to Accept Contracts for the Provision of Goods and Services and acquire/dispose of property up to \$50,000.00 (excluding GST), subject to the said matter:
 - i) Being detailed in Council's annual budget, and
 - ii) Complying with any relevant Council policy.
Local Government Act, Section 5.43(b)
Report Requirement FILE
 - c) To attach the common seal to all documents.
Local Government Act, Section 5.43 and 9.49
Report Requirement BULLETIN
 - d) The authority to appoint "authorised persons" under the City of Albany's local laws.
Local Government Act Section 5.42 and 9.10
Report Requirement FILE
 - e) To execute Grant and Service Agreements arranged with the Bushfire Services of WA.
Local Government Act, Section 5.42
Report Requirement FILE
 - f) To approve and refuse applications to pick flora from City of Albany vested reserves and road reserves for educational and scientific purposes.
Local Government Act, Schedule 9.1, Section 2
Report Requirement FILE
 - g) The power to make payments from the Municipal and Trust Funds in accordance with Section 12 and 13 of the Local Government (Financial Management) Regulations 1997.
Local Government Act, section 6.10 and Financial Management Regulations
Report Requirement FILE

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- h) To obtain drainage easements for Council's drainage needs subject to the following criteria:
- All alternative routes with regard to stormwater discharge shall be investigated as part of the easement process;
 - Easement location be based on sound engineering knowledge taking into account existing and future drainage systems;
 - Should the issue of compensation form part of the negotiations of gaining an easement over private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of \$25,000.00;
 - No payment of compensation is to be paid until the easement has been registered with the Titles Office;
 - Easement width shall be to a maximum of 3 metres wide (urban) or 10 meters wide (rural);
 - Location of easement is agreed to by the affected land owner;
 - Agreement has been obtained from the affected landowner for the grant of easement.

*Local Government Act, Schedules 3.2
Report Requirement: File*

- i) To implement the provisions of the policy –“Payments to Employees in Addition to Contract or Award”, except when the officer under consideration is the Chief Executive Officer, in which case a Committee consisting of the Mayor and two other Councillors may implement the provisions of this policy.

*Local Government Act, Section 5.50
Report Requirement: Bulletin*

- j) To approve sundry donations to the value of \$200.00 in accordance with the Community Financial Assistance Policy.

*Local Government Act Section 5.42
Report Requirement to Council Records*

- k) To approve the writing off of penalty interest relating to rates payments to the value of \$1.99.

*Local Government Act, Section 6.12
Report Requirement to Council Records*

- l) The power to deal with objections to the rate record.

*Local Government Act, Section 6.76
Report Requirement to Council Records*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- m) To undertake the following functions of the Land Administration Act, subject to the criteria outlined thereunder:
- Process requests related to Leases
 - Current Lessee or sub-lessee requests to take up an option, subject to there being no variation to the lease and all accounts being paid in full.
 - Lessee or sub-lessee requests Council to renegotiate rental, subject to the figures being within the independent sworn valuation.
 - Current lessee or sub-lessee requests approval to assign lease, subject to there being no variations to the current lease conditions.
 - Application for a sublease to be processed, where there is a current lease in place.

*Land Administration Act, Section 18 and
Local Government Act, Section 3.58
Report Requirement BULLETIN*

- n) Geographic Names Committee – Authority to forward recommendations of street names to the Committee, within parameters set out in Council’s “Development Area and Street Names” Policy.

*Land Administration Act, Section 56
Local Government Act Section 5.42
Report Requirement FILE*

- o) Process requests related to Crown Reserves
- Requests for a change of purpose, subject to it fitting in with the City Town Planning Scheme.
 - Where the Crown is seeking Council comment/approval for it to lease vacant Crown land subject to the request not requiring any structures to be built (or used), and in accordance with the City Town Planning Scheme
 - Creation of a Crown reserve through a development process, subject to it being in accordance with the City Town Planning Scheme.

*Local Government Act Section 5.43 and 9.49
Report Requirement BULLETIN*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- p) The power to exercise the functions provided by the Strata Titles Act in the following areas: -
- Authority to sign certificates issued;
 - The ability, when a strata/survey strata is lodged for registration, to restrict the use for which the parcel or part of the parcel may be put; and
 - The ability to require a strata company to make a by-law that includes a management statement detailing such matters as the control, management, use and maintenance of the property.

Strata Titles Act, Sections 6, 23(5), 42

Local Government Act 5.42

Report Requirement FILE

- q) Gives the Chief Executive Officer the power to offer residents within the Willyung area a full kerbside collection service including domestic household waste, domestic recyclables and green waste service, as per the provisions of the Waste Minimisation Contract.

Local Government Act Section 3.18

Report Requirement to Council Records

- r) Gives the Chief Executive Officer the power to administer the Landfill Subsidy Scheme, in accordance with provisions of Delegated Authority as contained in the draft policy.

Local Government Act Section 6.10

Report Requirement to Council Records

- s) The power to undertake the following functions of the Local Government (Miscellaneous Provisions) Act, subject to the criteria outlined thereunder:
- The power to approve and refuse the issue of building and demolition licences;
 - The power to serve a stop work order upon a builder;
 - To grant approval for a building which encroaches over a public place or street; and
 - To require in-completed buildings completed or removed.

Local Government (Miscellaneous Provisions) Act

Report requirement bulletin

- t) Write off any amount of money, including rate debts where the cost of recovering the debt will be greater than the actual debt (maximum \$2,000).

Local Government Act Section 6.12(c)

Report requirement to Council Records

- u) In accordance with the provisions of section 5.42 of the Local Government Act, the Chief Executive Officer delegates the power to grant permission of the local government to allow blasting within a townsite, as provided by the Explosives and Dangerous Goods Act 1961, subject to Council's guidelines.

Local Government Act Section 5.42

Report requirement to Council Records

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- v) To obtain road widening for Council's road infrastructure improvement, subject to the following criteria:
- All alternative routes with regard to road construction or re-construction shall be investigated as part of the design process
 - Road widening location to be based on sound engineering principles taking into account existing and future road systems
 - Should the issue of compensation form part of the negotiations of resuming a private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of \$50,000.00
 - Agreement has been obtained from the affected land owners for the land to be resumed
 - No payment of compensation is to be paid until the road widening has been registered with the Titles Office.

Local Government Act Section 5.42

Report Requirement File

- w) The authority to make decisions on programming of performances up to a value of \$4,000 (performance fee)
1. The delegated authority only being used where a response is required by the company prior to the next scheduled meeting of the Advisory Committee;
 2. The performance can be funded from within the Theatre's current operating budget for shows;
 3. The performance is likely to be supported due to demonstrated past sales data for the artist or the type of performance;
 4. There is an indicated interest in the performance as demonstrated in the previous year's customer and public surveys;
- And
5. Theatre Advisory Committee meets on a bi-monthly basis, however the CEO can call monthly meetings as required.

Local Government Act Section 5.16, 5.17(c), 5.9(2) (c)

Report requirement to Council Records

- ii) In accordance with the provisions of Section 5.16 and 5.17 of the Local Government Act 1995, agree to delegate to Committee's of Council, the power to exercise the following powers or duties:

- a) In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Community Financial Assistance Committee, the power to assess applications for minor community grants and to approve funding allocations, in accordance with the Community Financial Assistance Policy.

Local Government Act Section 5.16 and 5.17

Report requirement to Council Records

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- b) In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Town Hall Theatre Advisory Committee the authority to make decisions on programming of performances, provided the performance can be funded from within the Theatre's current operating budget for shows.

*Local Government Act Section 5.16 and 5.17
Report requirement to Council Records*

Voting requirement Absolute Majority

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AMENDED OFFICER RECOMMENDATION

THAT Council:

- i) In accordance with the provisions of Section 5.42 of the Local Government Act 1995, agree to delegate to the Chief Executive Officer, the power to exercise the following powers or duties:

- a) Review of City of Albany's Gross Rental Valuation (GRV) Rating Area.

*Local Government Act, Section 6.28
Report Requirement: FILE*

- b) Tenders – Power to Accept Tenders for the Provision of Goods and Services and acquire/dispose of property up to \$100,000.00 (excluding GST), subject to the said matter:

- i) Being detailed in Council's annual budget, and
- ii) Complying with any relevant Council policy.

*Local Government Act, Section 5.43(b)
Report Requirement: FILE*

- c) To attach the common seal to all documents.

*Local Government Act, Section 5.43 and 9.49
Report Requirement: BULLETIN*

- d) The authority to appoint "authorised persons" under the City of Albany's local laws.

*Local Government Act Section 5.42 and 9.10
Report Requirement: FILE*

- e) To execute Grant and Service Agreements arranged with the Bushfire Services of WA.

*Local Government Act, Section 5.42
Report Requirement: FILE*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- f) To approve and refuse applications to pick flora from City of Albany vested reserves and road reserves for educational and scientific purposes.
- Local Government Act, Schedule 9.1, Section 2
Report Requirement FILE
- g) The power to make payments from the Municipal and Trust Funds in accordance with Section 12 and 13 of the Local Government (Financial Management) Regulations 1997.
- Local Government Act, section 6.10 and Financial Management
Regulations
Report Requirement FILE
- h) To obtain drainage easements for Council's drainage needs subject to the following criteria:
- All alternative routes with regard to stormwater discharge shall be investigated as part of the easement process;
 - Easement location be based on sound engineering knowledge taking into account existing and future drainage systems;
 - Should the issue of compensation form part of the negotiations of gaining an easement over private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of \$25,000.00;
 - No payment of compensation is to be paid until the easement has been registered with the Titles Office;
 - Easement width shall be to a maximum of 3 metres wide (urban) or 10 meters wide (rural);
 - Location of easement is agreed to by the affected land owner; and
 - Agreement has been obtained from the affected landowner for the grant of easement.
- Local Government Act, Schedules 3.2
Report Requirement: FILE*
- i) To implement the provisions of the policy –“Payments to Employees in Addition to Contract or Award”, except when the officer under consideration is the Chief Executive Officer, in which case a Committee consisting of the Mayor and two other Councillors may implement the provisions of this policy.
- Local Government Act, Section 5.50
Report Requirement: BULLETIN*
- j) To approve sundry donations to the value of \$200.00 in accordance with the Community Financial Assistance Policy.
- Local Government Act Section 5.42
Report Requirement to Council Records*
- k) To approve the writing off of penalty interest relating to rates payments to the value of \$1.99.
- Local Government Act, Section 6.12
Report Requirement to Council Records*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- l) The power to deal with objections to the rate record.

*Local Government Act, Section 6.76
Report Requirement to Council Records*

- m) To undertake the following functions of the Land Administration Act, subject to the criteria outlined thereunder:

- Process requests related to Leases
- Current Lessee or sub-lessee requests to take up an option, subject to there being no variation to the lease and all accounts being paid in full.
- Lessee or sub-lessee requests Council to renegotiate rental, subject to the figures being within the independent sworn valuation.
- Current lessee or sub-lessee requests approval to assign lease, subject to there being no variations to the current lease conditions.
- Application for a sublease to be processed, where there is a current lease in place.

*Land Administration Act, Section 18 and
Local Government Act, Section 3.58
Report Requirement BULLETIN*

- n) Geographic Names Committee – Authority to forward recommendations of street names to the Committee, within parameters set out in Council’s “Development Area and Street Names” Policy.

*Land Administration Act, Section 56
Local Government Act Section 5.42
Report Requirement FILE*

- o) Process requests related to Crown Reserves

- Requests for a change of purpose, subject to it fitting in with the City Town Planning Scheme.
- Where the Crown is seeking Council comment/approval for it to lease vacant Crown land subject to the request not requiring any structures to be built (or used), and in accordance with the City Town Planning Scheme
- Creation of a Crown reserve through a development process, subject to it being in accordance with the City Town Planning Scheme.

*Local Government Act Section 5.43 and 9.49
Report Requirement BULLETIN*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- p) The power to exercise the functions provided by the Strata Titles Act in the following areas:
- Authority to sign certificates issued;
 - The ability, when a strata/survey strata is lodged for registration, to restrict the use for which the parcel or part of the parcel may be put; and
 - The ability to require a strata company to make a by-law that includes a management statement detailing such matters as the control, management, use and maintenance of the property.

Strata Titles Act, Sections 6, 23(5), 42
Local Government Act 5.42
Report Requirement FILE

- q) Gives the Chief Executive Officer the power to offer residents within the Willyung area a full kerbside collection service including domestic household waste, domestic recyclables and green waste service, as per the provisions of the Waste Minimisation Contract.

Local Government Act Section 3.18
Report Requirement to Council Records

- r) Gives the Chief Executive Officer the power to administer the Landfill Subsidy Scheme, in accordance with provisions of Delegated Authority as contained in the draft policy.

Local Government Act Section 6.10
Report Requirement to Council Records

- s) The power to undertake the following functions of the Local Government (Miscellaneous Provisions) Act, subject to the criteria outlined there under:

- The power to approve and refuse the issue of building and demolition licences;
- The power to serve a stop work order upon a builder;
- To grant approval for a building which encroaches over a public place or street; and
- To require in-completed buildings completed or removed.

Local Government (Miscellaneous Provisions) Act
Report requirement: BULLETIN

- t) Write off any amount of money, including rate debts where the cost of recovering the debt will be greater than the actual debt (maximum \$2,000).

Local Government Act Section 6.12(c)
Report requirement to Council Record

GENERAL MANAGEMENT SERVICES REPORTS

- u) To obtain road widening for Council's road infrastructure improvement, subject to the following criteria:
- All alternative routes with regard to road construction or re-construction shall be investigated as part of the design process.
 - Road widening location to be based on sound engineering principles taking into account existing and future road systems.
 - Should the issue of compensation form part of the negotiations of resuming a private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of \$50,000.00.
 - Agreement has been obtained from the affected land owners for the land to be resumed.
 - No payment of compensation is to be paid until the road widening has been registered with the Titles Office.

*Local Government Act Section 5.42
Report Requirement: FILE*

- v) The authority to make decisions on programming of performances up to a value of \$4,000 (performance fee):
1. The delegated authority only being used where a response is required by the company prior to the next scheduled meeting of the Advisory Committee;
 2. The performance can be funded from within the Theatre's current operating budget for shows;
 3. The performance is likely to be supported due to demonstrated past sales data for the artist or the type of performance;
 4. There is an indicated interest in the performance as demonstrated in the previous year's customer and public surveys; and
 5. Theatre Advisory Committee meets on a bi-monthly basis, however the CEO can call monthly meetings as required.

*Local Government Act Section 5.16, 5.17(c), 5.9(2) (c)
Report requirement to Council Records*

- ii) In accordance with the provisions of Section 5.16 and 5.17 of the Local Government Act 1995, agree to delegate to Committee's of Council, the power to exercise the following powers or duties:
- a) In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Community Financial Assistance Committee, the power to assess applications for minor community grants and to approve funding allocations, in accordance with the Community Financial Assistance Policy.

*Local Government Act Section 5.16 and 5.17
Report requirement to Council Records*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- b) In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Town Hall Theatre Advisory Committee the authority to make decisions on programming of performances, provided the performance can be funded from within the Theatre's current operating budget for shows.

*Local Government Act Section 5.16 and 5.17
Report requirement to Council Records*

Voting requirement Absolute Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PRICE**

THAT Council:

- i) **In accordance with the provisions of Section 5.42 of the Local Government Act 1995, agree to delegate to the Chief Executive Officer, the power to exercise the following powers or duties:**
- a) **Review of City of Albany's Gross Rental Valuation (GRV) Rating Area.**
- Local Government Act, Section 6.28
Report Requirement: FILE*
- b) **Tenders – Power to Accept Tenders for the Provision of Goods and Services and acquire/dispose of property up to \$100,000.00 (excluding GST), subject to the said matter:**
- i) **Being detailed in Council's annual budget, and**
ii) **Complying with any relevant Council policy.**
- Local Government Act, Section 5.43(b)
Report Requirement: FILE*
- c) **To attach the common seal to all documents.**
- Local Government Act, Section 5.43 and 9.49
Report Requirement: BULLETIN*
- d) **The authority to appoint "authorised persons" under the City of Albany's local laws.**
- Local Government Act Section 5.42 and 9.10
Report Requirement: FILE*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- e) **To execute Grant and Service Agreements arranged with the Bushfire Services of WA.**

**Local Government Act, Section 5.42
Report Requirement: FILE**

- f) **To approve and refuse applications to pick flora from City of Albany vested reserves and road reserves for educational and scientific purposes.**

**Local Government Act, Schedule 9.1, Section 2
Report Requirement: FILE**

- g) **The power to make payments from the Municipal and Trust Funds in accordance with Section 12 and 13 of the Local Government (Financial Management) Regulations 1997.**

**Local Government Act, section 6.10 and
Financial Management Regulations
Report Requirement: FILE**

- h) **To obtain drainage easements for Council's drainage needs subject to the following criteria:**

- **All alternative routes with regard to stormwater discharge shall be investigated as part of the easement process;**
- **Easement location be based on sound engineering knowledge taking into account existing and future drainage systems;**
- **Should the issue of compensation form part of the negotiations of gaining an easement over private property, an independent valuation is to be obtained from a licensed valuer. Compensation shall only be paid to a maximum of \$25,000.00;**
- **No payment of compensation is to be paid until the easement has been registered with the Titles Office;**
- **Easement width shall be to a maximum of 3 metres wide (urban) or 10 meters wide (rural);**
- **Location of easement is agreed to by the affected land owner; and**
- **Agreement has been obtained from the affected landowner for the grant of easement.**

**Local Government Act, Schedules 3.2
Report Requirement: FILE**

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- i) To implement the provisions of the policy –“Payments to Employees in Addition to Contract or Award”, except when the officer under consideration is the Chief Executive Officer, in which case a Committee consisting of the Mayor and two other Councillors may implement the provisions of this policy.

*Local Government Act, Section 5.50
Report Requirement: BULLETIN*

- j) To approve sundry donations to the value of \$200.00 in accordance with the Community Financial Assistance Policy.

*Local Government Act Section 5.42
Report Requirement to Council Records*

- k) To approve the writing off of penalty interest relating to rates payments to the value of \$1.99.

*Local Government Act, Section 6.12
Report Requirement to Council Records*

- l) The power to deal with objections to the rate record.

*Local Government Act, Section 6.76
Report Requirement to Council Records*

- m) To undertake the following functions of the Land Administration Act, subject to the criteria outlined thereunder:

- Process requests related to Leases.
- Current Lessee or sub-lessee requests to take up an option, subject to there being no variation to the lease and all accounts being paid in full.
- Lessee or sub-lessee requests Council to renegotiate rental, subject to the figures being within the independent sworn valuation.
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- Application for a sublease to be processed, where there is a current lease in place.

*Land Administration Act, Section 18 and
Local Government Act, Section 3.58
Report Requirement: BULLETIN*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- n) **Geographic Names Committee – Authority to forward recommendations of street names to the Committee, within parameters set out in Council’s “Development Area and Street Names” Policy.**

*Land Administration Act, Section 56
Local Government Act Section 5.42
Report Requirement: FILE*

- o) **Process requests related to Crown Reserves**

- **Requests for a change of purpose, subject to it fitting in with the City Town Planning Scheme.**
- **Where the Crown is seeking Council comment/approval for it to lease vacant Crown land subject to the request not requiring any structures to be built (or used), and in accordance with the City Town Planning Scheme**
- **Creation of a Crown reserve through a development process, subject to it being in accordance with the City Town Planning Scheme.**

*Local Government Act Section 5.43 and 9.49
Report Requirement: BULLETIN*

- p) **The power to exercise the functions provided by the Strata Titles Act in the following areas:**

- **Authority to sign certificates issued;**
- **The ability, when a strata/survey strata is lodged for registration, to restrict the use for which the parcel or part of the parcel may be put; and**
- **The ability to require a strata company to make a by-law that includes a management statement detailing such matters as the control, management, use and maintenance of the property.**

*Strata Titles Act, Sections 6, 23(5), 42
Local Government Act 5.42
Report Requirement: FILE*

- q) **Gives the Chief Executive Officer the power to offer residents within the Willyung area a full kerbside collection service including domestic household waste, domestic recyclables and green waste service, as per the provisions of the Waste Minimisation Contract.**

*Local Government Act Section 3.18
Report Requirement to Council Records*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- r) Gives the Chief Executive Officer the power to administer the Landfill Subsidy Scheme, in accordance with provisions of Delegated Authority as contained in the draft policy.

*Local Government Act Section 6.10
Report Requirement to Council Records*

- s) The power to undertake the following functions of the Local Government (Miscellaneous Provisions) Act, subject to the criteria outlined there under:

- The power to approve and refuse the issue of building and demolition licences;
- The power to serve a stop work order upon a builder;
- To grant approval for a building which encroaches over a public place or street; and
- To require in-completed buildings completed or removed.

*Local Government (Miscellaneous Provisions) Act
Report requirement: BULLETIN*

- t) Write off any amount of money, including rate debts where the cost of recovering the debt will be greater than the actual debt (maximum \$2,000).

*Local Government Act Section 6.12(c)
Report requirement to Council Record*

- u) The authority to make decisions on programming of performances up to a value of \$4,000 (performance fee):

1. The delegated authority only being used where a response is required by the company prior to the next scheduled meeting of the Advisory Committee;
2. The performance can be funded from within the Theatre's current operating budget for shows;
3. The performance is likely to be supported due to demonstrated past sales data for the artist or the type of performance;
4. There is an indicated interest in the performance as demonstrated in the previous year's customer and public surveys; and
5. Theatre Advisory Committee meets on a bi-monthly basis; however the CEO can call monthly meetings as required.

*Local Government Act Section 5.16, 5.17(c), 5.9(2) (c)
Report requirement to Council Records*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued

- ii) **In accordance with the provisions of Section 5.16 and 5.17 of the Local Government Act 1995, agree to delegate to Committee's of Council, the power to exercise the following powers or duties:**
- a) **In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Community Financial Assistance Committee, the power to assess applications for minor community grants and to approve funding allocations, in accordance with the Community Financial Assistance Policy.**
- Local Government Act Section 5.16 and 5.17
Report requirement to Council Records***
- b) **In accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, Council agree to delegate to the Town Hall Theatre Advisory Committee the authority to make decisions on programming of performances, provided the performance can be funded from within the Theatre's current operating budget for shows.**
- Local Government Act Section 5.16 and 5.17
Report requirement to Council Records***
- MOTION CARRIED 8-3
ABSOLUTE MAJORITY**

The CEO, Mr Andrew Hammond, directed the Minute Secretary to notate in the minutes that Item 14.4.1, Item i) sub paragraph s), being:

- "s) *The power to undertake the following functions of the Local Government (Miscellaneous Provisions) Act, subject to the criteria outlined there under:*
- *The power to approve and refuse the issue of building and demolition licences;*
 - *The power to serve a stop work order upon a builder;*
 - *To grant approval for a building which encroaches over a public place or street; and*
 - *To require in-completed buildings completed or removed.*

*Local Government (Miscellaneous Provisions) Act
Report requirement: BULLETIN"*

Is to be brought back to the February 2008, Ordinary Council Meeting to clarify the extent of the delegation. In particular point three.

14.5 GENERAL MANAGEMENT SERVICES COMMITTEES

Nil

15.0 ELECTED MEMBERS' REPORT/INFORMATION BULLETIN

Elected Members' Report/Information Bulletin

DRAFT MOTION

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MORRIS**

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

MOTION CARRIED 11-0

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

**17.0 MAYORS REPORT
FOR ORDINARY COUNCIL MEETING – 18th DECEMBER 2007**

Fellow Councillors:

I recently attended a National Seachange Taskforce meeting in Rockingham with the CEO, Andrew Hammond, at which an update was given on the Taskforce's approach to the major political parties leading up to the Federal Election, seeking more funding for high growth coastal towns and cities.

We were advised by the Chief Executive Officer of the Taskforce, Mr Alan Stokes that the 'Caring for Our Coasts Policy' released by the spokesperson for Climate Change and Heritage, Mr Peter Garrett, provided for a \$100 million community coast care program along with a \$25 million program to assist coastal communities in preparing for the impact of climate change.

Of significant importance was the Labour Government's policy clearly indicating that, "Labour will work with the National Seachange Taskforce and other stakeholders in developing broad, national principals for coastal management, consistent with its commitment to sustainable development". The Taskforce has also been advised that they have the opportunity to be involved in the development of programs that will deliver the objectives of the Caring for Our Coasts project.

Our CEO Andrew Hammond sits on the National CEO Policy Group and he will continue his involvement in this important area of policy development which should lead to significant funding opportunities for this and other coastal cities.

While in Rockingham, I took the opportunity to meet with Mayor Barry Sammuels, Mandurah Mayor Paddie Creddie and Busselton President Wes Hartley.

On 21st November I attended a Critical Horizons workshop convened by the South West Development Authority on the subject of Renewable Energy Opportunities for the South West of Australia.

Item 17.0 continued

The subject matter focused upon geothermal, biomass, wave and tidal, solar and wind power opportunities for the region and delivered important information on the realistic contribution renewable can make to the energy needs of Albany and the Great Southern, their economic cost, their obvious constraints and latest technological breakthroughs.

Obviously Albany is a step ahead of the pack with the wonderful Albany Wind Farm however, I came away from the workshop very impressed with opportunities that wave and tidal energy presented for Albany, particularly the CETO wave energy technology developed by the Carnegie Corporation based in Fremantle.

Following on from the Critical Horizons Workshop, I consider it important to follow up the prospect of having wave energy as a contributor to the grid in Albany and to that end CEO Andrew Hammond recently met with the Chairman, CEO and Directors of Carnegie Corporation and expressed Albany's interest in some type of trial wave energy project being undertaken. Chairman Alan Burns was very impressed that Albany had expressed an interest and expressed his immediate interest in Carnegie commencing some site feasibility studies to establish the viability of a large-scale wave energy farm with an associated desalination plant.

Any approval would be subject, of course, to the usual environmental and Council Town Planning conditions, however I am keen to pursue a goal of achieving a totally renewable energy driven City. This could possibly be a world first and I look forward to arranging a briefing for Councillors early in the New Year on this exciting opportunity.

On 10th December the CEO and I attended an Albany Entertainment Centre project meeting in Perth. I am pleased to advise that the project is on time and within budget. Housing and Works will be inviting tenders in April 2008 and we can expect construction to commence by 30 June 2008. It is anticipated that the Centre will open in March 2010.

In the New Year, it is my intention to arrange a briefing for Councillors on the details of the Performing Arts venue with architect Fernando Faugno and Theatre Consultant Graham Walme, who has been a strong advocate ensuring the functionality of the Centre remain World Class.

After Anzac Day 2008 work is planned to start on the Anzac Peace Park creating a focal point for Albany's Anzac commemorations as we begin to look ahead to the 100th anniversary of the departure of the Anzac fleet and of the Gallipoli landing.

In the near future, I look forward to receiving detailed briefings on the landscaping, car park layout and design, and traffic management plan, as well as other important aspects of the foreshore redevelopment. I have asked that the Memorandum of Understanding for the Waterfront Development be circulated to Councillors.

Over the last few weeks it has been my very great pleasure to attend student Graduation Ceremonies at our local schools. I enjoyed sharing the achievements of all students across this wonderful City of ours and in particular it was a great honour to formally recognise students who have demonstrated outstanding leadership or citizenship with a Mayoral Award.

Item 17.0 continued

As Councillors, we are essentially the current custodians of this City. It is important that we strive to ensure that there are adequate education, employment and lifestyle opportunities for our young people so that they remain in Albany, and in years to come become the future leaders and custodians for the next generation.

Amongst the many introductory meetings I have had over the month, I was particularly pleased to meet with Superintendent of Police, Ross Tomasini and Snr Sgt David Hornsby. I am confident the meeting will pave the way for stronger relationships between the City and the Police Force to work co-operatively in matters relating to anti-social behaviour, crime prevention and other community related policing matters.

I wish to thank Deputy Mayor Des Wolfe and Councillors who have been supportive in officiating at various functions on my behalf.

I take this opportunity to wish all Councillors and Staff of the City of Albany, and the community of Albany a very safe and happy Christmas and prosperous and exciting New Year.

Thank you.

DRAFT MOTION

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR STANTON**

THAT the Mayor's Report dated 18th December 2007 be received.

MOTION CARRIED 11-0

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

18.1 In-kind Financial Assistance for AFL Regional Challenge Match

File/Ward	:	FIN033/Breaksea
Proposal/Issue	:	Assistance with AFL NAB Regional Challenge match to be held in February 2008.
Subject Land/Locality	:	North Albany Football Club
Proponent	:	Australian Football League, Western Australian Football Commission, Great Southern Football League and North Albany Football Club.
Owner	:	Crown reserve, vested in City of Albany, leased by North Albany FC
Reporting Officer(s)	:	Chief Executive Officer (A Hammond) Manager Community Development (M Weller)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That council allocate up to \$10,000 in in-kind horticultural assistance for the purpose of bringing Collingwood oval up to AFL standard
		Inform the proponents that they would be required to submit application for any additional proposed funding for future facilities
Bulletin Attachment	:	Request by AFL
Locality Plan	:	Nil

BACKGROUND

1. Following inspection of Albany facilities the AFL and WAFC propose to hold an AFL NAB Regional Challenge match at Collingwood Oval in February 2008.
2. The main aims of the holding the match is to:
 - Provide an opportunity for country fans to view an AFL match without having to travel long distance.
 - Further raise the profile of AFL in country WA.
 - Raise funds to be invested in local football infrastructure.
3. The game would be played between the loser of West Coast Eagles and Fremantle Derby and the loser of the game being played in Dubai between Collingwood and Adelaide.
4. The AFL and WAFC have requested in in-kind horticultural assistance from the City of Albany to assist in bringing the Collingwood oval ground up to AFL standard in preparation for the match.

Item 18.1 continued

STATUTORY REQUIREMENTS

5. Nil

POLICY IMPLICATIONS

6. Nil

FINANCIAL IMPLICATIONS

7. The amount can be funded from within the parks and reserves maintenance budget.

STRATEGIC IMPLICATIONS

8. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision

A healthy City, Albany's Community will enjoy... Diverse and affordable cultural, recreational and sporting opportunities.

A thriving City, Albany's community will enjoy... excellent community infrastructure and services.

Mission Statement:

The City of Albany is committed to sustainably managing Albany's municipal assets and at all times we will respect the Community's aspirations and resources and actively keep abreast of best practice.

Priority Projects:

Nil”

COMMENT/DISCUSSION

Event Management/ Funding

9. The AFL propose to manage and fund all aspects of player, coach, medic and other support staff travel and expenses, valued at approximately \$150,000.
10. The WAFC propose to run the game and provide assistance and a framework for preparation in the lead up to the event.
11. An event committee would be formed to undertake logistical preparation and facilitate all aspects of the match relating to spectators and associated infrastructure. This committee would consist of representation from the AFL, WAFC, Great Southern Football League, North Albany Football Club and City of Albany.
12. Whilst the City will not underwrite or have management oversight responsibility of the event, the Manager of Community Development will sit on the events committee to assist with preparations.

13. Event expenses, including but not limited to temporary facilities, spectator infrastructure, security, ticket sales etc. would be booked by the North Albany Football club, AFL and WAFC and regained from gate takings.

Assistance from City of Albany City Works Department

14. The officer recommendation of this item is that given the proposed benefits the City contributes \$10,000 of in-kind works, via the parks and reserves team.
15. The AFL turf co-ordinator would provide the North Albany FC and Parks and Reserves team with technical specifications in the form of a 'turf improvement program' and further advice.

Proposal for future games and capital contribution to facility upgrade

16. The AFL and WAFC propose that two games occur in the next 5 years, the first in February 2008, utilising additional temporary facilities at the North Albany FC. The Second is proposed to utilise newly constructed facilities, which would then be utilised for a 4th Albany club, as part of the Great Southern Football League. This club would be collocated with North Albany FC at Collingwood oval.
17. The AFL and WAFC propose that profits from both games be contributed towards the proposed upgrade. This upgrade has been preliminarily estimated as costing \$450,000.
18. From a recreation planning perspective, if there is sufficient demand for an additional club, the concept of collocation at Collingwood oval is sound. This would potentially compliment the proposal for Railways and Royals to collocate at Centennial oval.
19. The proposal to contribute funds from country AFL matches to be invested in local football infrastructure is also seen as an innovative one.
20. In order to complete the upgrade additional funding would need to be attained from sources such as the Department of Sport and Recreation Community Sport and Recreation Facilities Fund and Commonwealth Regional Partnerships Fund.

RECOMMENDATION

THAT Council:

- i) Allocate up to \$10,000 in in-kind horticultural assistance for the purpose of assisting in bringing Collingwood oval up to AFL standard for the proposed NAB Regional Challenge Match in late February 2008.
- ii) Advise the proponents that they look forward to working with all stakeholders of this project to identify and pursue all available capital funding opportunities.

Voting Requirement Absolute Majority

.....

Item 18.1 continued

**MOVED COUNCILLOR MORRIS
SECONDED COUNCILLOR WISEMAN**

THAT Council:

- i) Allocate up to \$10,000 in in-kind horticultural assistance for the purpose of assisting in bringing Collingwood oval up to AFL standard for the proposed NAB Regional Challenge Match in late February 2008.**
- ii) Advise the proponents that they look forward to working with all stakeholders of this project to identify and pursue all available capital funding opportunities.**

**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

Item 18.0 continued

The Mayor informed Council that the proposed Item 18.2 Planning Compliance – Fish Processing – Lot 12 Kitson Raod, Gledhow was withdrawn by Councillor Bostock.

18.2 Planning Compliance - Fish Processing - Lot 12 Kitson Road, Gledhow

ALTERNATE MOTION COUNCILLOR BOSTOCK

THAT Council:

1. Resolves to take no legal action in relation to the fish processing use at Lot 12 Kitson Road, Gledhow subject to the following items being fulfilled:
 - a) The owner initiating connection to reticulated sewerage with the Water Corporation within a period of 28 days with such evidence being provided to Council.
 - b) The preparation and implementation of a Management Plan within a period of 60 days by a suitably qualified consultant to ensure the processing of waste is handled in such a way as to minimise risk of unnecessary odour.
2. Direct staff to prepare a scheme amendment for Council's consideration to modify the use class table in Town Planning Scheme No. 3 so that the use "Fish Processing/Curing, Poultry Processing or Rabbit Processing" is an 'AA' discretionary land-use, rather than an 'X' land use within the "General Industry" zone.

Reason (Councillor Bostock):

This item was on the Agenda OCM 20/11/07 and was deferred to the December meeting. It is therefore our duty to consider the matter, since it was not on the agenda I have had to bring it forward as a late item.

A delay to January or February is inappropriate since the matter has been awaiting a decision from May of this year and the warmer weather will exacerbate the problem of the failing waste system.

Staff Comment:

Timing of Item

The Fish Processing item was not placed on the December agenda, as confirmation on the permissibility of the fish processing use was received by the Western Australian Planning Commission after the date of the agenda cut-off. The Western Australian Planning Commission searched their archives and located Amendment 72 to Town Planning Scheme No. 3 which confirmed that the use "Fish Processing/Curing, Poultry Processing or Rabbit Processing" is an 'X' use within the "General Industry" zone. This information was requested by Council and it was not known when and if it would be available. Only after receiving the information could staff prepare a report for Council's consideration.

Item 18.2 continued

Legitimacy of Motion

Council can decide, as has been the case in a number of other land use complaints, not to take action against a landowner that has breached the Scheme. In this case complaints have been received from nearby landowners and there may be an expectation that Council should take action.

In this regard the above motion gives the landowner some security (although not total security as the amendment may be refused by the Hon. Minister for Planning & Infrastructure or considered environmentally inappropriate by the EPA) to go ahead and connect the factory to reticulated sewer and make all necessary changes/upgrades to the factory to limit odour exposure for surrounding residents. It is important to note that Council can **still not** issue a planning scheme consent for the fish processing use requiring the above conditions (sewer and management plan) to be fulfilled as there is no legal capacity for Council to approve an 'X' (prohibited) land use. In the event that the applicant does not meet the requirements outlined in Part 1 of the Motion (which are not conditions of planning scheme consent and therefore any non-compliance cannot be enforced under the Scheme), the only fallback for Council would be to commence legal action.

One issue that staff can see is a potential deficiency in Part 1 of the Motion that should the landowner meet the two criteria stated, but the amendment in Part 2 of the Motion is not supported by the state government for whatever reason, the ability of Council to pursue legal action in the future could be compromised. To overcome this deficiency, a third point could be added to the above motion along the following lines:

“c) An amendment to the Scheme to allow the use ‘Fish Processing/Curing, Poultry Processing or Rabbit Processing’ to be deemed as a discretionary land use (‘AA’) in Town Planning Scheme No. 3, as requested under Part 2 of this Motion, be gazetted.”

Staff have also liaised with the Water Corporation on the potential timing for the property to be sewered and have been advised that subject to a new sewer main being constructed as part of the Kelly/Atwell subdivision (Lot 260 Cull Road) it is likely that the land could be connected to sewerage in around 18 to 24 months at a cost in excess of \$150,000. It is therefore unlikely that Part 1(a) of the motion could be fulfilled.

It is expected that should Part 2 of the above motion be invoked a scheme amendment could be considered at Council's February Meeting for initiation, and from there if all government authorities are satisfied, gazettal of the amendment would follow in approximately 12 to 18 months time. It is important to note that there are 2 ways of progressing a scheme amendment; one being to change the permissibility of the fish processing use to allow it to be considered in a "General Industry" zone, and the other would be to rezone the land from "General Industry" to "Noxious Industry" where fish processing is already allowed. The later option would result in what is called a 'spot' zoning, meaning it would be the only "Noxious Industry" lot surrounded by "General" and "Light Industry" areas, and on past experience is unlikely to be supported by the state government. To change the permissibility class the amendment would need to focus on potential impacts of allowing fish processing in all general industry zones, and would require a strategic analysis of other Town Planning Schemes in the state and some input on environmental considerations.

Item 18.2 continued

With either rezoning approach it would still mean that the land use would not operate legally for the time taken to process the amendment (12 to 18 months). Once the amendment is gazetted the applicant could legitimately apply for Planning Scheme Consent and Council would have the ability under the Scheme to approve the land use with any conditions it sees fit. The only potential issue with Part 2 of the motion is if the amendment is rejected, Council would find itself in the same legal predicament that it is in now, save of course that the odour management would have been rectified.

It is recommended that an amendment to the existing Scheme be progressed, rather than including the changes in the Community Planning Scheme, as an amendment to the current scheme is likely to be resolved at least 12 months prior to the new Community Planning Scheme coming into effect.

General

Please find attached a copy of the late item report for this item - Please note staff's recommendation has not changed, and only minor changes have been made to the report.

18.2 Planning Compliance - Fish Processing - Lot 12 Kitson Road, Gledhow

File/Ward	:	A68387 (West Ward)
Proposal/Issue	:	To determine if non-conforming use rights exist upon the site.
Subject Land/Locality	:	Lot 12 (No. 23) Kitson Road, Gledhow
Proponent	:	VR Property Holdings
Owner	:	VR Property Holdings
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 21/11/07 - Item 11.1.6 OCM 21/01/03 - Item 11.1.2 OCM 18/02/03 - Item 11.1.2
Summary Recommendation	:	Advise that a non-conforming use right is not applicable and that a notice to cease the fish processing use be issued
Bulletin Attachment	:	Nil

Item 18.2 continued

Locality Plan :



BACKGROUND

1. An item was prepared for the 21 November 2007 Council Meeting, but was withdrawn on the night of the meeting. A briefing session, which included an explanation of the full planning history of the site, was subsequently held and the matter is now returned for Council's consideration.
2. Confirmation was also received from the Western Australian Planning Commission that the use "Fish Processing/Curing, Poultry Processing or Rabbit Processing" was a prohibited land use ('X' use) within the General Industry zone.
3. An application for planning consent has previously been lodged by Natural Processors Pty Ltd for "Fish Processing" upon Lot 12 Kitson Road, Gledhow.
4. The property is zoned "General Industry" within Town Planning Scheme No. 3, and under this zoning the land use activity of "Fish Processing" is a "PROHIBITED" land use. The definition of fish processing as described in the Scheme is:

"means premises used for small scale fish processing/curing, poultry processing or rabbit processing which could be accommodated on a particular site without adversely affecting the environment or amenity following consultation with the Environmental Protection Authority"

Item 18.2 continued

5. Fish Processing which is not considered to be small scale, would fall under the definition of “Noxious Industry”, which is also a “PROHIBITED” land use within the “General Industry” zone. The definition of Noxious Industry in the Scheme is:

“means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911 (as amended), but does not include fish shops or dry cleaning establishments”
6. On 7 June 1995, the former Shire of Albany granted planning consent for a food processing factory on the subject land for the express purpose of smoking shark fins. Since this time considerable infrastructure has been introduced to the building, such as cool rooms, an ice machine, an oven and a larger fish smoker. One of the conditions attached to the above planning scheme consent stated that: *“should any intensification of the use occur, a new consent would be required from Council.”*
7. Whilst the applicant has secured approvals for various extensions to the building, no application has been made for the intensification of the use to include the smoking and value adding of tuna and other large species of fish.
8. In 1998, approval was given for “cold store factory additions” only; there was no reference to a change or intensification of land use included in that approval.
9. The building is currently occupied and the tenant is processing a range of whole shark and other fish species on the premises. The proponent has claimed that the existing operation should be allowed to continue on the basis that a non-conforming use right exists over the land. The proponent also claims that since the original shark fin drying approval was issued in 1995, fishermen are now required to retain the whole shark body and are not permitted to utilise the fins only. This has resulted in the need to process the whole shark on the site converting the operation from a “dry” to a “wet” industry, generating effluent.
10. The proponent was in the process of upgrading the effluent disposal system, and or connecting the factory to reticulated sewer (based on discussions with the Water Corporation), to improve the disposal of effluent generated by the processing of seafood (predominantly shark) and to negate odour complaints received by Council’s Environmental Health Section from time to time.
11. Staff have recommended to the proponent that before he expends significant financial resources on upgrading the facility, that the land use issue needs to be considered by Council. The proponent has provided a detailed explanation as to why the land use should be allowed to continue (refer the proponent’s letter following this report).

Item 18.2 continued

STATUTORY REQUIREMENTS

12. The provisions of Scheme 3 relating to non-conforming use rights state:

“4.1 No provision of the Scheme shall prevent –

- (a) the continued use of any land or building for the purpose for which it was lawfully used at the time of the coming into force of the Scheme; or*
- (b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits required under the Town Planning and Development Act, 1928 (as amended) and any other law authorising the development to be carried out have been duly obtained and was current.”*

13. There is no provision for Council to approve a use, which is “PROHIBITED”. No appeal rights also exist where a proposal is so defined by a scheme.

POLICY IMPLICATIONS

14. There are no Policy Implications relating to this item.

FINANCIAL IMPLICATIONS

15. Substantial costs may be incurred if enforcement action is taken to remove the current land use. A budget for enforcement of \$10,000 has been provided.

STRATEGIC IMPLICATIONS

16. Fish processing can only be considered within a “Rural”, “Special Industry” or “Noxious Industry” zone. In the case of a significant operation that exports fish products, the use would need to be confined to the “Noxious Industry” zone where effluent disposal and odour can be contained and appropriately managed. A request to rezone the site could be considered by Council but it is unlikely to succeed as a “spot rezoning”.

COMMENT/DUSCUSSION

17. The applicants believe that, as fish processing has occurred on the site intermittently over the past eight (8) years, they should be allowed to continue the use.

18. After the initial approval, which allowed the smoking of shark fins, the applicant’s documents indicate that the use was then intensified to the point where it would be defined as “Noxious Industry”.

19. To claim “non-conforming use rights” upon the land, the scheme requires one of two tests to be met. The activity must have either been in use prior to the scheme taking effect, or a lawful approval must have since been issued. This proposal fails on both accounts.

Item 18.2 continued

20. As it was never intended that the land be utilised for fish processing, other than for the minor approved activity of smoking shark fins (which involves minimal waste), the proposed business operation (under existing or new management) cannot be formally recognised or supported in accordance with Town Planning Scheme No. 3.
21. As there is no ability to grant planning scheme consent for the “fish processing” land use within the General Industry zone, and staff believe a “non-conforming use right” does not exist on the land, it is recommended that staff be authorised to commence enforcement action to stop the land use activity on the property. Council has the ability to request the land use be ceased within 30 days of a notice being issued, however this time period can be increased if Council wished to allow the tenant additional time to relocate to an appropriately zoned property.
22. Should Council wish to allow the operation to continue, a motion could be passed directing staff to prepare a scheme amendment to change the use ‘Fish Processing/Curing, Poultry Processing or Rabbit Processing’ from an ‘X’ (prohibited land use) to a discretionary land use (‘SA’ or ‘AA’) within the General Industry zone. This amendment would be subject to environmental scrutiny by the Environmental Protection Agency, as it would affect all General Industry zoned land within the City. Should this option be pursued by Council, it is recommended that the applicant be required to connect the premises to reticulated sewer and comply with all established environmental health standards within say a 60 day period, to satisfy the ongoing odour concerns of surrounding residents.

RECOMMENDATION

THAT Council:

- i) acknowledges that, based upon the information provided, a non-conforming use right does not exist for a fish processing business upon Lot 12 Kitson Road, Gledhow;
- ii) advises the proponent that there is no legal basis for Council to approve “Fish Processing/Curing, Poultry Processing or Rabbit Processing” upon Lot 12 Kitson Road, Gledhow as it is a prohibited land use within the “General Industry” zone applicable to the land; and
- iii) authorises staff to take enforcement action under Section 218 of the *Planning and Development Act 2005* to ensure that the existing land use is discontinued on the site.

Voting Requirement Simple Majority

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VR PROPERTY HOLDINGS

PO BOX 524
ALBANY W.A. 6331

Phone (08) 9842 2143

Fax (08) 9841 5399

Email: perry@kingopen.com

ABN 21 081 379 393

Mr. Graeme Bride
Manager Planning
City of Albany
102 North Rd.
Albany 6330.

Re: Fish Factory Kitson Rd Geldhow

Dear Graeme

I refer to the City of Albany's letter dated 11 May 2007 (your ref A68387 / LT709854).

In this letter it is stated that land use activities may have intensified to include the smoking and processing of fish other than shark and that therefore these operations at the factory are outside the planning approvals for this site and thus any activities (other than the smoking and processing of shark) be discontinued.

We wish to advise council that the primary activity on this site is the smoking and processing of shark (about 90%) with the added processing of smaller species of fish and the storing of other species such as oysters and prawns which are imported from the operator's family related business located in Ceduna.

In regards to the smoking of shark fins, it should be pointed out that this approval when first granted in 1995 involved simply the removal of shark fins and smoking thereof. The processing of shark bodies did not occur on this site at that time. Things have obviously changed since and the disposal of shark bodies (after the removal of their fins) is an activity now prohibited. The consequence of this is that once the fins have been removed, processing of the shark body does occur on the premises. As mentioned in your letter this is a use that is permitted on our site.

The problem of odours emanating from the site have been dealt with expeditiously and the sewerage and drainage on the site has been upgraded significantly. It should be mentioned here that the factory when refurbished was done to "export standards" and that standard still applies today. Any complaints have been dealt with immediately and council has been kept fully informed.

The application made in 2003 and referred to in your letter, was made at a time when an interested group of fishermen were looking to purchase the factory in order to relocate their fish processing operations. The application was therefore made to accommodate a much more intensive fish processing operation. However the sale did

Item 18.2 continued

not eventuate due to the current zoning restrictions and therefore a lot of the information in that application is not valid.

Since that time the factory has been relet to Great Southern Seafoods and as mentioned before their activities are by no means as intense as would have been the case if the party in 2003 had purchased the site. Evidence for this can also be shown in that the AQIS Exporting licence for these premises has been extinguished because it is not required.

In summary we feel that the intensification of operations in the factory has not occurred to the extent mentioned in your letter. The factory is probably the cleanest factory in Albany because it was designed to export quality standards. The primary use of the factory (90%) is for the smoking and subsequent processing of shark and therefore we feel the activities on this site still operate within the planning framework approved in 1995. We acknowledge that there have been problems with odours and that these complaints have been dealt with expeditiously.

We also realise that the operations for this site may intensify in the future and that an upgrade to the present sewerage system will be required. This however, cannot occur for another 12 months as advised by the City at a recent meeting. We would therefore request that the City consider a rezoning of this site to noxious industry but that it also allow the present operator to continue until such time this occurs and that the present upgrade to the sewerage be accommodated until then.

Yours Sincerely

PH. Spanbroek
(Director VR Properties)
(17th July 2007)



A handwritten signature in cursive script, appearing to read 'PH. Spanbroek', is written over a horizontal dashed line. A solid diagonal line is drawn across the signature from the bottom left towards the top right.

19.0 CLOSED DOORS

Nil

20.0 NEXT ORDINARY MEETING DATE

Tuesday 15th January 2008, 7.00pm

21.0 CLOSURE OF MEETING

There being no further business, the meeting closed at 9.10pm.

Confirmed as a true and correct record of proceedings.

A handwritten signature in black ink, appearing to read 'MJ Evans', with a small dot at the end.

MJ EVANS, JP
Mayor

APPENDIX A

WRITTEN NOTICE OF DISCLOSURE OF INTEREST

Nil

APPENDIX B

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING

Nil

INTEREST DISCLOSED BY OFFICERS

Nil

[Agenda Item 12.1 Refers]
[Council – 30th November 2007]



SUMMARY OF ACCOUNTS

Municipal Fund		
Cheques	Totalling	\$156,681.09
Electronic Fund transfer	Totalling	\$2,800,305.84
Credit Cards	Totalling	\$10,672.52
Payroll	Totalling	\$680,273.00
Total		<u>\$3,647,932.45</u>

CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling \$3,647,932.45 which was submitted to each member of the Council on 30th November 2007 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

CHIEF EXECUTIVE OFFICER
(A Hammond)

MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$3,647,932.45 which was submitted to the Council on 30th November 2007 and that the amounts are recommended to the Council for payment.

MAYOR
(M Evans, JP)