

MINUTES

ORDINARY MEETING OF COUNCIL

Held on
Tuesday, 18th November 2008
7.00pm
City of Albany Council Chambers

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1.0 DECLARATION OF OPENING

The Deputy Mayor declared the meeting open at 7.01pm.

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

Deputy Mayor (West Ward)

D Wolfe

Councillors:

Breaksea Ward	J Bostock
Breaksea Ward	D Wiseman
Frederickstown Ward	D Price
Frederickstown Ward	Vacant
Kalgan Ward	J Walker
Kalgan Ward	R Buegge
Vancouver Ward	R Paver
Vancouver Ward	K Stanton
West Ward	N Williams
West Ward	D Wolfe
Yakamia Ward	Absent
Yakamia Ward	G Kidman

Staff:

Acting Chief Executive Officer (Executive Director Corporate & Community Services)	WP Madigan
Acting Executive Director Works & Services	P Brown
Executive Director Development Services	R Fenn
Corporate Governance Coordinator (Minutes)	S Jamieson

Public Gallery and Media:

4 media representatives were in attendance and approximately 30 members of the public.

Apologies/Leave of Absence:

Elected Members

Mayor	MJ Evans, JP
Councillor (Yakamia Ward)	J Matla

3.0 OPENING PRAYER

Councillor Price read the opening prayer.

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

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.0 PUBLIC QUESTION TIME

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

Speaker One.

Ms Jill Williams, Lowlands

Ms Williams addressed Council in support of report item 11.6.1 – City of Albany Keeping and Welfare of Cats Local Law 2008. Ms Williams said that feral cats were dangerous predators and the law aimed to stop their introduction into the bush.

Speaker Two.

Ms Judith Goodall, Gledhow

Ms Goodall addressed Council in support of report item 11.1.1 – DEVELOPMENT APPLICATION – Use Not Listed – Seafood Processing with Retail Sales – 37 Hercules Crescent, Centennial Park.

Ms Goodall requested Council to support the Officer's recommendation, as the current site is unsuitable.

Speaker Three.

Ms Katie Wignall, Kalgan Ward

Ms Wignall addressed Council in opposition to the Officer's recommendation detailed at report item 11.1.2 - RECONSIDERATION OF DECISION – Notice of Planning Scheme Consent Refusal and Orders to Remove, Lot 150 Henty Road, Kalgan

Ms Wignall acknowledged that the shed was erected without a building permit; however requested Council to come to a mutual agreement.

Ms Wignall stated that the larger shed was purchased, based on a Building inspectors recommendation, being:

“There should be no problem with building a larger shed if neighbours had no objections.”

Ms Wignall highlighted to Council that the shed is on a 27 acre property and the size was deemed necessary to securely store machinery and material necessary to maintain a property of this size.

Item 5.0 continued

Speaker Four.

Mr Charlie Davis, Frenchman Bay Association

Mr Davis addressed Council in support of report item 11.6.1 – City of Albany Keeping and Welfare of Cats Local Law 2008 as it addressed keeping cats in at night and sterilisation.

Speaker Five

Ms Lynette Litfin, Orana

Ms Litfin spoke against the recommendation detailed at report item 11.6.1 – City of Albany Keeping and Welfare of Cats Local Law 2008. Ms Litfin said that the Cat Sterilization Society already addresses cat sterilization and promoting the use of identification markings.

Ms Litfin stated that the Cat Local Law 2008 would provide the opportunity for members of the public who don't like cats to get rid of them.

Ms Litfin said the cat registration would be cost prohibitive to the elderly who own more than one cat.

Speaker Six

Mr Bob Swarbrick, Albany

Mr Swarbrick requested Council, on behalf of his son; to review building advice pertaining to property 34 O'Keefe Parade, McKail. Mr Swarbrick requested Council to review the finished ground levels relative to the finished floor heights of his son's property as he believes the information supplied is not accurate.

In response the Executive Director Development Services, offered to meet with Mr Swarbrick.

Mr Swarbrick accepted the offer.

Speaker Seven

Mr Roy Winslow, Harley Survey Group

Mr Winslow requested Council to not support Councillor Walker's alternate motion to not approve report item 11.1.1 – DEVELOPMENT APPLICATION – Use Not Listed – Seafood Processing with Retail Sales – 37 Hercules Crescent, Centennial Park.

Mr Winslow said that if Council supported the alternate motion, it would spell the end of his clients business in Albany.

Mr Winslow stated that the Seafood Processing operation will not impact beyond the boundary of the proposed site.

Item 5.0 continued

Speaker Eight

Ms Lee-Anne Sugg, Albany

Ms Sugg requested Council to not support the officer recommendation detailed at report item 11.1.1 – DEVELOPMENT APPLICATION – Use Not Listed – Seafood Processing with Retail Sales – 37 Hercules Crescent, Centennial Park.

Ms Sugg said that if Council approved this development application they would be choosing to completely ignore the Barker Industrial Area Council Policy and believes that the subject area was incorrectly zoned.

Ms Sugg raised concern that businesses and owners in the vicinity of the Hercules Crescent proposed site have not been fully informed.

Ms Sugg was concerned that the Council would not police the operating conditions placed on the applicant.

Speaker Nine

Ms Jacqueline Davidson, Albany

Ms Davidson addressed Council in regards to report item 11.3.3 - Final Approval of Scheme Amendment – 36 – 50 (Lot 14) Spencer Street, Albany.

Ms Davidson requested Council to proceed cautiously when approving scheme amendments. Ms Davidson supported Council initiative to rejuvenate; however appealed to Council to not rezone the subject area to “R60” from “R30” without careful consideration to ensure that areas of cultural significance are protected.

Council supported the extension of public question time by show of hands.

Speaker Ten

Ms Vera Torr, Albany

Ms Torr requested Council to consider offering the swamp area near Collingwood Rd as a test site to the University of Western Australia (UWA) for the purpose of demonstrating natural water purification (water filtering through reed vegetation).

Ms Torr requested Council to turn off the reticulation at the playground area across from the Albany hospital.

The request was acknowledged by the Acting Executive Director Works & Services.

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

ITEM 6.1 - CONFIRMATION OF MINUTES OF PREVIOUS MEETING VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR WILLIAMS

THAT the following minutes:

- Special Council Meeting held on Wednesday the 5^h November 2008; and
- Ordinary Council Meeting held on Tuesday the 21st October 2008;

as previously distributed be confirmed as a true and accurate record of proceedings, pending the inclusion of the following:

”Reason: To allow time for Council to seek legal advice to establish if clause 5.16 of the TPS 3 can legally negate clause 5.5.1 of the TPS 3. Councillor requested that this item be brought back to the November 08, Ordinary Council Meeting.”

after Procedural Motion 11.1.3 on page 33 of the Ordinary Council Meeting 21st October 2008 Minutes.

MOTION CARRIED 8-2

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

ITEM 7.1 - COUNCILLOR WILLIAMS LEAVE OF ABSENCE VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WISEMAN
SECONDED COUNCILLOR WALKER

THAT Councillor Williams is granted a leave of absence for the period 15th December 2008 to 13th January 2009.

MOTION CARRIED 10-0

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.]

Name	Item Number	Nature of Interest
Councillor Kidman	11.1.1	Financial. Councillor has a potential future financial interest. Councillor left the Chamber.
Councillor Williams	11.1.1	Impartiality. Councillor is personal friends of proponents. Councillor remained in the Chamber for the debate and vote.
Councillor Price	11.3.3	Proximity. Councillor owns property at 70 Spencer St, Albany. View of Councillor's property could be affected by this development. Councillor left the Chamber.
Councillor Wiseman	11.3.3	Impartiality. Councillor owns property close to the subject site. Councillor left the Chamber.
Councillor Paver	14.3.1	Financial. Councillor derives income from the Tourism industry. Councillor left the Chamber.

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

DEVELOPMENT SERVICES

Reports

DEVELOPMENT SERVICES REPORTS

11.0 REPORTS – DEVELOPMENT SERVICES

11.1 DEVELOPMENT

Councillor Kidman declared a Financial Interest in Item 11.1.1 and left the Chamber at 7.41pm. Councillor Kidman declared that he has a potential future financial interest.

Councillor Williams declared an Impartiality Interest in Item 11.1.1. The nature of Councillor Wiseman’s interest is that she is personal friends with the applicant.

ITEM NUMBER: 11.1.1

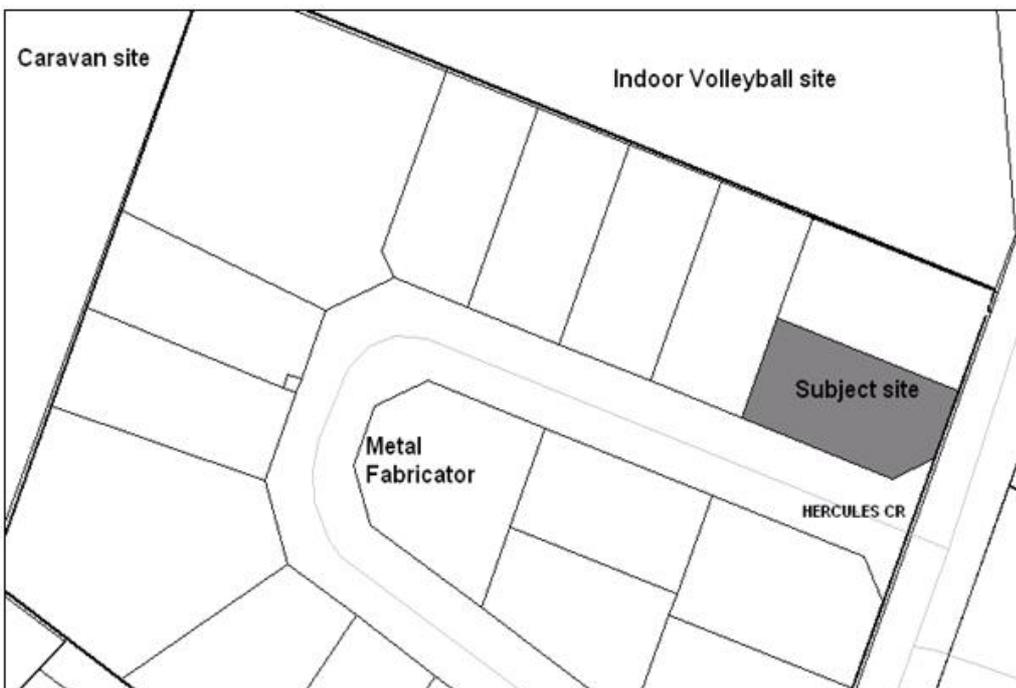
ITEM TITLE: DEVELOPMENT APPLICATION – Use Not Listed – Seafood Processing with Retail Sales – 37 Hercules Crescent, Centennial Park

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number or Name of Ward	: A141060 (Frederickstown Ward)
Summary of Key Points	: Proposal to develop site for seafood processing and the retail sale of fish
Land Description	: Lot 118 (37) Hercules Crescent, Centennial Park
Proponent	: Harley Survey Group
Owner	: Z & Z Vrban
Reporting Officer(s)	: Executive Director Development Services (R Fenn)
Disclosure of Interest	: Nil
Previous Reference	: OCM 21/10/08 - Item 11.1.1
Bulletin Attachment(s)	: Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

BACKGROUND

1. An application has been received for the erection of a new building at 37 Hercules Crescent, Centennial Park, to be used for seafood processing purposes and minor retail sales. The site is 1276m² in area with the proposed building having a total floor area of 706.5m² made up of 643m² on the ground floor, 38.5m² on the upper floor and 25m² in porch area.
2. The building is to be constructed mainly of tilt-up concrete with a textured finish and 'Colorbond' custom orb roofing to the front retail/office portion. A glazed 'shop front' facing Barker Road is proposed with a customer entrance porch fronting both Barker Road and Hercules Crescent.
3. Access is proposed from Hercules Crescent only, with a 13 car bay car park provided. Below ground rainwater tanks for harvesting of roof water are also proposed for the cleaning down of the processing floor.
4. The business buys entirely from the local fish catch, thereby providing security to the local commercial fishing fleet. It provides wholesale and retail seafood supplies to approximately 90% of Albany's restaurants and food outlets. To process the average weekly catch of 3.0 tonne, the business employs four to five people and the current operation processes fish approximately two days per week. The Proponent advises that this business provides a large range of fresh seafood for Albany and the surrounding districts. The majority of the processing is undertaken on shark carcasses which are delivered to the site pre-gutted. All other fish sold from the premises will arrive on-site pre-scaled and pre-gutted.
5. The proposed use is not defined within Town Planning Scheme 1A. The Barker Road Industrial Area policy recommends against fish processing being undertaken on this site. The application would require approval for variations to the development standards, if it is to be developed within the Industrial zone. The development has been referred to Council for consideration.

DISCUSSION

6. Due to the scale of the operation proposed within the building, this application does not comfortably fit within the land use definitions included in TPS 1A. The majority of the business involves the sale of filleted fish products, with the removal of the fillet from the fish carcass being carried out on-site. This application varies from other retail "fish shops" as the product does not arrive on-site prepared and packaged as a fillet or whole fish. The proposal has been advertised as a "use not listed" pursuant to Clause 3.6 of the Scheme. Legal advice received by Council indicates that this is the most appropriate method of considering this application.

Site Planning

7. The criteria of TPS1A, specifically the street setback, plot ratio and the percentage of landscaping required, have not been achieved in the application submitted for consideration. Barker Road is the primary street frontage for this lot (based upon traffic volumes) and TPS1A (at clause 4.8) provides that the setback to a secondary street (Hercules Crescent) can be reduced by 50%. Therefore, a setback of 4.5m could be applied. This application proposes to locate the building 5.0m from the secondary property boundary.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

8. The landscaping percentage as calculated from the submitted plans is 14.5%, which is 5.5% under the required 20%. Clause 4.3 of Council's Development Guidelines 1A, provides that the landscaping requirement may be reduced by up to 50% where the developer can demonstrate that the reduced landscaping will not reduce the visual or general amenity of the locality. The building design and generous landscaping along the Barker Road frontage should enhance the visual amenity of this street.
9. The plot ratio is over the 0.5 as stated in the scheme by 55m². The additional area includes a porch which is open on two sides (25m²) and a small upper floor office (38.5m²), which, if removed, would make the proposal consistent with the Scheme. The office is consuming otherwise unused airspace within the building and the porch adds to the character of the built form. The removed of these components to require compliance with the scheme provisions is not recommended in this instance.

Barker Road Policy

10. In 1993, an application was submitted to Council to rezone the Barker Road policy area from "Clubs and Institutions" to "Industrial" and that request was opposed by the proprietors of the Mt Melville Caravan Park. In the scheme of that time, Barker Road formed a boundary between the uses associated with the "Clubs and Institutions" zone and the industrial precinct beyond. The proprietors of the caravan park considered that recreational and tourist residential uses would be a more compatible land usage to complement the existing recreational assets (sports centre, go-kart track and ten pin bowling) in the locality and opposed the amendment. The "recreational value" of those facilities has reduced considerable in the intervening period.
11. As a condition of the rezoning, the Western Australian Planning Commission required Council to prepare a "development standard policy for the area". The initial policy (adopted July 1995) contained a clause 2 which read:

"To preclude general and special industrial uses that would prejudice the amenity of adjacent uses because of noise, odour, fumes, vibration, light, electrical interference, soot, ash, dust, grit, oil, liquid wastes or waste products and heavy vehicle movement that may be associated with such uses. Examples of uses considered inappropriate, particularly around the periphery of the estate, include panel beating, spray painting, car wrecking, metal works, boat building, concrete batching plants, fish processing and truck depots".
12. In May 2000, the Barker Road policy was amended "to provide for a segregation of industrial uses within the Barker Road Estate". The reasons for the change are detailed in the Council minutes of December 1999, where it is reported "the restrictions are affecting the development of the estate and the proponent has requested that the scheme policy be redrafted to allow intense industrial uses adjacent to Barker Road and for lighter industrial uses backing onto the caravan park". Building records show that four sites had been developed at that time. The amendment split the estate into two policy areas and Precincts A and B were created. Within the re-drafted clause 2, it is stated:

"Within Precinct B, because of the greater separation distances from the Caravan Park, and the potential buffer provided by development located between the proposed use and the Caravan Park, Council will give consideration to a broader range of uses providing they can demonstrate there will be no impact on the amenity of the Caravan Park."

and

"Uses such as car wrecking, transport and fuel depots, concrete batching plants, metal fabrication and seafood processing would not be acceptable in either Precincts A or B".

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

13. Council is required to have due regard to the content and objective of the Barker Road policy before making its decision. Clause 7.21.4 of TPS1A states that any policy shall not bind the Council in respect of that decision. Put simply, a scheme policy should not be applied in an inflexible fashion and the legal advice provided to Council highlights that the Barker Road policy *“does not present an absolute legal impediment to the City approving this application”*.
14. The reason the policy was introduced (stated in the objective) is to preclude land uses that would prejudice the amenity of adjacent uses because of the off-site nuisance(s) that may be associated with such uses. The seafood processing operation is to be transferred to this site from a Kitson Road address and the existing business has no noise, dust, etc impacts beyond its boundary. The only component of the current activity that affects local amenity is the site’s inability to manage the large quantity of water the seafood business generates (primarily wash down water for food hygiene standards) due to the soil characteristics of the site. Similarly, the larger scale seafood processor on John Street (Bevans (WA) Pty Ltd), which has an annual throughput of approximately 1,000 tonne of fish (20 tonne per week average) and has its waste water systems connected to the sewer main, does not generate any odour or other nuisance external to the site.
15. The potential for odour to affect the amenity of the locality remains and it is this component of the development that needs comprehensive management. The City’s Environmental Health Section has contacted the Health Department of WA and its officers consider this a local matter. The Water Corporation has indicated that all liquid effluent can be disposed of within the sewer mains subject to adequate internal plumbing of the building to remove solids from the waste stream. All shark carcasses, fish bones and other by-products are to be collected on-site and placed into sealed containers, refrigerated and then disposed off-site. The removal of the by-products within sealed containers will not produce off-site odours or diminish the amenity for adjoining land uses. On-going management of the waste stream could be addressed through the Planning Consent conditions; the premises will then be subjected to regular quarterly inspections by the City’s Environmental Health Officers.

Buffering of Land Uses

16. Clause 7.8A of TPS1A requires Council to give consideration to other state and local policies that may affect the application. There are two important documents that need to be considered, the WAPC’s SPP4.1 *“State Industrial Buffer Policy (1997)”* and the EPA’s *“Guidance for the Assessment of Environmental Factors: Separation Distance Between Industrial and Sensitive Land Uses (2005)”*.
17. Odour and traffic have been identified as potential issues. The site is zoned industry and Staff consider the impact of this proposed development would be less than from other permitted industrial uses developed or capable of being developed within the Barker Road policy area or to the east of Barker Road.

Strategic Planning Documents

18. The Albany Local Planning Strategy, the City of Albany Tourism Planning Strategy and the Residential Design Code policy all promote a long term transition of land uses in this locality from an industrial land base to commercial and medium density land uses. That transition will occur over decades and scheme provisions will be drafted in the future to facilitate that change. In the interim period “non industrial” uses proposed in this locality will be required to acknowledge existing land use patterns (inclusive of the expansion of those uses).

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

PUBLIC CONSULTATION/ENGAGEMENT

19. The application was received and advertised with two letters of objection being received. Copies of the responses were included in the October 2008 Elected Members Report/Information Bulletin and their comments are:
 - a. Will create a land use conflict with the nearby amendment recently finalised at Lot 734 Barker Road to Tourist Residential R60.
 - b. The development of the seafood processing plant will have a detrimental impact on the progression of residential development in this area.
 - c. The policy specifically identifies seafood processing as not acceptable.
 - d. Odour will be emitted from this operation, and in a prevailing southerly or south-easterly wind the odour will be blown over existing and proposed residential sites.
 - e. Noise issues regarding refrigeration motors and delivery trucks and forklifts will impact on residential amenities.
 - f. Previous issues arising from the Barker Road Industrial area have not been enforced by the City.
 - g. Better locations exist, especially with lower density residential surrounding them.
 - h. The surrounding residents have located in the area on the basis that this sort of use would not be allowed.

20. Concern has been expressed by neighbouring landowners over this proposal's compliance with State industrial buffer policies (the EPA Guideline was drafted to assist in the interpretation of the WAPC policy). When Council considered the amendment to rezone Lot 734 Barker Road (report of April 2006), the owner's Planning Consultant noted that the intended use for the site (Tourist Residential) would fail to meet the guidelines set by the EPA when the intended use was assessed against most of the existing industrial land uses in the locality. The planning report recorded Albany Boat Builders at 10.0m (standard 500-1000m), Turpin Panel Beaters and Lenegan Spray Painters 35m (200m), Pinelock Systems at 100m (100 – 300m), M&A Steel Fabricators at 190m (500 – 1000m) and Albany Aluminium Fabrication at 350m (500 – 1000m). The EPA Guidelines provide a generic buffer distance of 500m for a "seafood processing" industry and this indicative buffer would apply to the worst case scenario. It could only reasonably be applied to a large seafood producer (the agencies nominated for advice and approvals are the Department of Water and Water Corporation) disposing of all wastes on-site.

21. Both the WAPC and the EPA supported the change of zoning of the Albany Sports Centre site from "Clubs and Institutions" to "Tourist Residential" on the understanding that a memorial would be placed on the title to that site, warning future residents of the impacts of existing industrial uses. Staff consider that the proposal before Council (operating at approximately 15% of the volume of other fish processing operations in Albany) is self buffering and the nuisances identified by adjoining landowners are not being experienced by those existing businesses.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

22. The City's planning staff investigated the compliance of other businesses in Hercules Crescent with their Notices of Planning Scheme Consent and any non-compliance will be addressed as a separate process. The site is located 150m from the Mt Melville Caravan Park property boundary and approximately 25m from the common boundary with the Albany Sports Centre. Traffic volumes using Barker Road are greatest north of Graham Street and the majority of that traffic is vehicles visiting the Albany Leisure and Aquatic Centre and the Albany Sports Centre. Traffic volumes generated by current and future developments are well within acceptable traffic planning standards (consultant's report – April 2006) and the background traffic noise will continue to rise on Barker Street and on Albany Highway as the City continues to grow and land use transition takes place. The traffic generated by this development would be negligible within that mix of current and future activity. Noise from refrigeration units can be controlled by appropriate acoustic treatments adjacent to the units and by suitable positioning of those units.

GOVERNMENT CONSULTATION

23. The Water Corporation has indicated that the proposed development can be connected to the sewer mains. The proponent will be required to incorporate an appropriate pre-treatment facility for waste water to the satisfaction of the Water Corporation.

STATUTORY IMPLICATIONS

24. The subject land is zoned "Industrial" within TPS1A, and is currently vacant. Council approval to vary standards and provisions of Town Planning Scheme No.1A are requested for the following:
- Plot Ratio – The TPS1A requirement is 0.5 and the application before Council is 0.54 (an extra 55m² of 4% of the total area);
 - Secondary Street Setback – The TPS1A requirement is 9.0m and the application before Council is 5.0m, consistent with Council's development guidelines; and
 - Landscaping – The TPS1A requirement is 20% of the site and the application provides 14.5% of the site.
25. Section 4.8 of the TPS1A states:
"Where development is proposed on a lot which has more than one street frontage, the Council shall decide which street is the street frontage for the purposes of the Scheme and the setbacks from the other street frontages may be reduced by 50 per cent. The minimum front boundary setbacks as specified in Appendix III and Appendix IV shall be measured from the street alignment or any new street alignment from time to time prescribed."
26. Clause 4.3 of the Development Guidelines No. 1A states:
"The landscaping requirement set out in Appendix III and IV of the Scheme may be reduced by up to 50% of the area required where a developer can demonstrate that the reduced landscaping will not reduce the visual or general amenity of the locality. Where relaxation of the landscaping provision is made, the area shall predominantly be developed and/or retained with vegetation, with paving being restricted to the minimum requirements to provide for pedestrian access through the landscaped area."
27. Clause 7.21.4 of TPS1A states:
"A Town Planning Scheme policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision."

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

28. Clause 3.6 of TPS1A states:

“If a particular use or purpose is not mentioned in the list of use classes or is not included in the general terms of any of the use classes such use or purpose shall, unless it is permitted by any other provisions of the Scheme, be deemed to be prohibited, provided that the Council may in its discretion permit such use or purpose to be carried out in any zone it considers appropriate and in granting such permission the Council may impose such conditions as it thinks necessary for the orderly and proper planning of the locality and the preservation of its amenities.”

29. At clause 7.8A of TPS1A is a list of matters that Council must have regard to and included in that list is any approved EPA policy, any Statement of Planning Policy of the WAPC, Council policies, scheme provisions, comments received from the public, etc. The EPA notes at clause 4.2 of their guideline that *“generic separation distances have been developed by the EPA in recognition that a site specific study to determine a buffer may not always be necessary, and that generic guidelines are a useful tool at the design and planning stage”*.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

31. The subject land is designated as ‘Albany (regional centre)’ within the ALPS. The Strategy acknowledges that the Centennial Park industrial precinct is coming under increasing pressure from certain types of retail and bulky goods showroom activities, with traditional industrial uses progressively relocating to alternate sites near Chester Pass Road and in the Pendeen Industrial estate. Development controls will be required to facilitate the gradual redevelopment of this area to support showroom activities and residential land uses over the longer term.

POLICY IMPLICATIONS

32. The site is within Precinct B of the Barker Road Industrial Area town planning policy. This policy states that seafood processing would not be acceptable in Precinct B. Council is required, under the policy to give consideration to a broader range of uses on lots within the precinct, provided they can demonstrate there will be no impact on the amenity of the Caravan Park. Discussion on the policy has been provided at paragraphs 10 to 15.

33. Council is required to give consideration to the WAPC’s SPP4.1 *“State Industrial Buffer Policy (1997)”* and the EPA’s *“Guidance for the Assessment of Environmental Factors: Separation Distance Between Industrial and Sensitive Land Uses (2005)”*. Discussion on these policies occurs at paragraphs 20 to 22.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

34. Council is required to consider this application and to either approve the application unconditionally, approve the application with conditions that relate to the development or to refuse the application and provide reasons for that refusal. Any conditions attached to the approval can be the subject of a review with the State Administrative Tribunal, as can a decision to refuse the application.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

35. The advice received from Council's solicitors reinforces that Council must assess this application on its merits against the prevailing policy framework and the scheme provisions. If the proposal meets the statutory requirements of the scheme and the objectives and principles of the relevant policies, the specific wording within a policy does not provide an absolute impediment to the City approving the application.
36. Issuing a Notice of Planning Scheme Refusal to the application may result in a Review of that decision being sought with the State Administrative Tribunal and the grounds of refusal become an important consideration in the defence of that decision.

SUMMARY CONCLUSION

37. The subject land is zoned "Industrial" and the intended land use is industrial in character, with the processed seafood being sold from premises. The scale of the activity is approximately 10 to 15% of the volume of seafood processed through other premises in Albany and those businesses that are connected to sewer mains have operated without complaint from neighbouring businesses, residences, etc. for decades. The only alternate area where this development could be located within the City, without the applicant having to undertake a scheme amendment and a one to two year delay, is the Lower Denmark Road Noxious Industry zone.
38. City staff consider this activity to be consistent with the existing scheme provisions, the objectives for the Barker Road policy, State Government industrial buffer guidelines and the longer term planning of the locality (providing a fresh fish shop within walking distance of future inner city living areas). Nuisances may arise if the business outgrows the site and it is suggested that conditions be imposed on the approval to ensure it remains a specialist seafood processing operation. Council may also decide to condition the approval to require compliance with the plot ratio provisions of the scheme; staff consider that action may result is a reduction in the amenity that the current design would provide to the Barker Road streetscape.

ITEM NUMBER – 11.1.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE A CONDITIONAL NOTICE OF PLANNING SCHEME CONSENT for a 'Use Not Listed - Seafood Processing with Retail Sales' at 37 Hercules Crescent, Centennial Park, subject to the following conditions:

- i) All development shall be undertaken in accordance with the information and plans submitted with the Application for Planning Approval, except where modified by a condition attached to the Notice of Planning Scheme Consent.
- ii) The processing capacity of the approved development shall not exceed 200 tonnes per annum, unless with the prior written approval of Council.
- iii) All vehicular parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed, properly drained and sealed to the satisfaction of Council. All parking spaces are to be line marked and maintained in good repair.
- iv) All runoff from impervious surfaces is to be contained within the property and disposed of, via a trapped sump located within the property, by connection to the existing drainage system.
- v) Detailed plans and specifications of the proposed method of stormwater disposal is to be submitted for approval by the Executive Director Works and Services prior to the issue of a building licence. Such plans should identify the invert levels, cover levels and pipe size and grade for the drainage.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

- vi) A landscape plan, showing the size, species, location and reticulation of the trees and shrubs to be planted or retained, is to be submitted to the Manager Planning and Ranger Services for approval prior to the issue of a building licence.
- vii) All of the land indicated as landscaped area on the approved plan is to be landscaped prior to, or concurrently with the practical completion of the building to the satisfaction of the Manager Planning and Ranger Services.
- viii) No goods or materials are to be stored, either temporarily or permanently, in the parking or landscape areas or within access driveways. All goods and materials are to be stored within the building.
- ix) All liquid waste generated by the approved land use shall be disposed of within the Water Corporation sewer main, with appropriate pre-treatment of the waste.
- x) A detailed cleaning plan is to be submitted and approved by the Manager of Health and Building Services prior to the issuing of a building licence and the approved development is to be maintained in accordance with that plan thereafter operation.
- xi) All solid waste produced on-site is to be collected daily, placed into air tight containers, refrigerated and disposed of to the satisfaction of the Manager of Health and Building Services on a frequency no longer than weekly.
- xii) All refrigeration plant, air conditioners and other external plant attached to the approved building shall be installed and operated in accordance with the Environmental Protection (Noise) Regulations 1997.
- xiii) No fish shall be delivered to the site which has not been gutted.
- xiv) There shall be no further processing of fish on the site, which includes frying or smoking of fish without the written consent of the City's Environmental Health Section.
- xv) The retail sale of seafood from the site shall be limited to seafood which is delivered whole and processed on the site by the owners/proprietors, unless otherwise agreed in writing by the Council.

Advice Notes:

Council has supported a relaxation of the building setback and the landscaping requirements in accordance with its Development Guidelines and acknowledges the plot ratio of the approved development is 0.54.

**ITEM 11.1.1 – LIMITATION OF DURATION OF SPEECHES
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR BOSTOCK**

THAT Clause 5.6 – Limitation of Duration of Speeches to a maximum of five minutes be suspended.

MOTION CARRIED 5-4

Record of Vote:

For: Councillors Paver, Buegge, Bostock, Walker and Price.

Against: Councillors Wolfe, Williams, Wiseman and Stanton.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

ITEM: 11.1.1 - ALTERNATE MOTION BY COUNCILLOR WALKER
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR BOSTOCK

- 1) THAT COUNCIL resolves to **ISSUE** a Notice of Planning Scheme Consent **REFUSAL** for a Use Not Listed – Seafood Processing with Retail Sales at 37 Hercules Crescent, Centennial Park for the following reasons:
 - a. The proposed use is inconsistent with the Barker Road Policy.
 - b. The proposed use is inconsistent with proper and orderly planning.
 - c. The proposed use is incompatible with its setting.
- 2) THAT COUNCIL **advise** the State Administrative Tribunal that it is prepared to suspend, for a period of two (2) years, the Notice issued under Section 214 of the *Planning and Development Act 2005* upon VR Property Holdings Pty Ltd requiring the tenant at Lot 12 Kitson Road, Gledhow to vacate those premises and requiring the premises to be removed or pulled down.
- 3) THAT, as a matter of priority, City of Albany staff **prepare** and expedite the processing of the required amendment documentation to remove the land use “Fish Processing / Curing, Poultry Processing or Rabbit Processing” from Table 1 within Town Planning Scheme 3.
- 4) THAT Harley Survey Group be advised that Council would favourably consider, upon the finalisation of the aforementioned scheme amendment, a request to develop the proposed Seafood Processing with Retail Sales business within the Milpara Industrial Area, or upon alternate industrial zoned land where the land has a connection to a reticulated sewer main.
- 5) THAT the City’s Environmental Health Officers assist VR Property Holdings Pty Ltd to provide and install appropriate mechanisms to remove the odour problems associated with the disposal of effluent from premises at Lot 12 Kitson Road, Gledhow.

MOTION LOST 4-5

Record of Vote:

For: Councillors Walker, Paver, Bostock, and Wolfe.

Against: Councillors Wiseman, Price, Stanton, Williams and Buegge.

Councillor Bostock addressed Council in support of Councillor Walker’s Alternate Motion. A copy of the tabled address is detailed at appendix C.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

Councillors Reason:

The proposed development is inconsistent with the planning framework that has been put in place for the Hercules Crescent industrial area and the longer term planning for Centennial Park. The City does not wish to have this business relocate out of the district and there are currently limited sites available for the business to relocate to. It is therefore desirable to ensure any short term decision is made with the longer term interest of the City in mind and therefore the application should be refused. The Scheme currently prevents the business from developing upon a more appropriate lot and those restrictions should be removed as quickly as possible. That process will take a minimum of two years to complete and the business should be allowed to remain within their current leased premises until the processes allowing for the relocation have been completed. Short term measures to overcome the odour problems at those premises need to be resolved.

OFFICERS REPORT

Author: Executive Director Development Services (R Fenn)

STATUTORY IMPLICATIONS

VR Property Holdings Pty Ltd has sought a review of the previous Council decision to require the removal of the tenant from lot 12 Kitson Road, Gledhow and that matter is currently the subject of a mediation process within the State Administrative Tribunal. The Tribunal has the power to suspend the Notice for the period outlined in the motion to allow alternate options to be pursued. The agreement of VR Property Holdings Pty Ltd to the course of action would be required and the directors of that company have not been contacted to discuss this alternate course of action. If a mediated outcome cannot be achieved, the Tribunal can progress the review to a formal hearing.

An amendment to a Town Planning Scheme undergoes a discrete assessment process and the success of the amendment will be dependent upon the planning merits of the proposal submitted. In addition to Council's support for the amendment, the Western Australian Planning Commission and the Minister for Planning will also be required to approve the amendment. The Minister for Planning will ultimately determine the fate of the request.

If Council was to successfully amend the Scheme, a Seafood Processing and Retail Sales development would become a "Use Not Listed" in Scheme 3, and be subjected to the same advertising and consultation processes as the current application.

The decision to issue a Notice of Planning Scheme Refusal is subject to a potential review process through the State Administrative Tribunal and the reasons for the refusal become the grounds for a potential review.

POLICY IMPLICATIONS:

No Change.

FINANCIAL IMPLICATIONS:

There are advertising costs associated with the preparation of the proposed amendment and officer resources will need to be committed to prepare the documentation. Those costs can be met from within the budget.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

Providing an effective solution to the odour problems at 12 Kitson Road, Gledhow will require the engagement of a technical expert in liquid waste management. The motion is unclear on whether the engagement of that consultant will be at Council's expense or the property owners.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

No Change.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

These motions can be acted upon collectively or independently. The primary decision that Council needs to make is whether or not the Application for Planning Approval is, or is not, consistent with the zoning of the land and the provisions of the Scheme. If the matter proceeds to a SAT review, the existence of alternate sites will be an irrelevant consideration.

COMMENT:

Staff are concerned that the motions being promoted to retain this business in Albany are all interdependent and that the failure to achieve any one of the actions may result in the overall intent of the motion failing. No certainty can be attached to the success of the proposed actions.

Hercules Crescent Development:

There is a valid development application before Council that must be considered on its merits, irrespective of any alternate course of action that Council may wish to take. The officers have provided Council with a report on the primary matters that Council must consider in determining this application and the decision taken can be the subject of a review by the State Administrative Tribunal.

Review of Order for Kitson Road:

The Tribunal has been notified of Council's decision following the October meeting (extension to period that premises must be vacated extended to 28th February 2010 provided approval is granted to the Barker Road development application at this meeting) and a mediation session is pending to determine if an order should be issued to action Council's decision. If Council was to take an alternate position the Tribunal would need to be advised accordingly; suspension of the Notice simply means that no action will be taken to enforce the Notice during the defined period.

If an alternate position is taken, then Council will need to decide two years hence whether the Notice should be served afresh or it withdraws the Notice. Within the two year time period, it is feasible that an amendment would have progressed through the planning process and Council would have been able to consider an Application for Planning Approval for an alternate site (assuming a site can be purchased and suitable plans prepared). The time frame provided would not accommodate the construction of an approved building.

VR Property Holdings Pty Ltd has the options to:

- a. Accept Council's offer for a two year deferment and seek an order from the Tribunal to that effect; or
- b. Not accept Council's offer and proceed to have the merits of the Kitson Road Notice reviewed by the Tribunal; or
- c. Accept the Notice, terminate the lease with Great Southern Seafood and relet the premises with an alternate complying land use.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued.

Scheme 3 Amendment:

The decision of a former Council to introduce into Scheme 3 an independent land use category of Fish Processing / Curing, Poultry Processing or Rabbit Processing is unusual. It is common practice to use more generic terminology (light industry, general industry, special industry, service industry, etc) when describing land uses and it would be desirable to remove this classification from Table 1 of the Scheme.

Should an amendment process be successful, the opportunity then presents itself for Council to consider an application to develop the Seafood Processing and Retail Sales development upon the existing Kitson Road site (subject to it being connected to the reticulated sewer mains), within the Milpara Industrial area or on land with non-industrial zonings within Scheme 3. The activity would become a Use Not Listed and would be subject to the discretionary provisions of the Scheme.

The directors of Great Southern Seafood do not own properties within either of these two industrial areas and they would take a commercial decision on whether it is more appropriate to pursue this alternate course of action or simply seek a review of Council's decision to refuse their application to develop at the Barker Road site.

Support for a Future Project:

Whilst the elected members comprising the Council may wish to support the concept of Great Southern Seafoods moving to an alternate site in the Milpara Industrial area, it is not possible for Council to "support in principle" that proposal. Each application must be considered on its merits and judged against the planning framework in place for that site. The application is likely to be subjected to a consultation process and no detail exists on the design of the building, the site under consideration, etc.

More importantly, the composition of the Council could change during the period it takes to rectify the zoning provisions and a future Council may not share a similar position on this matter.

Odour Concerns – Kitson Road:

The odour problems at Kitson Road are generated by the inability of the soil to manage the large volumes of wash down water used to clean the premises and from small particles of fish being transported into the effluent stream due to inappropriate floor wastes being installed. To rectify these problems will place a considerable financial burden on the tenant or the landlord. Options available include:

- a. contain the wash down water in a sealed tank and arrange for regular removal of the tank contents;
- b. extend the sewer mains to the site and modify the internal plumbing to meet Water Corporation requirements;
- c. install a small on-site treatment plant to modify the effluent and remove odours;
- d. improve the capacity of the site to manage on-site effluent loads.

Conclusion:

Staff are not convinced that all of the above actions will be completed to the satisfaction of Council and the applicants. The alternate solutions are noted, but the application still needs to be assessed on its merit against the relevant provisions of the scheme.

Councillor Wiseman left the Chamber at 8.31pm and returned at 8.33pm.

Item 11.1.1 continued.

**ITEM NUMBER: 11.1.1 ALTERNATE MOTION BY COUNCILLOR WILLIAMS
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR PRICE**

THAT Council resolves to issue a conditional Notice of Planning Scheme Consent for a ‘Use Not Listed - Seafood Processing with Retail Sales’ at 37 Hercules Crescent, Centennial Park, subject to the following conditions:

- i) All development shall be undertaken in accordance with the information and plans submitted with the Application for Planning Approval, except where modified by a condition attached to the Notice of Planning Scheme Consent.**
- ii) The processing capacity of the approved development shall not exceed 200 tonnes per annum, unless with the prior written approval of Council.**
- iii) All vehicular parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed, properly drained and sealed to the satisfaction of Council. All parking spaces are to be line marked and maintained in good repair.**
- iv) All runoff from impervious surfaces is to be contained within the property and disposed of, via a trapped sump located within the property, by connection to the existing drainage system.**
- v) Detailed plans and specifications of the proposed method of stormwater disposal is to be submitted for approval by the Executive Director Works and Services prior to the issue of a building licence. Such plans should identify the invert levels, cover levels and pipe size and grade for the drainage.**
- vi) A landscape plan, showing the size, species, location and reticulation of the trees and shrubs to be planted or retained, is to be submitted to the Manager Planning and Ranger Services for approval prior to the issue of a building licence.**
- vii) All of the land indicated as landscaped area on the approved plan is to be landscaped prior to, or concurrently with the practical completion of the building to the satisfaction of the Manager Planning and Ranger Services.**
- viii) No goods or materials are to be stored, either temporarily or permanently, in the parking or landscape areas or within access driveways. All goods and materials are to be stored within the building.**
- ix) All liquid waste generated by the approved land use shall be disposed of within the Water Corporation sewer main, with appropriate pre-treatment of the waste.**
- x) A detailed cleaning plan is to be submitted and approved by the Manager of Health and Building Services prior to the issuing of a building licence and the approved development is to be maintained in accordance with that plan thereafter operation.**
- xi) All solid waste produced on-site is to be collected daily, placed into air tight containers, refrigerated and disposed of to the satisfaction of the Manager of Health and Building Services on a frequency no longer than weekly.**
- xii) All refrigeration plant, air conditioners and other external plant attached to the approved building shall be installed and operated in accordance with the Environmental Protection (Noise) Regulations 1997.**
- xiii) Fish requiring gutting on-site must not exceed 30 tonnes per annum (15% of entire capacity) unless with the prior written approval of Council.**

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

- xiv) **There shall be no further processing of fish on the site, which includes frying or smoking of fish without the written consent of the City's Environmental Health Section.**
- xv) **The retail sale of seafood from the site shall be limited to seafood which is delivered whole and processed on the site by the owners/proprietors, unless otherwise agreed in writing by the Council.**

MOTION CARRIED 5-4

Record of Vote:

For: Councillors Wiseman, Price, Stanton, Williams and Buegge

Against: Councillors Paver, Walker, Bostock and Wolfe.

Advice Notes

Council has supported a relaxation of the building setback and the landscaping requirements in accordance with its Development Guidelines and acknowledges the plot ratio of the approved development is 0.54.

Councillors Reason:

It is reasonable to allow a 15% gutting buffer as the current operation does process scale fish as received from suppliers and the whole fish is subsequently processed and filleted for eateries in Albany. This is a minor portion of the business operation, however, it is a service the proponents wish to continue to provide.

OFFICERS REPORT

Author: Executive Director Development Services (R Fenn)

STATUTORY IMPLICATIONS

The conditions attached to a Notice of Planning Scheme Consent are required to meet four basic tests. They are to provide certainty in their requirements, they are to be reasonable, they must relate to the development under consideration and they must be relevant planning considerations.

POLICY IMPLICATIONS:

No Change.

FINANCIAL IMPLICATIONS:

No change.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

No Change.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

Council can agree to delete proposed condition xiii or modify the condition to provide greater clarity for the proponent and City staff. The conditions can be subject to a State Administrative Tribunal review.

COMMENT:

The Proponent has advised that his business, if approved on this site, is primarily involved in the processing of shark, with a small volume of scale fish processed to meet the local market.

Condition xiii was recommended by staff to ensure that a successor in title or a future manager of the business does not dramatically change the business operation. An increase in the volume of fish gut stored on site or added into the liquid waste stream could increase the potential for odour generation on the property. Limiting the volume of fish arriving on-site that are whole (ie gut has not been removed off-site) to 15 percent of the total annual volume is not an unreasonable requirement. Should this restriction cause operational problems, then the proponent has the capacity through the specific wording of the condition to seek a review of this requirement by Council.

Councillor Kidman returned to the Chamber at 8.35pm.

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 11.1.2

ITEM TITLE: **RECONSIDERATION OF DECISION – Notice of Planning Scheme Consent Refusal and Orders to Remove, Lot 150 Henty Road, Kalgan**

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

Review: Council reviewing a decision made under a local law or regulation upon the request of a person affected by that decision. The decisions are the subject of a review by the State Administrative Tribunal.

File Number or Name of Ward	: A204181 and A208963 (Kalgan Ward)
Summary of Key Issues	: State Administrative Tribunal order to reconsider a previous decision and consider standing aside two enforcement notices
Land Description	: Lot 150 (previously Lot 9001) Henty Road, Kalgan
Proponent	: K Wignall
Owner	: K Wignall (previously Swan Point Estate Proprietors)
Reporting Officer(s)	: Senior Planning Officer (I Humphrey)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment Reference	: Proposed elevations, previous decision of SAT, copy of Notice of Planning Scheme Consent Refusal

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

BACKGROUND

1. A Notice of Planning Scheme Consent Refusal was issued to Ms. K Wignall in January 2008 to place an oversized outbuilding (300m²) on a Henty Road property that was the subject of a subdivision process (see copy in Elected Members Report / Information Bulletin). The City's outbuilding policy limited outbuildings to a maximum size of 180m² on Special Rural lots. After receiving two letters from nearby landowners, a site inspection by City staff was undertaken in May 2008, which revealed that an outbuilding was under construction on the land and that the structure was of the same size as the structure that had received the refusal notice; no building licence application had been received for the structure.
2. As there was no planning or building consents granted by the City for the outbuilding, Swan Point Estate Proprietors (the then owners) were notified that an illegal structure had been erected on their land. Swan Point Estate Proprietors advised that the shed had been erected by the future purchaser (Ms Wignall) of one of the lots to be created by the subdivisional process.
3. Two Notices were issued in June 2008 (one for Town Planning contravention and one for the unauthorised construction) by City staff advising of the owner's (Swan Point Estate Proprietors) failure to obtain the required permits and the Notices required the removal of the unapproved structure. In July 2008 similar Notices were also served on Ms Wignall. The proponent sought a review of the City's Notice with the State Administrative Tribunal (SAT). At the mediation session, the SAT representative determined that the Council should have an opportunity to review the previous decisions (refusal of Planning Application and the Notices to remove structure) following the submission of further plans from the proponent (see order in Elected Members Report / Information Bulletin).

DISCUSSION

4. During the mediation session of the review, conducted by the SAT, the proponent insisted that revised plans could be provided which substantially connects and incorporates the outbuilding to the proposed dwelling (thereby making the structure part of the dwelling and not an outbuilding). A copy of the submitted plans is included in the Elected Members Report / Information Bulletin. The original application considered by City staff was for the construction of an outbuilding; the application now before the SAT is for an outbuilding with a future dwelling in proximity to that outbuilding.
5. The possibility of reducing the size of the outbuilding to make it compliant with Council's policy was offered by City staff as a potential mediation outcome; this was not supported by the proponent.
6. The proposed dwelling would be a permitted land use (with materials yet to be agreed) and it would conform to the setbacks required for the Special Rural zone. Notwithstanding that an application for a building licence to construct the dwelling has not been lodged, the question arises as to whether or not the shed and garage/workshop structure would form part of the dwelling. The nexus, according to the proponent is a linkage provided by the covered walkway. If the resultant structures are a dwelling and an outbuilding, the existing structure would need to be assessed separately against the City of Albany's Outbuilding policy.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

Planning Scheme Consent

7. The SAT order requires Council to consider two aspects in regards to the building activity. The first is the size of the outbuilding and Council's preparedness to allow the structure to remain in-situ. Ms Wignall constructed the structure in April / May 2008 on land (Lot 9001) owned by Swan Point Estate Proprietors. Lot 9001 was subdivided and Lot 150 was transferred to her in September 2008. A Notice of Planning Scheme Consent Refusal was issued in January 2008 and no Building Licence application was submitted prior to the construction.
8. To retain the floorspace provided by the outbuilding, Ms Wignall is seeking Council approval (through the review process) to attach the structure to a future residence. The proposed connection between the future residence and the outbuilding is a nominal structure and it forms a covered walkway. The SAT has previously determined a similar application and concluded that a covered walkway did not constitute an extension to the dwelling.

Notices Requiring Removal of Unapproved Work

9. If Council was to support the issuing of a Notice of Planning Scheme Consent to allow the outbuilding to remain and (potentially) be attached to a future dwelling, the relevance of the two Notices would then need to be resolved, as it is unlikely that the SAT would support the Notices remaining in place. If Council does not support the application, the opportunity remains to pursue the demolition of the whole outbuilding, or reduce its size to a level where it is compliant with the City's policy.

PUBLIC CONSULTATION / ENGAGEMENT

10. No public consultation was required.

GOVERNMENT CONSULTATION

11. No government consultation was required.

STATUTORY IMPLICATIONS

12. The Land is zoned "Special Rural (No 6)" in the City's Town Planning Scheme No 3, which sets out the following objective: "*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.*"
13. The order issued by the SAT, pursuant to s31 (1) of the *State Administrative Tribunal Act 2004 (WA)*, invites the respondent (Council) to reconsider its decision. The relevant section of the Act states:
 - (1) *At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision maker to reconsider the decision.*
 - (2) *Upon being invited by the Tribunal to reconsider the reviewable decision, the decision maker may —*
 - (a) *affirm the decision;*
 - (b) *vary the decision; or*
 - (c) *set aside the decision and substitute its new decision.*
 - (3) *If the decision maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.*"

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

14. Section 401 (1) (c) of the *Local Government (Miscellaneous Provisions) Act 1960* states:
“(1) A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building –
(c) which, where permission of the local government is required for carrying it out, has been carried out without that permission;
and requiring him to pull down or so alter the building as to remove the cause of the objection and on being served with the notice the builder or owner shall comply with the requisition, unless where he has a right of appeal against the requisition, he exercises the right with due diligence, and the referees mentioned in Division 19 or the Minister, as the case may be, quash the requisition on appeal.”
15. Sections 214 (2) and (3) of the *Planning and Development Act 2005* states:
“214. Directions by responsible authority regarding unauthorised development
(2) If a development, or any part of a development, is undertaken in contravention of a planning scheme or an interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person undertaking that development to stop, and no recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements.
(3) If a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person who undertook the development –
(a) to remove, pull down, take up, or alter the development; and
(b) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.”

FINANCIAL IMPLICATIONS

16. The financial implications would be limited to legal expenses should the application proceed to a hearing and legal advice/representation is required.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

17. Not Applicable.

POLICY IMPLICATIONS

18. The original application was refused as the outbuilding does not comply with the floor space restrictions contained within the City's Outbuilding Policy. The maximum floor space permitted on a lot within a Special Rural zone is 180m², whereas the subject outbuilding is 300m² in area. The City's position is that an outbuilding up to 180m² in area is more than sufficient to accommodate domestic storage requirements for landowners within this zone. Larger structures, like the one constructed on lot 105, compromise the landscape values and amenity of the locality.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Council has the following options in relation to the proposal:
 - a. Affirm the previous decision and uphold the two Notices; or
 - b. Affirm the previous decision, modify the Planning and Development Act Notice to require a reduction in the size of the outbuilding and issue a building approval certificate (subject to certification from a structural engineer); or
 - c. Set aside the previous refusal, approve the house and oversize outbuilding, issue a building approval certificate (subject to certification from a structural engineer) and agree to cancel the two Notices.
20. The SAT determined, in the case of *Boyd and Town of Vincent in 2007 (WASAT 93)*, that by simply connecting a structure to a dwelling by a covered walkway, the resultant development should not be considered as an extension to the dwelling. This case affirmed an earlier decision of the SAT.
21. Should Council affirm the previous decision, the review process would proceed from the mediation stage to the more formal hearing of the matter. Council could set aside the previous refusal, but in doing so would create a precedent for the enforcement of future non complying developments.

SUMMARY CONCLUSION

22. The SAT has previously determined that:

“The simple addition of a ‘covered way’ linking the proposed development via a garage or carport to the existing residence some 17 metres away does not change the fact that the proposed development is still an outbuilding and should be assessed on that basis”.

It also goes on to state:

“that outbuildings are intended to include such activities as garages, workshops and toilets and that is precisely what the proposed development contemplates in the planning application”.

23. This proposal varies from the SAT case only to the extent that the structure is 8.0m from the dwelling. The 8.0m is a ‘straight line’ distance, with the actual distance of travel from the closest ‘habitable’ (games) room being approximately 18.0m.
24. The amended plan before the SAT does not demonstrate that the Shed and Garage/Workshop is substantially connected to, or forms part of the future dwelling on Lot 105. The unapproved structure is an outbuilding that fails to comply with Council’s Outbuilding Policy. City staff are concerned that the Notice of Planning Scheme Refusal was ignored and do not support the request to obtain a mediated (compromise) outcome. Compliance with the two Notices, requiring the removal of the unauthorised structure, should be pursued.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

ITEM NUMBER – 11.1.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

ITEM NUMBER: 11.1.2 - ALTERNATE MOTION BY COUNCILLOR BUEGGE

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR BUEGGE

SECONDED COUNCILLOR WISEMAN

THAT Council resolves to advise the State Administrative Tribunal that Council is prepared to WITHDRAW the Notices issued under Section 401(1)(c) of the *Local Government (Miscellaneous Provisions) Act 1960* and Sections 214(2) and (3) of the *Planning and Development Act 2005* requiring the removal of the unauthorised structure (outbuilding) at Lot 150 (previously Lot 9001) Henty Road, Kalgan.

AND

THAT Council commence proceedings under Section 374 of the *Local Government (Miscellaneous Provisions) Act 1960* against the owners of Lot 150 (previously Lot 9001) Henty Road, Kalgan for laying out for building without first submitting to the local government appropriate plans and specifications for the structure and the local government approving the issue of a building licence.

MOTION LOST 4-6

Record of Vote:

For: Councillors: Buegge, Wiseman, Kidman and Williams.

Against: Councillors: Paver, Stanton, Walker, Wolfe, Bostock, and Price.

Councillors Reason:

Residents in the locality have been canvassed and there is general acceptance that the size of the shed is not visually offensive or excessive for the lot in question and the adjoining residents would prefer that larger sheds be utilised to store equipment and personal effects, in preference to those items being strewn across the properties. Commencing proceedings under Section 374 will provide a financial penalty to the owners for commencing the work without gaining the required Building Licence.

OFFICERS REPORT

Author: Executive Director Development Services (R Fenn)

Page amended on the 2nd December 2008

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

STATUTORY IMPLICATIONS

The applicant has sought and failed to gain a Planning Scheme Consent to build this structure on the lot. The outbuilding was then constructed without a Building Licence being applied for or issued.

City of Albany Staff are delegated to commence legal action against persons who have contravened the Planning or Building legislation and this development is the most blatant breach of the legislation recently encountered by Staff.

Section 374 of the *Local Government (Miscellaneous Provisions) Act 1960* prohibits a person from commencing the process of constructing a structure on their land until he/she has submitted plans and obtained the approval of the local government. Failure to gain that approval constitutes an offence and a maximum penalty of \$50,000 is available and a daily penalty up to \$5,000 can be applied.

Should Council (rather than the qualified Building Surveying Staff) wish to “approve” this structure, Section 374AAC of the *Local Government (Miscellaneous Provisions) Act 1960* requires that Council “*must not make a decision unless it has obtained advice from a person who holds a certificate of qualification under the regulations*”.

POLICY IMPLICATIONS:

No Change.

FINANCIAL IMPLICATIONS:

Council’s solicitors have been engaged to defend the decision to issue the Notices and approximately \$5,000 in costs has already been incurred.

If action is to be taken under Section 374 of the Act, the matter will need to be listed in the District Court and solicitors engaged to present the City’s case to a local magistrate. Whilst substantial fines are available under the Act, District Courts have historically imposed nominal fines and agreed to the awarding of court costs. The solicitor’s costs would remain with the City.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

No Change.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

There is a discretionary obligation for Council to enforce the planning and building legislation. If Council has knowledge that a structure is built without the required approvals, a percentage of any liability claim would be borne by the City of Albany if that building failed in the future (blown from site during storm or collapses due to poor workmanship).

Failure to act on a blatant breach of the building and planning legislation also sends a clear message to the general populous that no penalty will be incurred if buildings are constructed without approvals first being obtained. Inspection of buildings post construction will not allow staff to identify any design deficiencies, or inadequacies in the construction of the footings or slabs.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

The motion submitted provides a punitive action against the landowner, if the case is proven and a magistrate decides to impose a fine (the level of the fine is unlikely to exceed the value of the structure and may be in the order of a few hundred dollars). This outcome still fails to address the lack of approvals for the structure. Council may resolve to issue a retrospective planning and building approval for the outbuilding. An independent report from a qualified Building Surveyor would be required for any retrospective building licence approval. The City's Building Surveyors are not delegated to issue a retrospective building licence for a structure which contravenes the planning legislation or Council policy.

COMMENT:

The attention of staff was drawn to this building by other residents in the locality who sought to have larger sheds placed on their properties, but were denied the right to build those structures due to their size exceeding the limits imposed by Council's policy. Questions were raised by those residents why Council allowed this shed to be built.

It is difficult to understand how the landowner can defend the decision to build the outbuilding (or proceed to a review) when an Application for Planning Consent was lodged and that application was refused. Some justification to retain the shed could be made if the structure was built to a size consistent with the City's policy; it was built to the original size and it is Staff's contention that the plans submitted for Council's consideration are designed to simply mask that indiscretion. To not pursue the enforcement of the Notices would send the wrong message to landowners and make any future enforcement action impotent.

ITEM NUMBER – 11.1.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR PAVER

THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure.

MOTION CARRIED 7-3

11.2 HEALTH, BUILDING & RANGERS

Nil.

DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

ITEM NUMBER: 11.3.1

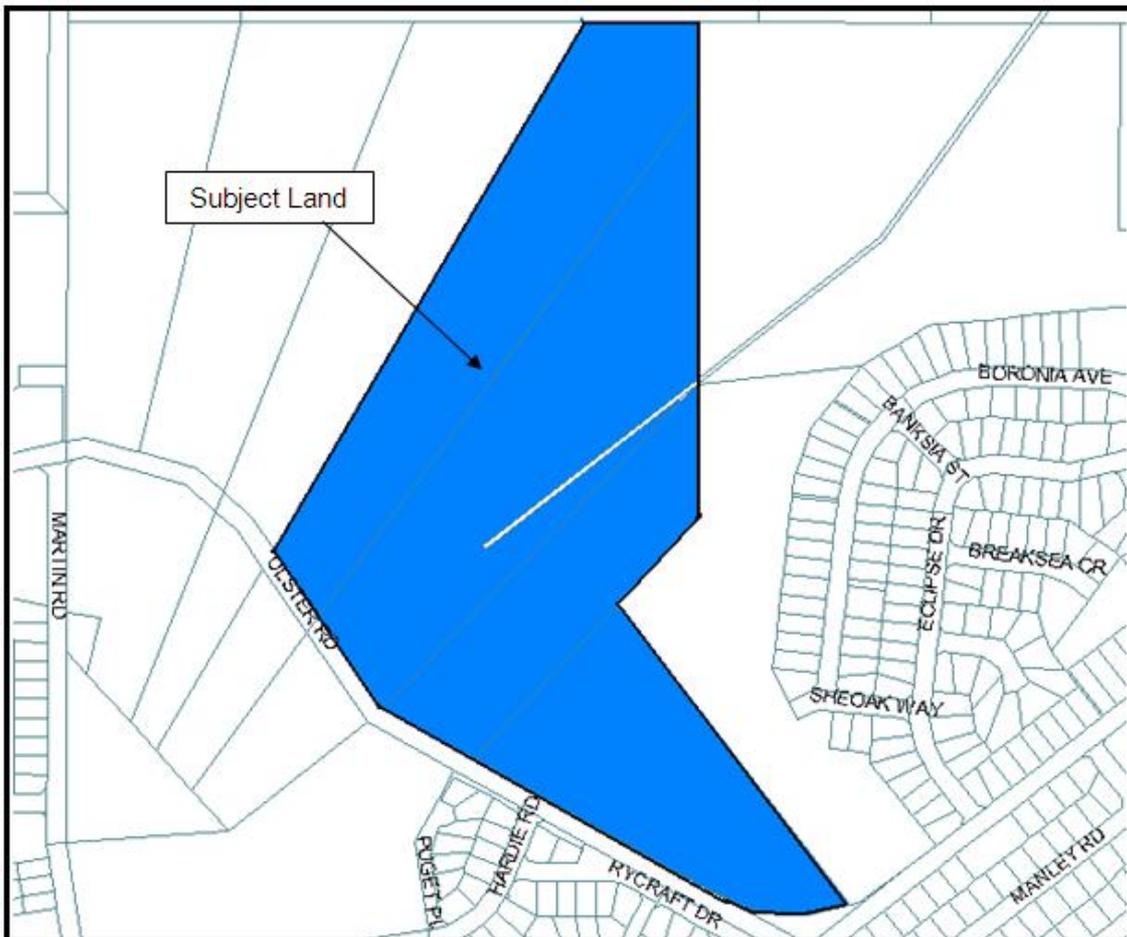
ITEM NAME: Consideration of Scheme Amendment Request 235 – 331 (Lots 33 – 36) Ulster Road, Collingwood Heights

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: SAR 128 (Yakamia Ward)
Summary of Key Points	: To consider a scheme amendment request proposal to rezone Lots 33 – 36 Ulster Road Collingwood Heights from “Rural” to “Residential Development”
Land Description	: 235 – 331 (Lots 33 – 36) Ulster Road, Collingwood Heights
Proponent	: Harley Survey Group
Owner	: B & G Myers and J & G Manley
Reporting Officer(s)	: Senior Planning Officer (J van der Mescht) and Planning Officer (P Shephard)
Disclosure of Interest	: Nil
Previous Reference	: OCM 19/03/08 – Item 11.3.1
Bulletin Attachment(s)	: Scheme Amendment Request

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued.

BACKGROUND

1. Council has received a Scheme Amendment Request (SAR) to rezone Lots 33 – 36 Ulster Road, Collingwood Heights from the present “Rural” zone to “Residential Development” zone to facilitate the future structure planning and subdivision/development of the land. A copy of the SAR document is included in the Elected Members Report / Information Bulletin.
2. Council is required to determine its strategic support or not for the potential rezoning of the land.

DISCUSSION

3. A proposal to provide for the unsewered subdivision of one lot (Lot 34) was considered at the March 2008 meeting and Council resolved as follows:

“That Council defers consideration of this item to allow further discussion to take place between the proponent and staff on a more appropriate strategic framework for the future development of Part lot 34 Ulster Road and surrounding lots, with a view to considering an amended request at an upcoming Council Meeting.”

4. This SAR proposal is a modification to the original proposal submitted in January 2008. The modifications include:
 - The inclusion of Lots 33, 35 & 36.
 - The pursuit of deep sewer connection to the land.
 - The preclusion of all flood plain and flood fringe land within the Yakamia catchment.
 - The inclusion of the land within the residential development zone to enable the future structure planning of the area.
5. The subject land is approximately 26ha in area and adjoins Ulster Road. The properties gain vehicular access from Ulster Road and dwellings and outbuildings have been constructed along the front “higher” portions of the properties. Local drainage improvements including dams and water features have been developed to improve the use of some of the properties.
6. The site slopes gently downwards from Ulster Road (between 10.0m – 2.0m AHD) towards Yakamia Creek. The properties are predominantly cleared apart from some isolated areas of remnant vegetation. The flat, low lying areas in the majority of the northern parts of the property form part of the Yakamia Floodplain area which is an important waterway and part of the catchment drainage system of Yakamia Creek.
7. The surrounding uses include mainly small-scale limited rural pursuits to the north and residential uses in Collingwood Heights to the east. Uses to the south (opposite on Ulster Road) include residential (Spencer Park) and St Joseph’s School.
8. Any land included for residential development will form the boundary to residential uses and the flood prone areas in this locality.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued.

9. The WA Planning Commission has prepared the Lower Great Southern Strategy (LGSS) to guide land use planning decisions within the strategy area over the next 20 -30 years. Unfortunately, the LGSS did not deliver on the City's and other affected Local Government's request to commit to the preparation of a formal Region Scheme with the ability to fund the purchase and creation of regional open space areas such as the Yakamia Creek floodway. This necessitates the present approach as outlined in the amendment to secure the flood prone land through the amendment, structure plan and subdivision processes.
10. The proposal is considered to provide a positive planning outcome in that the most capable and suitable land will be secured for residential purposes and the flood prone areas will become publicly owned and controlled to protect the integrity of Yakamia Creek.
11. The broad objective for the proposed "Residential Development" zone is to facilitate the orderly and equitable development of the land for residential purposes in areas where the existing subdivisional pattern, multiple ownership or other factors make this objective unobtainable by the normal methods of subdivision and development.
12. The scheme requires that all land included within a "Development" zone is subject to a structure plan being prepared (by the proponents for adoption by Council and the WA Planning Commission) prior to the development or subdivision of the land. A future structure plan must address certain minimum matters including:
 - Existing road systems and proposed roads (locations, widths etc.)
 - Topographic conditions
 - Impacts on adjoining/nearby land holdings
 - The need for additional civic/public facilities and details/analysis on any proposed shopping, civic or public facilities to be provided
 - Distribution of recreation and public open space
 - Proposed population and housing densities
 - Physical constraints of the land particularly regarding the need for deep sewer connection and main drainage.

PUBLIC CONSULTATION/ENGAGEMENT

13. Not applicable.

GOVERNMENT CONSULTATION

14. The SAR was referred to Government agencies including the Department of Environment and Conservation, Department of Planning and Infrastructure, Department of Water and Water Corporation for assessment and comment.
15. The matters raised on the earlier proposal by the Department of Planning and Infrastructure, Department of Water and Water Corporation have been addressed by the proposal before Council. The agreement to sewer a future development and protect the flood area by ceding to the Crown negated the earlier concerns.

STATUTORY IMPLICATIONS

16. Not applicable.

FINANCIAL IMPLICATIONS

17. Not applicable.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

18. This proposal is consistent with the long term planning framework shown in the Albany Local Planning Strategy.

POLICY IMPLICATIONS

19. The City's decision on the SAR proposal must be consistent with the outcomes of the Albany Local Planning Strategy (ALPS), the principal land use planning strategy for the City.
20. The subject area is located at the boundary of the area shown as the interface between Residential uses and land required for Regional Reserve purposes within the Albany Local Planning Strategy (ALPS) adopted by Council in August 2007. Any land zoned for residential development will form the final boundary to residential uses and the flood prone areas in this locality, consistent with the strategy mapping and objectives of ALPS.
21. Council is also required to have regard to any WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) that apply to the scheme amendment. (SPP) No's 1 'State Planning Framework Policy' and 3 'Urban Growth and Settlement' establish the general principles for planning in Western Australia. The primary aim of these SPP's being to provide for the sustainable use and development of land by reducing energy consumption, consolidating development where there are existing services, supplying a range of suitable land for a variety of housing and to coordinate new development with the efficient, economic and timely provision of infrastructure and services. This application is required to address these policies and strategies.
22. The WA Planning Commission prepared the Lower Great Southern Strategy (LGSS) to guide land use planning decisions within the region. By supporting this proposal the community may be able to secure the flood affected land as public open space, consistent with the actions identified in the LGSS.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued.

26. If Council was to reject the request, the proponents have the following options, including:
- To accept the initial advice and take no further action to rezone the land;
 - To lodge a formal scheme amendment and request consideration by Council; or
 - Revise their proposal and submit an alternate development option via another SAR.

SUMMARY CONCLUSION

27. The long term conversion of the land on the northern side of Ulster Road from rural and semi rural land uses is a desirable outcome. Detailed planning will need to be undertaken to define the limits of development, suitable road connections to Ulster Road, etc and the proposed zoning facilitates that objective.
28. The proposal contained in the SAR is supported by City staff as it is consistent with the strategic land use planning objectives set out in ALPS. The proponent shall be advised of those planning matters that will need to be addressed in greater detail within the formal scheme amendment proposal.

ITEM NUMBER: 11.3.1 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR BUEGGE

SECONDED COUNCILLOR PRICE

THAT Council ADVISE the proponents:

- i) That it is prepared to entertain the submission of a formal scheme amendment to rezone 235 – 331 (Lots 33 – 36) Ulster Road, Collingwood Heights to the “Residential Development” zone under Town Planning Scheme No. 3.

AND

- ii) That the scheme amendment shall address the following matters to the City’s satisfaction:
- Land capability and geotechnical assessment to support and prove the capability to sustain housing and road construction.
 - Land filling and drainage proposals.
 - The provision of deep sewer to all the land to be developed for residential purposes.
 - The preclusion of all land presently contained within the Yakamia flood plain and flood fringe areas.
 - Cost sharing arrangements.
 - Any proposed development controls.
 - Preparation of a suitable constraints/opportunity map or structure plan to guide:
 - a) The future urban design and densities to be promoted,
 - b) Commitments from the landowners to the ceding of the flood affected areas to public ownership,
 - c) Impacts on and from surrounding land uses, and
 - d) Fire protection requirements.

MOTION CARRIED 9-1

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 11.3.2

ITEM NAME: Scheme Amendment Request – (Lot 123) Bay View Drive and the former Albany Street Road Reserve, Little Grove

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: SAR 127 (Vancouver Ward)
Summary of Key Points	: To consider a revised scheme amendment request proposal to rezone Lot 123 Bayview Drive and Lot 7940 Albany Street, Little Grove to “Residential” and remove the “Residential” zone from the Albany Street road reserve
Land Description	: Lot 123 Bayview Drive and Lot 7940 Albany Street, Little Grove
Proponent	: Harley Survey Group
Owner	: RC Lindsay
Reporting Officer(s)	: Senior Planning Officer (J Van Der Mescht) & Planning Officer (P Shephard)
Disclosure of Interest	: Nil
Previous Reference	: OCM 17/06/08 – Item 11.3.1
Bulletin Attachment(s)	: Scheme Amendment Request

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued.

BACKGROUND

1. Council has received a Scheme Amendment Request (SAR) to consider the rezoning of:
 - A portion of Lot 123 (south of Albany Street) from 'No Zone' to the 'Residential' zone; and
 - Lot 7940 Albany Street road reserve from the 'Residential' zone to the 'No Zone'.
2. Council is required to determine its strategic support or not for the potential rezoning of the land parcels (A copy of the SAR document is attached).

DISCUSSION

3. A proposal to rezone Lot 7940 from "Residential" and all of Lot 123 to "Residential" and was considered at the June 2008 meeting where Council resolved as follows:

"That Council advise Harley Survey Group that it is unlikely to support a request to initiate and amendment for Lot 123 Bayview Drive to rezoned the lot "Residential R20" from its current 'Reservation for Parks and Recreation Purposes" and "No Zone" on the basis that:

- a) *The portion of the Lot marked A on the Locality Plan should not be developed for residential purposes due to:*
 - i) *The impact of the water main for Little Grove that has been constructed on the property and the impact of the earthworks on the sewer mains and inspection man-hole at the front property boundary for driveway access;*
 - ii) *The gradient of the land being excessive and any development would require extensive earthworks to accommodate sealed driveways and building curtilages;*
 - iii) *The land is well vegetated and that vegetation acts as a wildlife corridor and visual element in the landscape; and*
 - iv) *Any development on the lot would be visually exposed within the landscape and be inconsistent with the objectives being promoted in the Little Grove Conceptual Structure Plan.*
- b) *The portion of the lot marked B on the Locality Plan is unsuitable for residential development due to the stormwater drainage systems that exist on the subject land and affect adjoining properties, the land is likely to contain acid sulphate soils, provision will need to be made for access through the land to the foreshore beyond and to provide access for emergency vehicles and to foreshore walkways and considerable fill will be required on the land to make the site developable. The land also contains significant and rare native wetland vegetation (Taxadria juniperina)."*

4. This request involves a modification to the original proposal considered in June 2008 and includes:
 - The deletion of all the land north of Bayview Drive.
 - Inclusion of Pt Lot 123 (south of Albany Street) for residential zoning (referred to as the subject land in this report).
 - Inclusion of Lot 7940 Albany Street road reserve for no zone (referred to as the road reserve in this report).

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued.

5. The subject land is approximately 1,630m² in area and adjoins Albany Street to the north, Jeffcott Street to the south and residential land to the west and east. The subject land forms part of the local ridge system in Little Grove and is vegetated with native peppermint and related species although the understorey is heavily infested with weeds as outlined in the Environmental Assessment Report contained within the SAR document.
6. The road reserve is approximately 1,824m² in area and provides access to existing residential properties to the south. The road reserve has been developed as a local road and retains some remnant vegetation.
7. The proponent has provided the following responses to the reasons given by Council for rejecting an earlier proposal:
 - After consulted within the Water Corporation has been advised that the existing water main would require modification but does not affect the ability to develop the subject land.
 - The gradients of the subject land are the same as surrounding lots that have successfully developed for housing purposes. Slopes can be addressed through the application of the City's adopted Sloping Land Policy (as a condition of subdivision or development) to control building height and form and restrict excessive filling or cutting of the land.
 - The biodiversity and ecosystem values have been diminished and that more suitable and appropriate corridors of native vegetation are available west of the subject land that possess better representations and higher quality vegetation species.
 - The land is not affected by the Little Grove Conceptual Structure Plan as it is outside of the subject area (it finishes south of Jeffcott Street).
8. The rezoning of the land is supported by staff subject to conditions that address the concerns expressed by Council in June 2008. The process of creating zones and reservations determines the highest and best use for the particular land and provides for its use consistent with the objectives of the zone/reservation.
9. The "Residential" zone should therefore be removed from the road reserve to reflect its present and future use as a road, not for any residential uses. It is unfortunate that a previous Council disposed of the road reserve without requiring that the zoning be modified to reflect its future use.
10. The zoning of the subject land to "Residential" simply provides consistency with the surrounding uses. The land has been shown to be capable of development for residential purposes. The retention of some stands of the better quality remnant vegetation on the site can also be achieved consistent with surrounding properties whilst allowing development.

PUBLIC CONSULTATION/ENGAGEMENT

11. Nil.

GOVERNMENT CONSULTATION

12. The SAR was referred to State Government agencies including the Department of Environment and Conservation, Department of Planning and Infrastructure and Water Corporation for assessment and comment.
13. The agencies supported the previous proposal, subject to certain requirements being met at the time of subdivision and/or development.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued.

STATUTORY IMPLICATIONS

14. Not applicable.

FINANCIAL IMPLICATIONS

15. Not applicable.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

16. This proposal is consistent with the long term planning framework shown in the Albany Local Planning Strategy.

POLICY IMPLICATIONS

17. The City's decision on the SAR proposal must be consistent with the outcomes of the draft Albany Local Planning Strategy (ALPS), the principal land use planning strategy for the City.

18. The locality is shown as Existing Urban purposes within the draft Albany Local Planning Strategy (ALPS) adopted by Council in August 2007.

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

20. The WA Planning Commission prepared the Lower Great Southern Strategy (LGSS) to guide land use planning decisions within the region. This proposal is consistent with the actions identified in the LGSS.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. Council has the following options in relation to this item, which are:

- To support the proposal to change the zoning of lots without modifications;
- To support the proposal to change the zoning of lots with modifications; or
- To reject the proposal to change the zoning of lots.

22. The SAR process is not a statutory process covered by planning legislation. It is used by the City (and other adjoining Local Governments in the region) as a precursor to the formal scheme amendment process. It is designed to provide a proponent with a simple and informal assessment of a proposal, to gauge the views and comments of the City and other Government agencies on the merits and to provide feedback on likely support for a future request to initiate the amendment.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

23. Should Council support the proposal, it will progress to a formal scheme amendment; the amendment undergoes a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. All scheme amendments require the endorsement of the WA Planning Commission and approval from the Minister for Planning.
24. If Council was to reject the request, the proponents have the following options, including:
- To accept the initial advice and take no further action to rezone the land;
 - To lodge a formal scheme amendment and request consideration by Council; or
 - Revise their proposal and submit an alternate development option via another SAR.

SUMMARY CONCLUSION

25. There would appear to be no strategic impediment to this land being rezoned. The issues discussed and the constraints identified are “local” in nature.
26. The proposal contained in the SAR is supported by staff as it is consistent with the strategic land use planning objectives set out in ALPS. The proponent shall be advised of those planning matters that will need to be addressed in greater detail within the formal scheme amendment proposal.

ITEM NUMBER – 11.3.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR PAVER

THAT Council ADVISE the proponents:

- i) That it is prepared to entertain the submission of a formal scheme amendment to rezone Pt Lot 123 Bayview Drive from the “No Zone” to the “Residential Zone” and Lot 7940 Albany Street from the “Residential Zone” to the “No Zone” under Town Planning Scheme No. 3.

AND

- ii) That the scheme amendment shall address the following matters to the City’s satisfaction:
- Land capability and geotechnical assessment to support and prove the capability to sustain housing and road construction.
 - Drainage proposals.
 - Restriction of future housing away from the ridge to reduce visual impacts.
 - Inclusion of the land within the City’s adopted Sloping Land Policy to control building height and form with a preference for pole-style housing.
 - The provision of deep sewer to the land.
 - The identification and protection of the better quality native vegetation areas on the site.
 - The acknowledgement of the required infrastructure modifications including any easements/reserves necessary.
 - Any proposed development controls.
 - Fire protection requirements.

MOTION CARRIED 10-0

DEVELOPMENT SERVICES REPORTS

Councillor Price declared a Proximity Interest in Item 11.3.3 and left the Chamber at 9.06pm. The nature of interest being: Councillor owns property at 70 Spencer St, Albany. View of Councillor’s property could be affected by this development.

Councillor Wiseman declared an Impartiality Interest in Item 11.3.3 and left the Chamber at 9.06pm. The nature of interest being: Councillor owns property close to the subject site.

ITEM NUMBER: 11.3.3

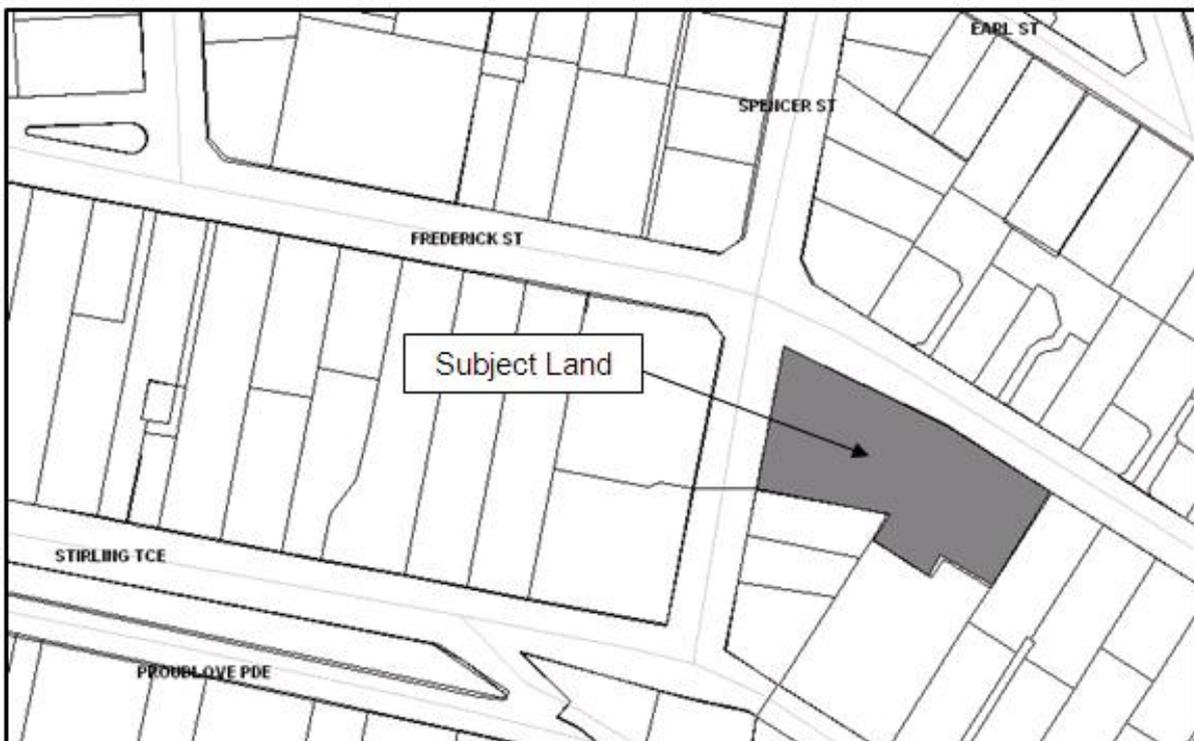
ITEM NAME: Final Approval of Scheme Amendment – 36 – 50 (Lot 14) Spencer Street, Albany

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: AMD 167, A150786 (Frederickstown Ward)
Summary of Key Points	: To consider the submissions received and determine whether final approval should be granted to the amendment
Land Description	: 36 – 50 (Lot 14) Spencer Street, Albany
Proponent	: Harley Survey Group
Owner	: Activ Foundation Inc.
Reporting Officer(s)	: Senior Planning Officer (J Van Der Mescht) and Planning Officer (P Shephard)
Disclosure of Interest	: Nil
Previous Reference	: OCM 19/02/08 – Item 11.3.2 OCM 17/06/08 – Item 11.3.4
Bulletin Attachment(s)	: Copy of Submissions

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued.

BACKGROUND

1. Council initiated Amendment 167 to Town Planning Scheme No. 1A in June 2008.
2. The proposal seeks to rezone the Spencer Street land from “Clubs and Institutions” to “Residential” and apply a density coding of R60. The zoning will enable the future development of the site for mainly residential purposes with ‘mixed use’ or shop/office type developments permitted within the ground-storey areas (to reflect the existing Activ and adjoining Thrift Shops).
3. Council is required to consider and determine the submissions received from the 42 day public consultation period.

DISCUSSION

4. The scheme amendment was generally supported by the respondents. Several issues were raised within the submissions as follows:
 - Ensuring compliance with the Central Albany Urban Development Policy;
 - Control of building heights and floor levels on new developments;
 - Views from existing housing along Frederick Street;
 - Protection of heritage values in the area generally and on the adjoining Cheyne’s cottage site (Lot 1);
 - Protection of the existing public access through the right of carriageway over the land to Lot 1; and
 - Traffic access/egress to the site and parking.
5. The recommended actions in the Schedule of Submissions would introduce minor modifications to the amendment document that was advertised. The modifications will improve the proposed development controls and encourage an increase in residential densities around the CBD, whilst achieving a high quality development outcome that complements the unique built and cultural heritage values in Albany.
6. The amendment document includes ‘Appendix D: Development Concept for Illustrative Purposes’. This Appendix introduces concept plans to generally show how the site may be developed in the future. Acknowledging the concerns expressed in the submissions in relation to building heights, it should be reinforced that these plans are not statutory and are incorporated into the scheme for illustration only. Council may choose to have the plans removed from the document, if considered appropriate.

PUBLIC CONSULTATION/ENGAGEMENT

7. The scheme amendment was advertised for 42 days in accordance with the requirements of the *Town Planning Regulations 1967* from 28 August 2008 to 9 October 2008 by placement of a sign on-site, direct referral to adjoining/nearby landowners and relevant State Government agencies and by an advertisement in the local newspaper.
8. A total of nine (9) written submissions were received. The submissions are summarised and discussed, with a draft recommendation for each submission in the following Schedule of Submissions.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued.

GOVERNMENT CONSULTATION

9. The scheme amendment documents were initially referred to the Environmental Protection Authority (EPA) as required by the *Planning and Development Act 2005* for environmental assessment. The EPA has advised that the amendment has been considered and does not require a more detailed and formal assessment under the Environmental Protection Act. The EPA has provided no additional advice or recommendations as outlined in the Schedule of Submissions.
10. The amendment was also referred to the Department of Planning, Alinta Gas, Telstra, Water Corporation, Western Power, Heritage Council of WA and the Police Department for assessment and comment. Responses were received from WestNet Energy, Water Corporation and Heritage Council of WA and are summarised in the Schedule of Submissions.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

12. Scheme amendment processing fees of \$2,500 have been received as set out in the City's adopted Fees and Charges.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

13. This proposal is consistent with the strategic planning for the locality as detailed in the Albany Local Planning Strategy and the Lower Great Southern Strategy. The strategic issues were covered in greater detail when Council assessed the Scheme Amendment Request and initiated the Scheme amendment.

POLICY IMPLICATIONS

14. The City's decision on the scheme amendment must be consistent with the Albany Local Planning Strategy (ALPS), the principal land use planning strategy for the City.
15. The subject land adjoins the Albany Central Business District (CBD). The proposal to redevelop the site for mixed uses is consistent with the commerce and settlement strategy objectives of ALPS.
16. Council is also required to have regard to any WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) that apply to the scheme amendment. (SPP) No's 1 'State Planning Framework Policy' and 3 'Urban Growth and Settlement' establish the general principles for planning in Western Australia. The primary aim of these SPP's being to provide for the sustainable use and development of land by reducing energy consumption, consolidating development where there are existing services, supplying a range of suitable land for a variety of housing and to coordinate new development with the efficient, economic and timely provision of infrastructure and services.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued.

17. The WAPC has prepared the Lower Great Southern Strategy to guide land use planning decisions within the region. The scheme amendment is consistent with the actions identified in the Lower Great Southern Strategy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. Council has the following options in relation to this item, which are:
- To seek final approval to the scheme amendment without modifications;
 - To seek final approval to the scheme amendment with modifications; or
 - To recommend that final approval not be granted to the scheme amendment.
19. Council's decision on the scheme amendment is a recommendation to the WAPC and Minister for Planning. The Minister for Planning makes the final decision on the scheme amendment.

SUMMARY CONCLUSION

20. The scheme amendment is supported by staff subject to minor modifications being made to address the matters raised within the submissions and to provide an appropriate level of development control. If adopted, the modified amendment will provide for an increase in residential densities around the CBD, whilst achieving a high quality development outcome that complements the unique built and cultural heritage values in Albany.

ITEM NUMBER: 11.3.3 - OFFICER RECOMMENDATION – FINAL ADOPTION

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR KIDMAN**

- i) THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* resolves to **ADOPT WITH MODIFICATIONS** Amendment No. 167 to Town Planning Scheme No. 1A to rezone Lot 14 Spencer Street, Albany from the “Clubs and Institutions” zone to “Residential” zone with a density code of R60.

AND

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

MOTION LOST 2-6

ITEM NUMBER: 11.3.3 – FORESHADOWED MOTION BY COUNCILLOR BOSTOCK

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVE COUNCILLOR BOSTOCK
SECONDED COUNCILLOR WALKER**

THAT Report Item 11.3.3 is laid on the table.

MOTION CARRIED 8-0

Reason:

To consider rezoning, in particular “density’ further.

Councillors Price and Wiseman returned to the Chamber at 9.08pm.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued.

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS				
No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Council Recommendation
1	Environmental Protection Authority PO Box K822 PERTH WA 6842	The Environmental Protection Authority (EPA) has determined that the scheme amendment is not required to be formally assessed and no advice or recommendations is required.	Nil.	The submission is noted.
2	Telstra Corporation Ltd Forecasting & Area Planning Locked Bag 2525 PERTH WA 6001	No negative comments.	Nil.	The submission is noted.
3	Water Corporation (Great Southern Regional Office) 215 Lower Stirling Terrace ALBANY WA 6330	No objection to the amendment. Advises the proponents may be required to upgrade the existing reticulated water and wastewater (deep sewer) services to cater for the development and this will be assessed by the Corporation at the building application stage.	Nil.	The submission is noted.
4	J Davidson 30 Frederick Street ALBANY WA 6330 (Adjoining Landowner)	Comment on the heritage of their dwelling and area and the importance of retaining the uniqueness of Albany. Does not support the proposed R60 rezoning until it has been proven that the density coding and development can achieve the requirements of the City's Central Area Urban Development Policy to protect the visual amenity of this area.	The matters raised within the submission have been addressed within the Special Sites conditions. These include the requirement for a Development Concept Plan to be prepared in accordance with the City's Central Area Urban Development Policy to show how the development complies with the scheme and policy.	The submission is upheld in part and Condition 2. of the Special Sites Schedule shall include an additional dot point to state: <ul style="list-style-type: none"> Building heights shall be determined from the present floor levels of the existing buildings on-site to reduce their overall height impact

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS			
No.	Name/Address of Submitter	Summary of Submission	Council Recommendation
		<p>Comments on aspects of the Central Albany Urban Design Policy that apply to the development including:</p> <ul style="list-style-type: none"> • The housing should be the same height as existing dwellings on Frederick Street and maintain views around them to the harbour etc. • Comments on the height differences across the site and requests that all housing be set at the lower level along Spencer Street and does not support any changes to the maximum heights or excess fill under dwellings to increase height and the floor levels should be determined from the present floor levels of the existing buildings on site. • Comments on the importance of integrating landscaping (including the heritage Oak tree on the adjoining lot) within the development. • Parking should be provided on-site and be ample for residents, visitors and emergency vehicles. • Existing views should be preserved including through to the Oak tree and old Post Office building. • Prefers that all traffic use one-way 	<p>The proposed R60 density is considered appropriate for the site. The actual density of the completed development will indeed be subject to the design complying with the controls proposed in the final Special Sites Schedule and any City Policy that also applies to the proposal. The City intends for these controls and policies to retain some views through parts of the site from Frederick Street to the Oak tree, harbour and Old Post Office building etc.</p> <p>Staff agree that future building heights should be determined with reference to the existing buildings floor levels.</p> <p>The amendment limits access/egress to one-way entering the site off Frederick Street and exiting the site onto Spencer Street.</p> <p>The comments should be reinforced by minor modifications to the proposed controls in the Special Sites Schedule.</p>

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS			
No.	Name/Address Submitter	Summary of Submission	Officer Comment
5	A Anderson 30A Frederick Street ALBANY WA 6330 (Adjoining Landowner)	<p>access/egress off Spencer Street.</p> <p>Not against the proposed development. Have lived in the area for many years (29) and have renovated several properties in the vicinity of the application, including successful tourist accommodation premises 'Oakview Cottage' which is named after old oak tree (in front of property).</p> <p>Comments on aspects of the Central Albany Urban Design Policy that apply to the development including:</p> <ul style="list-style-type: none"> • The R code density should be subject to the design complying with the Policy guidelines. • Prefers that all traffic use Spencer Street, however may support one-way traffic from Frederick (entry) through to Spencer (exit) Streets. Would support one-way traffic movements off Frederick Street. • Does not support any changes to the maximum heights or excess fill under dwellings to increase height and the floor levels should be determined from the present floor levels of the existing buildings on site. 	<p>See comments in submissions 4 and 6 also.</p> <p>Whilst the oak tree mentioned within the submissions is not within the subject land, it is attached to Cheyne's cottage which has very significant cultural heritage values within Albany and the protection and enhancement of this place needs to be considered as part of the development of the area.</p> <p>Staff supports the access/egress from the site being controlled to one-way entering the site off Frederick Street and exiting the site onto Spencer Street.</p> <p>The comments should be reinforced by minor modifications to the proposed controls in the Special Sites Schedule.</p> <p>See additional comments in Heritage Council of WA submission below.</p>
			<p>The submission is upheld in part and Condition 2. of the Special Sites Schedule shall include an additional dot point to state:</p> <ul style="list-style-type: none"> • Protection and enhancement of the adjoining Cheyne's cottage heritage place, including the vista of the Oak tree from Frederick Street.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS			
No.	Name/Address of Submitter	Summary of Submission	Officer Comment
6	Heritage Council of WA 108 Adelaide Terrace EAST PERTH WA 6892	The scheme amendment does not affect a registered place and they have no objection to the amendment proceeding.	See comments in submission 5 above. The proposal was discussed on-site during a recent visit by the Regional Heritage Adviser. As stated above, the adjoining property to the south of the subject site contains Cheyne's cottage and oak tree which whilst not registered are considered to have significant local and State heritage significance. Part of the history includes that this is the place where Dr. Alexander Collie died (who was an early European explorer around Albany and Colonial Surgeon at the Swan River Colony from 1833 to 1835). The Regional Heritage Adviser indicated that the place is to be nominated for inclusion onto the State Register of Heritage Places to enable the place to be protected and enhanced through registration and preparation of a Conservation Plan etc. Staff considers that the nomination will be successful and the development of Lot 14 should be prefaced as though this
			Council Recommendation
			The submission is noted.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS				
No.	Name/Address of Submitter	Summary of Submission	Officer Comment	Council Recommendation
7	WestNet Energy 12-14 The Esplanade PERTH WA 6000	The proposal affects distribution pipelines and the applicant should contact 'Dial Before You Dig' before commencing any works.	registration was complete. Nil.	The submission is noted.
8	C Dixon 32 Spencer Street ALBANY WA 6330 (Adjoining Landowner)	Requests that the development ensure that the present public access available to Cheyne's Cottage heritage place through the present right of carriageway over Lot 14 is protected and included within any proposed development. Comments that all development should be respect the heritage values of adjoining sites and the art deco facade should be retained.	See comments in submissions 4, 5 and 6. There is no proposal for the right of carriageway to be extinguished within the scheme amendment document. The comments should be reinforced by minor modifications to the proposed controls in the Special Sites Schedule.	The submission is upheld and Condition 2. of the Special Sites Schedule shall include an additional dot point to state: <ul style="list-style-type: none"> Provides for public use and access of the existing right of carriageway over Lot 14 through to Lot 1.
9	G & L Checketts 34 Frederick Street ALBANY WA 6330 (Adjoining Landowner)	Comment on the heritage of their dwelling and the importance of retaining the built heritage values around Albany. Comments on aspects of the Central Albany Urban Design Policy that apply to the development including: <ul style="list-style-type: none"> Prefers that all traffic use Spencer Street. Would not support any changes to the maximum heights or excess fill under dwellings etc. Floor levels 	See comments in submissions 4, 5 and 6.	The submission is noted.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

CITY OF ALBANY TOWN PLANNING SCHEME No. 1A AMENDMENT No. 167 SCHEDULE OF SUBMISSIONS			
No.	Name/Address Submitter	Summary of Submission	Officer Comment Council Recommendation
		should be determined from the present floor levels of the existing buildings on site. <ul style="list-style-type: none"> • Parking should be provided on-site. 	

DEVELOPMENT SERVICES REPORTS

RESERVES PLANNING

Nil.

DEVELOPMENT SERVICES REPORTS

11.5 EMERGENCY MANAGEMENT

ITEM NUMBER: 11.5.1

ITEM NAME: Appointment of Bush Fire Control Officers, Fire Weather Officers and Clover Burning Officers

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	:	All Wards
Summary of Key Points	:	Council is required to appoint Fire Control Officers for its District and Council may appoint Fire Weather Officers and authorise persons to issue permits for the burning of clover
Land Description	:	N/A
Proponent	:	City of Albany
Owner	:	N/A
Reporting Officer(s)	:	Emergency Management Coordinator (B de Vries)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Bulletin Attachment(s)	:	Nil

Maps and Diagrams:

Not applicable.

BACKGROUND

1. Council is required to appoint Fire Control Officers (FCO) for its district and may also appoint Fire Weather Officers (FWO) and authorise persons to issue permits for the burning of clover.

DISCUSSION

2. The nominated persons have been elected by their respective brigades or they are City staff responsible for fire management. The FCOs and other personnel recommended to manage bush fire matters have been endorsed by the volunteer bush fire brigades. Those persons required to perform the functions of Fire Weather Officers and Clover Burning Officers have been nominated senior FCOs, based upon their training and experience.
3. Some Local Authorities appoint one of their staff to the position of Chief Bush Fire Control Officer (CBFCO) and that officer manages a group of volunteers during an incident.
4. The City of Albany has been fortunate to have attracted over many years competent volunteers to fill the positions of CBFCO, FCOs and FWOs. In recent years, as the administrative tasks associated with emergency management and bush fire prevention and suppression has become more onerous, the role of Emergency Management Co-ordinator has developed and is a full time position within the City. Considerable benefits accrue from the authorised officers in the Volunteer Bush Fire Brigades being volunteers themselves.
5. During a wild fire, the CBFCO and the FCOs have substantial powers of entry and the City’s operating guidelines require police checks to be undertaken on those persons.

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued.

PUBLIC CONSULTATION / ENGAGEMENT

6. The nominations for positions have come from the ranks of the City's Volunteer Bush Fire Brigades.

GOVERNMENT CONSULTATION

7. Not required.

STATUTORY IMPLICATIONS

8. The *Bush Fires Act 1954* and the *Bush Fire Regulations 1954* set out certain activities which can only be performed by authorised officers and specifies how those officers are appointed. For example:
 - a. Section 24(a) - *“the owner or occupier of the land... obtains from a duly authorised officer for the district of the local government in which the land is situated, a permit in the prescribed form to burn clover”*;
 - b. Regulation 16 - *“For the purposes of this Part of these regulations, the term “authorised officer” means the chief executive officer of the local government or an officer duly appointed by the local government to grant a permit to burn clover”*;
 - c. Section 38 - *“A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall... appoint the Chief Bush Fire Control Officer and Deputy Fire Control Officer... and may appoint to the office of fire weather officer such a number of senior bush fire control officers as it thinks necessary.”*

FINANCIAL IMPLICATIONS

9. The City is required to publish the appointments in a newspaper circulating in the District.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

10. Not Applicable.

POLICY IMPLICATIONS

11. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. The City of Albany has a legal responsibility to suppress wild fires within its District and that work is currently carried out by the 16 Volunteer Bush Fire Brigades within the City using 34 fire appliances supplied and serviced by the City.

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued.

SUMMARY CONCLUSION

13. Council is required to appoint Bush Fire Control Officers. Those nominated as FCOs have been elected by their respective volunteer bush fire brigades, or are City staff responsible for fire management. Those persons nominated to the positions of Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer (North East), and Deputy Chief Bush Fire Control Officer (South West) have been elected by their peers within the volunteer bush fire brigades.
14. The Fire Weather Officers and Clover Burning Officers are nominated senior Bush Fire Control Officers.

ITEM NUMBER – 11.5.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR WALKER

SECONDED COUNCILLOR BUEGGE

THAT Council APPOINT the nominated persons to the following positions:

- i) **Chief Bush Fire Control Officer – Ross Fenwick**
- ii) **Deputy Chief Bush Fire Control Officer (North East) – Chris Gilmour**
- iii) **Deputy Chief Bush Fire Control Officer (South West) – Ken Johnson**
- iv) **Bush Fire Control Officers:**
 - **Bornholm – Paul Wolfe, Laurie Nissen**
 - **Elleker – Dale Ferguson, Karen Wellstead**
 - **Gnowellen – Morgan Sounness, Darren Baum**
 - **Green Range – Ian Smith, Ken Tagliaferri**
 - **Highway – Martin Van Dongen, Chris Norton**
 - **Kalgan – John Bocian, John Powis**
 - **King River – Brian Davis, Alan Hawley**
 - **Kojaneerup – Terry Bradshaw, Tony Slattery**
 - **Manypeaks – Alan Lubcke, Richard Metcalf**
 - **Napier – Tom Collins, Brett Smoker**
 - **Redmond – Graham Briggs, Lance Flett**
 - **South Coast – Derek Jones, Darren Prior**
 - **South Stirlings – Graeme Pyle, Steve Fullarton**
 - **Torbay – Andrew Marshall, Phillip Marshall**
 - **Wellstead – Steven Hall, Peter Diprose**
 - **Youngs Siding – Kevin Martin, Martin Peterson**
 - **City of Albany – Ben de Vries, Robert Fenn, Graeme Bride, Garry Turner, Gerry Monkhorst, Deborah Walker**
- v) **Bush Fire Control Officers (Permit Issuing only) – Sarah Abbot, Robert Forster**
- vi) **Chief Fire Weather Officer – Ross Fenwick**
- vii) **Deputy Fire Weather Officers – Ken Johnson, Chris Gilmour, Alan Lubcke, Kevin Martin**
- viii) **Clover Burning Officers – Ross Fenwick, Chris Gilmour**

MOTION CARRIED 10-0

Councillor Buegge requested that a thankyou to all the above volunteers be included in the record of the minutes.

DEVELOPMENT SERVICES REPORTS

11.6 DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 11.6.1

ITEM TITLE: Planning and Environment Strategy and Policy Committee Meeting Minutes – 22 October 2008

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Nil
Bulletin Attachment(s) :
• City of Albany Keeping and Welfare of Cats Local Law 2008
• South Lockyer Structure Plan
• Detailed Area Plans Policy
• Outline Development Plan 004
• Guidelines for Rehabilitation Plantings

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Planning and Environment Strategy and Policy Committee held on Wednesday 22 October 2008 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).

ITEM 11.6.1 – COMMITTEE RECOMMENDATION 1 – ALTERNATE MOTION BY COUNCILLOR
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR BOSTOCK

THAT the DRAFT minutes of the Planning and Environment Strategy and Policy Committee held on Wednesday 22 October 2008 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION LOST 7-3

Reason:

The word Draft should be inserted before minutes to indicate that the minutes have not been confirmed by the committee before presentation to Council.

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR STANTON

THAT the minutes of the Planning and Environment Strategy and Policy Committee held on Wednesday 22 October 2008 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 10-0

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: ABSOLUTE MAJORITY

Item 5.0 – Draft Cat Local Law

That Council RECEIVE the submissions from the public on the draft City of Albany Keeping and Welfare of Cats Local Law 2008.

AND

That Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended), agrees to make the City of Albany Keeping and Welfare of Cats Local Law 2008 subject to clause 8.1 (b) being altered to read “renew or revoke a Permit that a person has under this Local Law”.

ITEM 11.6.1 – COMMITTEE RECOMMENDATION 2 – ALTERNATE MOTION BY COUNCILLOR BOSTOCK

**MOVED COUNCILLOR BOSTOCK
SECONDED COUNCILLOR PAVER**

Item 5.0 – Draft Cat Local Law

That Council RECEIVE the submissions from the public on the draft City of Albany Keeping and Welfare of Cats Local Law 2008.

AND

That Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended), agrees to REJECT the City of Albany Keeping and Welfare of Cats Local Law 2008 subject to clause 8.1 (b) being altered to read “renew or revoke a Permit that a person has under this Local Law”.

MOTION LOST 2-8

Reason:

A Keeping and Welfare of Cats Local Law will not make cat owners responsible, and the City does not have the resources to police this policy.

Adoption of this policy did not take into account the occupational health and safety issues that City Staff (Rangers) will now be exposed to.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR WALKER

Item 5.0 – Draft Cat Local Law

That Council **RECEIVE** the submissions from the public on the draft City of Albany Keeping and Welfare of Cats Local Law 2008.

AND

That Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended), agrees to **MAKE** the City of Albany Keeping and Welfare of Cats Local Law 2008 subject to clause 8.1 (b) being altered to read “renew or revoke a Permit that a person has under this Local Law”.

MOTION CARRIED 8-2
ABSOLUTE MAJORITY

Councillor Williams left the Chamber at 9.41pm.

COUNCIL’S ROLE: LEGISLATIVE FUNCTION

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR WISEMAN

Item 6.0 – South Lockyer Structure Plan

That Council resolves to **ADOPT** the modified South Lockyer Structure Plan for the purpose of advertising for a period of 42 days.

MOTION CARRIED 9-0

COUNCIL’S ROLE: LEGISLATIVE FUNCTION

ITEM 11.6.1 - COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR PRICE

Item 7.0 – Detailed Area Plan (DAP001) – Oyster Harbour Estate, Lower King Road, Bayonet Head

That Council **ADOPTS** for the purposes of advertising the revised Detailed Area Plans Policy, to include Lots 42 and 47 Lower King Road, Bayonet Head within Schedule 1, in accordance with Clause 6.9 of Town Planning Scheme No. 3.

MOTION CARRIED 9-0

Item 11.6.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 11.6.1 - COMMITTEE RECOMMENDATION 5
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR PRICE**

Item 9.0 – Outline Development Plan (ODP004) – Lancaster Road, Morgan Road and Morgan Place, McKail

That Council, subject to the inclusion of a right of way to connect the subject land with the land to the east, **ADOPTS** for the purposes of advertising the Outline Development Plan 004 for Lots 47, 50 and 51 Lancaster Road, Lot 8 Morgan Place and Lot 49 Morgan Road, McKail.

Prior to Council consideration of this matter, an on-site inspection be arranged with the consultant town planner and adjoining residents in attendance.

MOTION CARRIED 9-0

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 11.6.1 - COMMITTEE RECOMMENDATION 6
VOTING REQUIREMENT: SIMPLE MAJORITY**

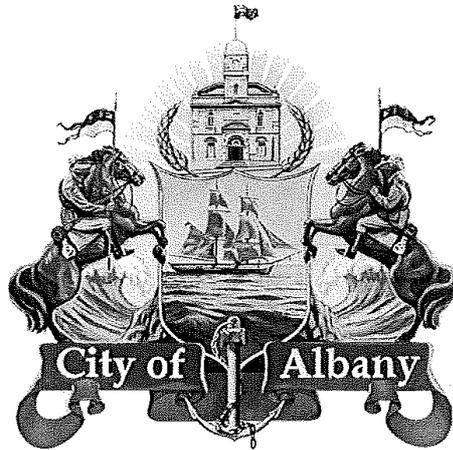
**MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR BUEGGE**

Item 10.0 – Guidelines for Rehabilitation Plantings

That Council **ENDORSES** the release of the “Guidelines for Rehabilitation Plantings” to developers and that City staff be encouraged to incorporate additional plants to the list contained within the guidelines where considered appropriate.

MOTION CARRIED 9-0

Item 11.6.1 continued.



MINUTES

PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE

**Held on
Wednesday, 22 October 2008
6.00 pm**

Margaret Coates Boardroom

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

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DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

DECLARATION OF OPENING

The Chairperson, Councillor Matla, declared the meeting open at 6.00pm.

1.0 ATTENDANCES

Attendances:

Councillors -

J Matla (Chairperson)

Mayor M Evans

K Stanton

R Buegge (6.05 – 8.15pm)

J Bostock

D Wolfe (6.00 – 7.15pm)

Executive Director Development Services

R Fenn

Manager Building & Health Services

K Barnett

Senior Planning Officer

J van der Mescht

Observers:

Nil

2.0 APOLOGIES

Apologies were received from G Bride, A Nicoll, M Bosworth

3.0 DECLARATION OF INTEREST

Nil

4.0 CONFIRMATION OF MINUTES OF MEETING 17 SEPTEMBER 2008

The minutes were confirmed as an accurate record of the meeting.

MOVED: D Wolfe

SECONDED: M Evans

THAT the minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 17 September 2008, as previously distributed, be confirmed as a true and accurate record of proceedings.

Carried 6/0

Councillor Buegge entered the meeting at 6.05pm

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES – 22/10/08

** REFER DISCLAIMER **

5.0 DRAFT CAT LOCAL LAW

Proposal To consider the making of the above Local Law

Previous Reference PESPC 21/05/08 - Item 6.3
OCM 17/06/08 - Item 11.6.1
OCM 19/02/08 - Item 11.2.1

Attachments The proposed Draft Local Law

Background

At Council's ordinary meeting dated 19 February 2008 Council resolved the following:

"THAT Council:

- i) Acknowledge with gratitude the work of the Cat Local Law Working Committee;*
- ii) Adopt a Local Law that makes provision for the compulsory registration, identification and sterilisation of cats;*
- iii) Engage its solicitors to prepare a Local Law having regard to the Cat Local Law Working Committee draft Local Law; and*
- iv) Introduce by way of amendment to the adopted Local Law, as soon as possible after the compulsory regime has been established, the additional cat welfare and control measures suggested in the Cat Local Law Working Committee draft Local Law."*

In June 2008 Council resolved that, subject to a modification being made to introduce a definition for 'microchip' and 'microchip certificate', it adopts the draft Local Law in accordance with Section 3.12 of the Local Government Act 1995, and advertise its intention to make the Local Law titled "City of Albany – Local Law relating to the Keeping and Welfare of Cats 2008.

The draft local law was subsequently modified (with the required definitions) and advertised both locally and state-wide. At the closing date for submissions a total of 89 submissions were received (a copy of the submissions have been circulated to all Councillors).

An analysis by staff has revealed that of the 89 submissions received, 68 objected to the introduction of Cat Local Laws whereas 15 submissions supported the Local Law. Six submissions do not express an opinion either way, but asked for clarification and/or raised questions.

The objectors raised the following issues with the Local Law:

- The Local Law would be unworkable, expensive and impossible to enforce;
- Extra ranger staff and resources would be required to enact the Local Law;
- The costs of implementing the Local Law will place a greater burden on ratepayers than the perceived benefits;
- The Local Law will place an extra financial burden on cat owners;
- Micro chipping should not be made compulsory;

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

- Micro chipping will be an added expense that no one will do;
- The Local Law would not provide safety for cats as the title suggests;
- Research done by the City of Albany in 2005 suggested that if legislation cannot be enforced it should not be adopted;
- The Local Law will only provide a degree of protection should there be a need to dispose of the odd nuisance cat;
- This legislation will cause stress and grief to many cat owners especially children, senior citizens and the disabled, who are devoted to their pets;
- Cats are too mobile so that ultimately the only way to police cats is to kill them;
- Instead of legislation the City of Albany should do what other Council's do and provide a subsidy to cat owners to promote the sterilisation of cats;
- There are more urgent issues in the community that need to be addressed;
- Local Laws do not create responsibility;
- There is no conclusive data concerning the impact of cats upon wildlife;
- Compulsory sterilization and responsible cat owner behaviour via education is the way to go.

Statutory Requirements

Section 3.12 of the Local Government Act sets out the process for the adoption of a Local Law.

Comment/Discussion

Many of the submissions raised are not reflective of the current Local Law before Council, in that the scope of this Local Law is limited to the compulsory sterilisation, identification and registration of all cats within the City of Albany. As per part (iv) of Council's February 2008 resolution, on completion of this Local Law, staff will prepare a more widespread Local Law which will allow Council to impound stray cats, and where unclaimed, euthanise cats similar to legislation contained within the Dog Act 1976. When the second component of the Local Law is considered all those issues relating to resources (cat pounds and additional ranger staff), enforcement etc will need to be addressed at that time.

The Local Law has been modified in accordance with the suggestions by the Department of Local Government and Regional Development.

A point of clarification was also made about the number of cats permitted per household. The Local Law has been amended to clarify that whilst 2 cats per household is an "as of right", any more than 2 cats requires a permit, and as such an application will need to be lodged with Council.

As the amendment draft Local Law is not significantly different from what was originally proposed, Council can continue the process of adopting the local law.

Committee Discussion:

It was noted that of the 95 submissions received 74 objected, 6 addressed wording within the draft Local Law and 15 supported the Local Law.

Committee members voiced concerns over:

- The capacity of City Staff to achieve compliance with the proposed Local Law.
- The need to undertake extensive educational program on draft local law before embarking upon a tightening or expansion of the local laws relating to cat control.
- Potential OH & S issues for City staff required to deal with cats.
- The lack of understanding of potential financial consequences before introducing local laws.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

MOVED: R Buegge

SECONDED: K Stanton

THAT Council receive the submissions from the public on the draft City of Albany Keeping and Welfare of Cats Local Law 2008.

AND

THAT Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended), agrees to make the City of Albany Keeping and Welfare of Cats Local Law 2008 subject to clause 8.1 (b) being altered to read “renew or revoke a Permit that a person has under this Local Law”.

Motion Tied 3/3

Presiding member exercised casting Vote

Motion Carried 4/3

6.0 SOUTH LOCKYER STRUCTURE PLAN

Proposal Adopt changes to the SLSP for the purpose of advertising

Previous Reference OCM 19/12/06 Item 11.3.2

Attachments South Lockyer Structure Plan

Background

The South Lockyer Structure Plan (SLSP) was adopted as a policy by the Council on the 19 December 2006.

The preparation of the SLSP was undertaken as a high priority action to progress the construction of a link road between South Coast Highway and Hanrahan Road (Mueller Street and Cull Road) and to respond to land owner subdivision proposals, consistent with the provisions of Town Planning Schemes 1A and 3.

Concurrently with the preparation of the SLSP, subdivision applications were being supported by the West Australian Planning Commission (WAPC subject to changing the SLSP to make the location and density of land uses similar to what is being proposed in the subdivision applications.

Comment/Discussion

The SLSP has now been modified to make it consistent with the subdivision applications in the locality and to:

- rename to 'South Lockyer Structure Plan' (previously South Lockyer Conceptual Structure Plan);
- extend the boundaries of the plan to include an industrial precinct to the north;
- include a clear set of objectives and requirements for the area;
- include contribution planning for public open space, sewerage and roads, and
- seek approval from the West Australian Planning Commission.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

Taking into account the topography, wetlands, vegetation, demographics and accessibility to existing services; the plan defines a mixture of land uses including active and passive open space, commercial, public, residential and aged accommodation.

It is envisaged that a public and government consultation process will be required prior to final adoption; the cost structure for the provision of the necessary road treatments has not been included in the attached draft SLSP (those costs are proposed to be available prior to the adoption of the draft by Council).

MOVED: D Wolfe
SECONDED: M Evans

THAT Council resolves to adopt the modified South Lockyer Structure Plan for the purpose of advertising for a period of 42 days.

Carried 6/0

7.0 DETAILED AREA PLAN (DAP001) – OYSTER HARBOUR ESTATE, LOWER KING ROAD, BAYONET HEAD

Proposal Detailed Area Plan for Cottage Lots in Oyster Harbour Estate

Previous Reference

Attachments Detailed Area Plans 1-5

Purpose: To seek approval to include the subject land within Schedule 1 of Council's Detailed Area Plan Policy

Locality: Refer to attached Detailed Area Plan

Background

Council has received Detailed Area Plans (DAP's) associated with the subdivision of Lots 42 and 47 Lower King Road, Bayonet Head (known as Oyster Harbour Estate) from Chappell Lambert Everett Planning Consultants for inclusion into Council's Detailed Area Plan Policy.

The DAP's have been developed for the proposed village centre (Detailed Area Plan 1) and the R30 cottage lots (Detailed Area Plans 2-5) in the Oyster Harbour Estate.

The commercial viability and the future of the proposed Village Centre is still in doubt (DAP 1), and until such time as the City's Commercial Strategy is readvertised and adopted, the proponents have requested that only DAP's 2 to 5 be considered by Council at this period of time.

Statutory Requirements

The Council Policy on Detailed Area Plans was adopted by Council in 2007 and allows for the inclusion of Specific DAP's into Schedule 1 of the Policy.

Should Council support the proposed DAP's and agree to include them within its existing Policy, the revised Policy would need to be advertised twice in the local newspaper and referred to surrounding landowners requesting comment within a

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

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twenty one (21) day period. After this period, Council is required to review its proposal in light of submissions and ultimately decide whether it wishes to proceed with the policy in its current form, or with amendments, or decide not to proceed.

Liveable Neighbourhoods requires the development of DAP's for small lots and special site conditions. The requirement for the DAP's was also a condition of subdivision, requested by Council and ultimately the Western Australian Planning Commission, for the Oyster Harbour Estate.

Comment/Discussion

Liveable Neighbourhoods sets out the criteria to be used in assessing any DAP.

In addition to the matters listed in Liveable Neighbourhoods, Staff have also visited and studied similar types of development in the Perth Metropolitan Area. The practical examples studied highlighted best practice and potential pit falls in cottage styled developments and the use of Detailed Area Plans. Staff briefed the Committee at its August Meeting on the outcomes of its best practice tour to Perth.

The DAP's were subsequently evaluated against this understanding of best practice examples and the requirements specified in Liveable Neighbourhoods that includes:

- Dwelling design that deals with building orientation towards POS areas and onto primary streets, and includes compulsory garage locations;
- Standard street setbacks from lane ways and primary streets;
- Location of on-street parking for visitors;
- Location of vehicle access points into lots;
- Details on fencing including the level of permeability, heights and visual appearance; and
- Landscaping inclusive of street trees to break up visitor parking embayments.

The DAP's meet the requirements of Liveable Neighbourhoods and addresses the main points for consideration applicable to cottage lot development.

The DAP's will be instrumental in delivering a residential development that will satisfy and achieve a quality streetscape and neighbourhood character, protection of amenity, adequate off and on street vehicle parking, vehicle access and community safety (through the promotion of passive surveillance).

MOVED: M Evans
SECONDED: J Bostock

THAT Council adopts for the purposes of advertising the revised Detailed Area Plans Policy, to include Lots 42 and 47 Lower King Road, Bayonet Head within Schedule 1, in accordance with Clause 6.9 of Town Planning Scheme No. 3.

Carried 6/0

Councillor Wolfe departed the meeting at 7.15pm.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

8.0 DELEGATION INSTRUMENT FOR PLANNING SCHEME CONSENTS

When an application for planning scheme consent is received by City staff and it is above \$1.5 million in value, Guideline 1 of the Development Guidelines for Town Planning Schemes 1A and 3 requires staff to refer the application to the next available Council meeting for determination. Some applications may also require public consultation prior to them being determined by Council.

Staff make a recommendation on the application within their report and, in instances where conditional support is proposed, Staff historically identified only the “primary” conditions that they consider need to be affixed to the Notice of Planning Scheme Consent (these conditions usually relate to issues raised in the Officer’s Report). There may also be instances where all the potential conditions may not be finalised (awaiting final details from Government agencies, several options may be available to overcome a potential issue, etc) and in those instances only those primary conditions that are capable of articulation are included within the Officer’s recommendation. The recommendation used in these instances in the agenda reads:

“THAT Council resolves to support the issuing of a Notice of Planning Scheme Consent for extensions to at subject to, but not limited to the following condition(s)”.

In instances where all the conditions are known, the Officer’s Recommendation would read:

“THAT Council issue a Notice of Planning Scheme Consent for at subject to the following condition(s)”.

Where the report submitted to Council contains incomplete conditions staff seek Council support for the issuing of the Notice of Planning Scheme Consent and then seek delegated authority to actually approve the application (note: by supporting the application, Council is not taking a final decision, and delegated authority is essential to allow the decision to be taken and for the final conditions to be affixed to the approval).

A decision to approve or refuse a planning application is taken by a simple majority decision of Council, whereas the delegation of authority requires an absolute majority decision. In instances where staff detail all the conditions on a contentious application, that application could be passed through Council on a simple vote; where conditions may remain incomplete, Council could resolve to support the application with a simple majority, but the capacity to actually action that decision could be circumvented if an absolute majority is not achieved for the delegation. This position has the potential to disadvantage proponents on a tight vote and they would otherwise have got their application passed if all the conditions were listed.

Options available to Council include:

- Changing the delegation arrangements; or
- All applications being submitted to Council with full conditions identified in the report (this will cause delays and add considerably to the content of agenda items); or
- Retain the present arrangements.

Staff recommend the following delegation instrument.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

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MOVED: J Matla
SECONDED: M Evans

THAT in instances where Council resolves to “support the issuing of a Planning Scheme Consent” Council delegates authority pursuant to clauses 7.22 of the City of Albany Town Planning Scheme 1A and 6.10 of the City of Albany Town Planning Scheme 3, to the Executive Director Development Services and the Manager Planning and Ranger Services to issue a Notice of Planning Scheme Consent for that application following Council’s determination and to apply conditions to the Planning Scheme Consent, provided that those conditions incorporate and do not diminish any specific conditions nominated by Council.

Lost 2/3

It was resolved that this matter lay on the Table for a period of one month to allow for the introduction of the alternate Council agenda format.

9.0 OUTLINE DEVELOPMENT PLAN (ODP004) – LANCASTER ROAD, MORGAN ROAD AND MORGAN PLACE, MCKAIL

Proposal Outline Development Plan (ODP)
Previous Reference Nil
Attachments Copy of ODP
Purpose: To seek approval to advertise the draft ODP
Locality: Locality Plan within ODP document

Background

Council has received a proposal from Harley Survey Group proposing an Outline Development Plan to facilitate the subdivision of the subject land into residential lots. The lots adjoin, but are outside of, the existing McKail Local Structure Plan that was adopted by Council in 1999.

The draft ODP area contains Lots 47, 50 and 51 Lancaster Road, Lot 8 Morgan Place and Lot 49 Morgan Road, McKail.

The lots are currently subject to a scheme amendment to rezone the land to the “Residential Development” zone.

Statutory Requirements

The subject lots will be contained within the Residential Development zone under Town Planning Scheme No. 3 (TPS3). Part 5.5 ‘Development Zones’ of TPS3 controls development within this zone.

The WA Planning Commission also has the “*Guidelines for the Preparation of Local Plans for Urban Release Areas*” (June 1992) which sets out their procedure for the adoption of a Structure Plan. Clause 4.1 of these guidelines set out the “Procedural Requirements”.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

**** REFER DISCLAIMER ****

Comment/Discussion

The proposed "Residential Development" zone highlights the future intention for this land to be developed for fully serviced urban development including reticulated sewer, underground power and kerbed/sealed roads. TPS 3 requires that all land within the "Residential Development" zone be subject to completion of an ODP.

The ODP has been prepared by the consultants to guide subdivision and to set an acceptable standard for the future development of this area into residential uses. The ODP document submitted has been analysed by staff and adequately addresses the information required for an ODP.

The proposed design adequately addresses the constraints of the land and provides for a regulated movement network, various lot options and layout, public parkland, urban water management and servicing utilities. The proposed development will be focused/ structured around a linear park that will act as a recreation area, movement corridor and include stormwater drainage functions. The proposed development will include a standard residential code of R20 with areas of R30 around the POS area, and these areas will require the submission of a Detailed Area Plan (DAP) to be prepared.

The ODP also details cost-sharing arrangements to be put in place for shared infrastructure between the landowners.

Subject to the requirement for an additional right of carriage-way to connect with the subdivision to the east, staff believe the ODP is of a suitable standard to present to the surrounding community and relevant government agencies for assessment and comment for a period of 28 days. The applicant will be requested to make this change prior the ODP being advertised.

MOVED: R Buegge

SECONDED: K Stanton

THAT Council, subject to the inclusion of a right of way to connect the subject land with the land to the east, adopts for the purposes of advertising the Outline Development Plan 004 for Lots 47, 50 and 51 Lancaster Road, Lot 8 Morgan Place and Lot 49 Morgan Road, McKail.

AND

Prior to Council consideration of this matter, an on-site inspection be arranged with the consultant town planner and adjoining residents in attendance.

Carried 5/0

10.0 GUIDELINES FOR REHABILITATION PLANTINGS

There has been an on-going demand from developers for City guidelines which detail appropriate and inappropriate endemic plant species for use in rehabilitation projects within the District.

Staff within the Development Services team contacted a range of sources and recently produced a draft list of;

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued.

COMMITTEE MEETING MINUTES– 22/10/08

** REFER DISCLAIMER **

- Suitable sedges, reeds and groundcovers;
- Suitable small shrubs;
- Suitable large shrubs;
- Suitable trees;
- Trees suitable to be planted as mature plants;
- Suitable climbers; and
- Unsuitable plant species (additional to the environmental weeds noted by Council).

Attached is a copy of the draft “Guidelines for Rehabilitation Plantings” for Council’s perusal and comment.

MOVED: K Stanton
SECONDED: R Buegge

THAT Council endorse the release of the “Guidelines for Rehabilitation Plantings” to developers and that City staff be encouraged to incorporate additional plants to the list contained within the guidelines where considered appropriate.

Carried 5/0

11.0 SUBDIVISION APPROVALS

Councillor Buegge has requested that the committee consider the potential of introducing a rating structure (differential rating / alternate rate formula) for those lots where the property owner has gained subdivision approval but sits on the approval or land banks.

In support of his proposal, Councillor Buegge highlights that a landowner having a property capable of being developed to increase its sales value, but sitting on that approval, increases that individual’s land value than a similar property that has no subdivision potential.

Staff consider this proposal would be administratively difficult to implement and on-going market forces have historically dictated the price of land. Land prices have always reflected the development potential of the land and immediate sales simply recognise the position of the land within the development stream.

Committee Discussion:

The EDDS briefed the Committee on the land valuation process and its implications for Council rating of developable and non developable land parcels. Concern was expressed over the capacity of Council to accurately record properties with subdivision approvals and those where an approval lapses.

12.0 TOWN PLANNING SCHEME 1

Councillors have received a copy of the consolidated draft of the City of Albany Town Planning Scheme 1 (previously referred to as the Community Planning Scheme). The Committee previously suggested that a series of closed workshops be held, after Councillors had a period of time to peruse the document, to be briefed on the Scheme and to have any concerns answered. To date, no feedback has been received from individual Councillors on the content on the Scheme.

DEVELOPMENT SERVICES REPORTS

Item 11.6.1 continued

COMMITTEE MEETING MINUTES– 22/10/08

**** REFER DISCLAIMER ****

Staff recommend that two briefing sessions / workshops be scheduled during the months of November and December to commence that process. Those workshops could be held at 6.00pm on 10 or 24 November.

It was resolved that City staff arrange for an initial out of committee session to brief Councillors on the draft Town Planning Scheme 1.

13.0 MATTERS FOR CONSIDERATION AT NEXT COMMITTEE MEETING

- Extractive Industries – Access to materials
- Submissions on Little Grove Structure Plan
- Review York Street Master Plan
- Central Albany Design Guidelines
- Public Open Space Strategy
- Environmental Code of Conduct and Reserve Signage

14.0 CLOSURE OF MEETING

The meeting was declared closed at 8.18pm.

CORPORATE & COMMUNITY SERVICES Reports

CORPORATE & COMMUNITY SERVICES REPORTS

12.0 REPORTS – CORPORATE & COMMUNITY SERVICES

ITEM NUMBER: 12.1.1

ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER: Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

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

BACKGROUND

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

DISCUSSION

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

Municipal Fund			
Cheques	Totalling		\$184,490.10
Electronic Fund transfer	Totalling		\$3,608,727.18
Credit Cards	Totalling		\$11,176.55
Payroll	Totalling		<u>\$802,677.00</u>
	Total		\$4,607,070.83

4. As at the 31st October 2008, the total outstanding creditors, stands at \$91,456.33..
5. Cancelled cheques – 24709, 24713, 24715, 24720, 24721.

PUBLIC CONSULTATION / ENGAGEMENT

6. Nil

GOVERNMENT CONSULTATION

7. Nil

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.1 continued.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.

POLICY IMPLICATIONS

13. The City's 2008/09 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

14. Nil

SUMMARY CONCLUSION

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.1 continued.

ITEM 12.1.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR WALKER

THAT the list of accounts authorised for payment by the Acting Chief Executive Officer as presented in the Elected Members Report / Information Bulletin be RECEIVED.

MOTION CARRIED 9-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 12.1.2
ITEM TITLE: **FINANCIAL ACTIVITY STATEMENT – Month Ending 31st October 2008**

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER: Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : FIN 040 (All Wards)
Summary of Key Points : Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 October 2008.
Reporting Officer(s) : Manager of Finance (S Goodman)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : Nil

BACKGROUND

1. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
2. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide Council with a greater insight in relation to the ongoing financial performance of the local government.
3. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. For the financial year 2008/09 variations in excess of 10% are reported to the Council.

DISCUSSION

4. The Statement of Financial Activity for the period ending 31st October 2008 has been prepared and is listed below.
5. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

STATEMENT OF FINANCIAL ACTIVITY – AS AT 31ST OCTOBER 2008

6. See appendix 1 to report item 12.1.2

CITY OF ALBANY - BALANCE SHEET

7. See appendix 2 to report item 12.1.2

INCOME STATEMENT FOR PERIOD ENDED 31ST OCTOBER 2008

8. See appendix 3 to report item 12.1.2

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

PORTFOLIO VALUATION – MARKET VALUE

9. The current period has seen extreme market instability including the bankruptcy of Lehman Brothers. There have been two positive factors during the month.
 - a. Payout of 100% principal and interest of the ANZ principal protected yield curve security (\$200,000 plus interest). This represented a gain of \$24,725 on the value included in the 07/08 annual accounts.
 - b. Payout of 100% of the value plus accrued interest of the SPRC (Federation) security (\$500,000 plus interest). This investment was the only pure sub prime paper in the portfolio, and was the primary potential subject of litigation against Lehman's. The investment was included in the 07/08 accounts at a value of \$36,900.
 - c. The collapse of Lehman Brothers has not only introduced additional volatility to the market, but also eliminated a source of monthly valuations for all the City Floating Rate Notes (FRNs) and Collateralised Debt Obligations (CDOs). The City's financial investment advisor has been unable to provide valuation at this time, but will endeavour to do so for the next month.
 - d. Interest rates on term deposits and normal bank deposits have reduced considerably in line with Reserve Bank rates which have continued to fall.

10. See appendix 4 to report item 12.1.2.

PUBLIC CONSULTATION / ENGAGEMENT

11. Nil

GOVERNMENT CONSULTATION

12. Nil

STATUTORY IMPLICATIONS

13. Section 34 of the Local Government (Financial Management) Regulations 1996 provides:
 - I. A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
 - a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - b) budget estimates to the end of the month to which the statement relates;*
 - c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relate*
 - d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) the net current assets at the end of the month to which the statement relates.*

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

- II. *Each statement of financial activity is to be accompanied by documents containing –*
 - a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in sub regulation (1)(d);*
 - c) *such other supporting information as is considered relevant by the local government.*

- III. *The information in a statement of financial activity may be shown –*
 - a) *according to nature and type classification;*
 - b) *by program; or*
 - c) *by business unit*

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

FINANCIAL IMPLICATIONS

- 14. Year to date expenditure has been incurred in accordance with the 2008/09 budget parameters with variations in excess of 10% detailed below. A quarterly review was carried out in September 2008, and current budgets have been adjusted in accordance with approved amendments.

Section of Financial Activity Statement	Reason for Variation	Variation Amount
Operating Revenue No material variances		
Operating Expenditure No variances over 10%		
Capital Revenue Capital Contributions	Works contributions for future years – offset by transfers to reserves	\$97, 039 (increase)
Capital Expenditure No material variances		

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

POLICY IMPLICATIONS

16. The City's 2008/09 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2008/09 budget parameters and any major variations are due to timing issues only, it is recommended that the Statement of Financial Activity be received.
17. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. Nil

SUMMARY CONCLUSION

19. Nil

ITEM 12.1.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR BUEGGE

THAT Council RECEIVES the Financial Activity Statement for the period ending 31 October 2008.

MOTION CARRIED 9-0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

APPENDIX 1

STATEMENT OF FINANCIAL ACTIVITY
AS AT 31 OCTOBER 2008

Original Budget 08/09	Current Budget 08/09		Actual Year to Date 31-Oct-08	Current Budget Year to Date 31-Oct-08	Current Budget vs Actual Variance
REVENUE					
3,597,831	3,640,537	Operating Grants, Subsidies and Cont	960,088	942,077	18,011
7,095,514	7,167,550	Fees and Charges	2,172,562	2,167,465	5,097
2,649,000	2,649,000	Service Charges	2,679,597	2,649,000	30,597
608,000	677,416	Interest Earnings	213,458	227,416	(13,958)
324,500	343,525	Other Revenue	162,170	179,177	(17,007)
14,274,845	14,478,028		6,187,875	6,165,135	22,740
EXPENDITURE					
13,853,782	13,811,360	Employee Costs	4,365,210	4,723,646	(358,436)
12,263,994	12,150,126	Materials and Contracts	2,863,708	3,114,451	(250,743)
755,110	1,110,640	Utility Charges	303,435	287,610	15,825
1,332,219	1,332,216	Interest Expenses	(3,503)	(5,109)	1,606
483,839	495,309	Insurance Expenses	444,025	455,309	(11,284)
(321,579)	(279,929)	Other Expenditure	208,594	193,937	14,657
10,653,000	10,726,639	Depreciation	3,581,731	3,569,567	12,164
39,020,365	39,346,361		11,763,200	12,339,411	(576,211)
Adjustment for Non-cash Revenue and Expenditure:					
(10,653,000)	(10,726,639)	Depreciation	(3,581,731)	(3,569,567)	(12,164)
CAPITAL REVENUE					
9,527,112	9,355,248	Non-Operating Grants, Subsidies and C	751,670	654,631	97,039
6,285,116	2,235,116	Proceeds from asset disposals	178,449	180,000	(1,551)
5,100,000	5,100,000	Proceeds from New Loans	0	0	0
46,230	46,230	Self-Supporting Loan Principal Revenue	10,272	10,403	(131)
7,459,666	8,925,571	Transfers from Reserves (Restricted As	6,144,571	6,122,571	22,000
28,418,124	25,662,165		7,084,962	6,967,605	117,357
CAPITAL EXPENDITURE					
26,586,266	26,625,359	Purchase Plant, Equipment and Infrastr	2,231,960	2,087,660	144,300
2,523,215	2,523,215	Repayment of Loans	106,900	109,892	(2,992)
2,146,413	1,547,913	Transfers to Reserves (Restricted Asse	1,547,913	1,547,913	0
31,255,894	30,696,487		3,886,773	3,745,465	141,308
2,200,000	0	Estimated Surplus B/fwd			
		DEDUCT: 0708 Interest Accrual	(45,369)		
		ADD Net Current Assets July 1 B/fwd	(1,815,676)	n/a	n/a
		LESS Net Current Assets Year to Date	18,534,629	n/a	n/a
19,130,290	19,180,290	Amount Raised from Rates	(19,191,079)	(19,056,958)	(134,121)

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

APPENDIX 2

CITY OF ALBANY

BALANCE SHEET

31-Oct-08

	Actual 31-Oct-08	Budget 30-Jun-09	Actual 30-Jun-08
CURRENT ASSETS			
Cash - Municipal	14,026,342	1,853,283	574,704
Restricted cash (Trust)	1,979,708	1,778,000	1,824,396
Reserve Funds - Financial Assets (at market)	4,033,738	2,700,000	4,246,363
Reserve Funds - Other	3,181,856	951,095	6,904,276
Receivables & Other	7,099,629	1,753,371	1,865,213
Investment Land	46,400	160,000	46,400
Stock on hand	747,762	720,000	799,624
	31,115,434	9,915,749	16,260,976
CURRENT LIABILITIES			
Borrowings	916,315	1,263,000	1,023,215
Creditors prov - Annual leave & LSL	1,599,183	2,230,000	1,692,860
Trust Liabilities	1,933,436	1,748,000	1,778,124
Creditors prov & accruals	1,750,352	2,877,047	3,362,517
	6,199,286	8,118,047	7,856,716
NET CURRENT ASSETS	24,916,148	1,797,702	8,404,260
NON CURRENT ASSETS			
Receivables	152,865	106,549	152,865
Pensioners Deferred Rates	265,945	263,870	265,945
Investment Land	2,150,000	2,005,000	2,150,000
Property, Plant & Equip	64,308,277	263,020,245	63,312,024
Infrastructure Assets	180,523,960		183,067,893
Local Govt House Shares	19,501	19,501	19,501
	247,420,547	265,415,165	248,968,228
NON CURRENT LIABILITIES			
Borrowings	23,384,572	25,721,573	23,384,572
Creditors & Provisions	217,433	150,000	217,433
	23,602,006	25,871,573	23,602,006
NET ASSETS	248,734,690	241,341,294	233,770,483
EQUITY			
Accumulated Surplus	221,874,751	218,415,565	202,313,885
Reserves	8,085,305	4,151,095	12,681,963
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	248,734,690	241,341,294	233,770,483

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

APPENDIX 3			
INCOME STATEMENT FOR THE PERIOD ENDED			
31-Oct-08			
Nature / Type			
	YTD Actual	Budget-Total	Actual
INCOME	2008/09	2008/09	2007/2008
Rates	19,191,079	19,130,290	17,915,530
Grants & Subsidies	816,801	3,278,000	3,071,233
Contributions. Reimb & Donations	143,287	319,831	452,799
Fees & Charges	2,172,562	7,095,514	5,100,832
Service Charges	2,679,597	2,649,000	2,517,352
Interest Earned	213,458	608,000	739,330
Other Revenue / Income	162,170	324,500	920,121
	25,378,953	33,405,135	30,717,198
EXPENDITURE			
Employee Costs	4,365,210	13,853,782	12,212,590
Utilities	303,435	755,110	748,982
Interest Expenses	(3,503)	1,332,219	1,169,598
Depreciation on non current assets	3,581,731	10,653,000	9,672,516
Contracts & materials	2,863,708	12,263,994	9,681,306
Insurance expenses	444,025	483,839	443,417
Other Expenses	208,594	(321,579)	487,688
	11,763,200	39,020,365	34,416,097
Change in net assets from operation	13,615,754	(5,615,230)	(3,698,900)
Grants and Subsidies - non-operating	652,170	4,520,812	4,262,556
Contributions Reimbursements and Donations - non-operating	99,500	5,006,300	10,734,755
Profit/Loss on Asset Disposals	(19,461)	4,291,116	804,688
Fair value - Investments adjustment	616,243		(1,531,324)
	14,964,207	8,202,998	10,571,775

ORDINARY COUNCIL MEETING MINUTES – 18/11/2008

REFER DISCLAIMER

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued.

APPENDIX 4			Summary of Invested Funds						Oct 2008		
Portfolio Valuation - Market Value											
Security	Original Credit Rating	Current Credit Rating	Maturity Date	Volume Held	Security Cost	Current Interest %	Market Value Jul-08	Market Value Aug-08	Market Value Sep-08	Market Value Oct-08	Latest Monthly Variation
				(incl accrued Int)							
MUNICIPAL ACCOUNT											
Bendigo	A2		12/11/2008		2,000,000	7.62%		2,000,000	2,000,000	2,000,000	
Bendigo	A2		25/11/2008		1,000,000	7.75%		1,000,000	1,000,000	1,000,000	
Bendigo	A2		18/12/2008		3,000,000	7.92%			3,000,000	3,000,000	
Bankwest	A1		25/11/2008		2,000,000	7.75%		2,000,000	2,000,000	2,000,000	
Bankwest	A1		18/12/2008		3,000,000	7.80%			3,000,000	3,000,000	
CBA	A1		25/11/2008		1,500,000	7.15%		1,500,000	1,500,000	1,500,000	
TOTAL MUNICIPAL ACCOUNT							6,500,000	12,500,000	12,500,000		
RESERVES ACCOUNT											
BANK - TERM DEPOSITS											
Bendigo bank - Term Deposit	A2		17/11/2008		1,078,731	8.12%	1,118,642	1,118,642	1,118,642	1,118,642	n/a
Bankwest	A1		7/11/2008		1,035,300	6.90%				1,035,300	n/a
					3,078,731		3,118,642	3,131,628	1,118,642	2,153,942	
COMMERCIAL SECURITIES - FRNs											
Suncorp Metway FRN	A		22/06/2018	500,000	503,090	8.16%	487,230	491,145	Not Avail	Not Avail	
Suncorp Metway Sub Debt	A		22/06/2018	800,000	802,272	8.17%	767,205	777,556	Not Avail	Not Avail	
St George Bank Sub Debt	A+		26/07/2016	500,000	506,660	8.06%	478,784	478,704	Not Avail	Not Avail	
Macquarie Bank Sub Debt	A		15/09/2014	500,000	503,325	8.14%	442,266	444,623	Not Avail	Not Avail	
ANZ Principal Protected Yield Curve	AA	Paid in full	17/07/2017	200,000	200,000	8.25%	170,833	176,434	Repaid in full Oct 08	200,000	(23,566)
					2,515,347		2,346,318	2,368,462			(23,566)
COMMERCIAL SECURITIES - CDOs											
Saphir (Endeavour) AAA	AAA	Not avail	4/08/2011	400,000	413,160	9.10%	354,821	354,073	Not Avail	Not Avail	
Magnolia (Flinders AA)	AA	Not avail	20/03/2012	170,000	171,994	9.32%	134,380	130,625	Not Avail	Not Avail	
Zircon (Merimbula AA)	AA	C	20/06/2013	500,000	502,450	8.87%	202,732	155,998	Not Avail	Not Avail	
Zircon (Coolangatta AA)	AA-	C	20/09/2014	1,000,000	1,002,060	9.12%	420,744	336,990	Not Avail	Not Avail	
Start (Blue Gum AA-)	AA-	CCC+ Neg	22/06/2013	275,000	276,708	9.24%	153,565	144,339	Not Avail	Not Avail	
Corsair (Kakadu AA)	B+	B Neg Fitch	20/03/2014	275,000	273,710	8.82%	129,555	119,900	Not Avail	Not Avail	
Helium (C=Scarborough AA)	BBB-	CCC+	23/06/2014	600,000	602,244	9.14%	354,189	337,847	Not Avail	Not Avail	
Beryl (AAAGlogal Bank Note)	AAA	CCC- Neg	20/09/2014	200,000	200,376	8.42%	163,432	159,482	Not Avail	Not Avail	
					3,442,702		1,913,418	1,739,254			
SUB PRIME MORTGAGES											
SPRC (Federation AAA)	CCC	Paid in full	10/02/2047	500,000	505,230	8.32%	32,133	23,279	Repaid in full Nov 08	509,349	(486,070)
					505,230		32,133	23,279			(486,070)
TOTAL RESERVE ACCOUNT							7,410,510	7,262,624			(509,635)
PORTFOLIO TOTAL							7,410,510	13,762,624			

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 12.1.3
ITEM TITLE: BRIG AMITY FEES

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER: Executive Function. Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : (Frederickstown Ward)
Summary of Key Issues : Increase Brig Amity Entry Fees
Land Description : Reserve 4156
Proponent : City of Albany
Reporting Officer(s) : Manager Community Development (M Weller)
Disclosure of Interest : Nil
Previous Reference : OCM 24/06/08 Adoption of 2008/09 budget – fees and charges
Bulletin Attachment Reference : Nil

BACKGROUND

1. The purpose of the report is to recommend the increase of visitor fee schedule to ensure the sustainability of the refurbished Brig Amity.

DISCUSSION

1. Council approved the structural maintenance of the Brig Amity and the installation of audio tour handsets, interpretive displays and signage.
2. The current refurbishment of the Brig Amity is scheduled to be completed by January 2009.
3. Following the refurbishment it is recommended that a new fee structure be implemented to ensure sustainability and the ability to:
 - a. Regularly update the ‘Audio Tour’ component of the new interpretation;
 - b. Maintain other interpretive content ;
 - c. Increase the intensity of maintenance on the Brig to ensure a higher standard is kept in between major refurbishments; and
 - d. Provide a reserve for replacement and upgrade of interpretation as well as for future major maintenance/ refurbishment of the Brig.
4. It is recognised that the refurbishment will significantly improve the presentation of the Brig Amity and extend the life of the asset.
5. The current Budget 08/09 Brig Amity visitor fee schedule is set at:

Per Adult	\$5.20
Per Child	\$2.20
Family (2 adults, 2 children)	\$12.40
Tour groups (over 14 people)	50% of normal fee

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.3 continued.

6. It is recommended that the Budget 08/09 Brig Amity visitor fee schedule is amended to:

Per Adult	\$6.00
Per Child	\$2.00
Concession	\$4.00
Family (2 adults, 2 children)	\$15.00
Tour groups (over 14 people)	50% of normal fee

PUBLIC CONSULTATION / ENGAGEMENT

7. The Albany Historical Society provides volunteer guides and ushers who ‘man’ the Brig on behalf of the City of Albany. The content of this item was discussed with the CEO of the Albany Historical Society, who has indicated full support for the proposed fee increase.
8. The content of this report was discussed with the Albany Historical Society CEO, who operates the Brig on behalf of the City. On behalf of the society the CEO indicated full support for the proposed fee increase.
9. The CEO requested that signage be installed at the entrance to the Amity to showcase the interior and scope of the refurbishment, with the aim of attracting increased visitation. This is being considered as part of the final stages of the refurbishment.

He also indicated a strong preference for fees to be in whole dollar amounts (i.e. \$6 rather than \$5.90) as this greatly eases the burden on volunteers cash handling and accounting. This is consistent with feedback from Princess Royal Fortress Volunteers.

GOVERNMENT CONSULTATION

10. Not applicable

STATUTORY IMPLICATIONS

11. In accordance with the Local Government Act 1995:
- a. **Imposition of Fees and Charges.** Section 6.16 (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. Absolute majority required.
 - b. Section 6.16 (3) Fees and charges are to be imposed when adopting the annual budget but may be: (a) imposed* during a financial year; and (b) amended* from time to time during a financial year.* Absolute majority required.
 - c. **Local government to give notice of fees and charges.** Section 6.19. If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of (a) its intention to do so; and (b) the date from which it is proposed the fees or charges will be imposed.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.3 continued.

FINANCIAL IMPLICATIONS

12. The increased revenue generated from the proposed fee increase would be utilised to regularly update the 'Audio Tour' component of the new interpretation, increase the intensity of maintenance on the Brig to ensure a higher standard is kept in between major refurbishments, maintain interpretive content and provide a reserve for replacement and upgrade of interpretation as well as for future major maintenance/ refurbishment of the Brig.
13. It is estimated that the proposed fee increase will generate an additional \$6,000 in revenue to be expended on the above.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision:

Nil

Priority Goals and Objectives:

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

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

City of Albany Mission Statements:

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

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

POLICY IMPLICATIONS

15. Not applicable.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. Council may choose to maintain the fees at their current set level. This may result in a reduced ability to maintain the Brig in its upgraded condition, maintain and upgrade interpretive content and contribute to reserve for replacement.

SUMMARY CONCLUSION

17. The purpose of fees is to cover some of the operating costs and provide funding to maintain the additional features that are now included in the display, in particular the interpretive content.
18. It is believed the proposed new fee structure is reasonable and will support the sustainable operation of the Amity, maintaining a high standard of presentation and ability to improve and upgrade interpretive content into the future.

Item 12.1.3 continued.

**ITEM NUMBER – 12.1.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR STANTON**

- i) **THAT Council, pursuant to Section 6.16 of the Local Government Act 1995, ADOPT the following fee structure effective from the 01st February 2009:**

Per Adult	\$6.00
Per Child	\$2.00
Concession	\$4.00
Family (2 adults, 2 children)	\$15.00
Tour groups (over 14 people)	50% of normal fee

AMENDMENT BY COUNCILLOR BUEGGE

**MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR WALKER**

THAT THE fees for tour groups over 14 people are amended to:

- i) **Tour Groups (over 14 people) (\$2.00 per child) (\$4.00 per adult).**

**AMENDMENT CARRIED 8-2
AMENDMENT BECOMES MOTION
MOTION PUT AND CARRIED 10-0**

Reason:

To ensure that adequate fees are charge by visiting tour groups.

CORPORATE & COMMUNITY SERVICES REPORTS

12.2 – ADMINISTRATION

Nil.

12.3 – LIBRARY SERVICES

Nil.

12.4 – DAY CARE CENTRE

Nil.

12.5 – TOWN HALL

Nil.

12.6 – RECREATION SERVICES

Nil.

12.7 – VISITORS CENTRE

Nil.

CORPORATE & COMMUNITY SERVICES REPORTS

12.8 – CORPORATE & COMMUNITY SERVICES COMMITTEE

ITEM NUMBER: 12.8.1
ITEM TITLE: AUDIT COMMITTEE MINUTES

File Number or Name of Ward	:	FIN 020 (All Wards)
Summary of Key Points	:	Receive the minutes of the Audit Committee.
Reporting Officer(s)	:	Manager Finance (S Goodman)
Disclosure of Interest	:	Nil
Bulletin Attachment(s)	:	<ul style="list-style-type: none">• Committee minutes dated 24th October 2008• Independent Auditors Report to the Ratepayers of the City of Albany

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 12.8.1 - COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR BUEGGE

- i) That Council RECEIVE the minutes of the Audit Committee minutes held on the Friday 24th October 2008 (copy of minutes in the Information Bulletin).
- ii) That in accordance with the requirements of Section 5.54 of the Local Government Act 1995, Council RECEIVE the City of Albany Audited Financial Statements and the independent Auditors Report to the Ratepayers of the City of Albany for the year ending 30th June 2008.

MOTION CARRIED 10-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 12.8.2

ITEM TITLE: Special Meeting of the City of Albany Community Financial Assistance Committee Meeting Minutes – 24 October 2008

File Number or Name of Ward : FIN 022 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Acting Chief Executive Officer (WP Madigan)
Disclosure of Interest :
• Mayor M Evans
• Acting CEO (WP Madigan)
Bulletin Attachment(s) :
• That the Minutes of the Special meeting of the Community Financial Assistance Committee meeting held on the 24 October 2008 be received.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 12.8.2 - COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR PRICE**

THAT Council RECEIVE the minutes of the Special Meeting of the Community Financial Assistance Committee held on Friday 24th October 2008. (copy of minutes are in the Information Bulletin).

MOTION CARRIED 10-0

WORKS & SERVICES

Reports

WORKS & SERVICES REPORTS

13.0 REPORTS – WORKS & SERVICES

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

ITEM NUMBER: 13.4.1

ITEM TITLE: TENDER ACCEPTANCE FOR VERGE PRUNING.

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: C08022
Summary of Key Points	: Acceptance of tender for verge pruning
Land Description	: All wards
Proponent	: Nil
Owner	: Nil
Reporting Officer(s)	: Manager City Works (M. Richardson), City Works Coordinator (M Swarbrick), Reserves Supervisor (M Ford) and Procurement Officer (W Male)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment(s)	: Nil

BACKGROUND

1. The 2008/2009 budget includes a capital works and road maintenance program that requires the use of external contractors. Where applicable, these works require a public tender process to be undertaken for the supply of labour, plant and materials to prune existing road verges of vegetation.

DISCUSSION

2. Tenders for verge pruning were received on 15th October 2008.
3. The tender documentation stated that the following criteria and weightings would be used to evaluate the submissions.

Criteria	% Weighting
Cost	35
Technical Compliance & Experience	25
Reliability	20
Safety Management	20
Total	100

WORKS & SERVICES REPORTS

Item 13.4.1 continued.

4. The following table summarises the tenders received

Tenderer	Lump Sum	Schedule of Rates Extra 1hr	Schedule of Rates Emergency	Score
Albany Travel Tower	\$21,390.00	\$230.00	\$460.00	754.85
Infrastruct Contracting	\$27,999.99	\$233.33	\$350.00	705
Barretts Mini Earthmoving	\$57,935.50	\$225.50	\$225.50	615.75
Kings Tree Care	\$146,338.50	\$836.22	\$953.30	241.45

5. Tenderers were requested to provide a cost for verge pruning on four identified roads within the municipality, they were:
- Millar Road, 700 metres.
 - Cook Road, 1300 metres.
 - Rosedale Road, 2300 metres and
 - Takenup Road, 2300 metres.
6. The costs for verge pruning these four roads were totalled and scored electronically. The evaluation team then scored the remaining evaluation criteria, the average of these scores was tallied providing a total score for each tenderer.
7. The submission from Albany Travel Tower represented a lower cost to Council; this company has performed a variety of contracts in the past and has proven itself to be a reliable contractor.

PUBLIC CONSULTATION / ENGAGEMENT

8. A request for tenders was published in the West Australian on 24th September 2008, the Albany Advertiser on 25th September 2008 and Albany Extra on 26th September 2008. As a result eight sets of tender documents were requested with five submissions received by 2pm on the 15th October 2008, Palmer & Rayner withdrew their tender during evaluation after having noted that incorrect information was provided. Three companies claimed against the Buy Local Policy.

GOVERNMENT CONSULTATION

9. Nil

STATUTORY IMPLICATIONS

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

WORKS & SERVICES REPORTS

Item 13.4.1 continued.

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

FINANCIAL IMPLICATIONS

13. The required work is included in the 2008/09 budget. The tenders are within budget estimates.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision:

Nil.

Priority Goals and Objectives:

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

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

City of Albany Mission Statement:

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

POLICY IMPLICATIONS

15. Councils Policy “Purchasing Policy – Tenders and Quotes” and associated procedures apply to this item.
16. Councils Policy “Regional Price Preference Policy – Buy Local” is applicable to this item.
17. Tender Contract Procedure 4(1)(c). Evaluation Criteria requires City staff to define how Council is to select the preferred tenderer. This must be defined clearly and concisely as it allows the criteria to be addressed by the tenderer in its submission.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. The City is not bound to accept the lowest or any tender and has the right to accept any tender or part of any tender.
19. If the City were to accept any of the other tenders it would result in additional expenditure.

WORKS & SERVICES REPORTS

Item 13.4.1 continued.

SUMMARY CONCLUSION

20. The City has undergone a competitive process in line with the relevant legislation and established policies. That process has produced several tenders from reputable suppliers within budget expectations. It is concluded that the tender be awarded to Albany Travel Tower for verge pruning.

ITEM 13.4.1 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR STANTON

SECONDED COUNCILLOR PRICE

THAT COUNCIL ACCEPTS the tender from Albany Travel Tower for verge pruning at a cost to Council of \$21,390.00 and the schedule of rates as tabled.

MOTION CARRIED 10-0

WORKS & SERVICES REPORTS

13.5 – CITY SERVICES – PROPERTY MANAGEMENT

Nil.

13.6 – CITY WORKS – CAPITAL WORKS

Nil.

WORKS & SERVICES REPORTS

13.7 - CITY WORKS – RESERVES, PLANNING & MANAGEMENT

ITEM NUMBER: 13.7.1

ITEM TITLE: Approval for a “Rain Garden Demonstration” trial

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward	:	STR 004 (All Wards)
Summary of Key Points	:	Development of a “Rain Garden Demonstration” trial to retrofit various drains in the Albany urban area
Land Description	:	Various
Proponent	:	Department of Water, University of WA and City of Albany staff
Owner	:	City of Albany
Reporting Officer(s)	:	Executive Support Officer – Grant Funding and Finance (S Pepper)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Bulletin Attachment(s)	:	Nil.

Maps and Diagrams:

N/A

BACKGROUND

1. The Department of Water has revised their Stormwater Drainage Manual for application across Western Australia, and has facilitated a regional workshop for environmental agencies, developers and state and local government authorities. The objective was to promote best practice bio-filtration principles of “Rain Gardens” by designing, evaluating and managing sustainable native plantings in urban environments.
2. The rain garden concept provides an opportunity to filter stormwater in a natural manner with various benefits including removal of pollutants such as nitrogen, phosphorus, heavy metals and oils. In addition, the rain garden concept provides an opportunity to retain and use stormwater within the catchment, thus reducing downstream peak flows to critical pipe systems and open drains. Also, in permeable soils, the rain garden has the potential to reduce the nuisance caused by excessive surface water.

DISCUSSION

3. While projects in the eastern states of Australia have been established to test and implement such development, the knowledge and experience in this type of system is in its infancy in WA.

WORKS & SERVICES REPORTS

Item 13.7.1 continued.

4. The City of Albany has been invited in conjunction with the Department of Water, and UWA to explore the potential for the establishment of a number of trial sites in order to test and monitor the construction and benefits accrued from this type of stormwater feature.
5. The “Rain Garden Demonstration” trial is an innovative program, which is designed to treat stormwater and/or ground water that flows through the bio-filter system, using native plants, and several layers of free draining filter material (sand, gravel and wood chips) that replace in-situ silty or heavy clay soils. Correct plant selection promotes uptake of nutrients and other pollutants.
6. Ongoing monitoring of water quality and volume treated through the “Rain Garden” will provide evidence of the effectiveness of the system in removing sediment and nutrients from stormwater, and to test if any reduction in water volume is achieved through the system. Potential attenuation (or reduction in downstream stormwater flow rates) can have a very positive impact on piped and open drain systems.
7. Staff have been asked to identify various sites, where it is proposed to retrofit existing urban developments. The objective is to reduce flooding, improve water quality, increase cost effectiveness, restore and/conservate environmental conditions, improve the use of open space and enhance recreational opportunities.
8. Council involvement in the trial would include the provision of appropriate sites, construction of the required infrastructure and ongoing maintenance. The Department of Water would provide testing and monitoring expertise to assess performance. The UWA would supply a research grant to select and report on plant and species selection and field guide.
9. It is anticipated that the results of this project would form the framework and methodology to improve a range of urban ecosystems, with research that can be applied within the Albany region to existing roads, parks and subdivisional developments.

PUBLIC CONSULTATION

10. Nil

GOVERNMENT CONSULTATION

11. Nil

STATUTORY IMPLICATIONS

12. *Under the Local Government Act 1995, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:*
 - 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*

WORKS & SERVICES REPORTS

Item 13.7.1 continued.

13. *Section 5.42 of the Local Government Act 1995 also allows Council to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of its duties under the Local Government Act. The Chief Executive Officer can then administratively arrange, pursuant to Section 5.44 of the Local Government Act 1995, to allow another person to perform the required function.*

FINANCIAL IMPLICATIONS

14. The cost to Council of developing the “Rain Garden Demonstration” trial is \$20,000, and it is proposed that these funds be sourced from Stormwater Drainage Masterplan.
15. Contributions proposed for the project include
- Department of Water: stormwater testing of inflows and outflows, and performance measurement;
 - UWA: Plant selection within the Albany Region for maximising the uptake of nutrients; and
 - City of Albany: Provision of test sites within either road reserves or parkland areas and construction of rain gardens.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision:

Nil.

Priority Goals and Objectives:

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

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

City of Albany Mission Statement:

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

POLICY IMPLICATIONS

17. There are no policy implications relating to this Item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. Council has two options in relations to this item, which are:
- To agree to the development of a “Rain Garden Demonstration” trial; or
 - To not support the request.

WORKS & SERVICES REPORTS

Item 13.7.1 continued.

SUMMARY CONCLUSION

19. Staff recommend that Council support the development of a “Rain Garden Demonstration” trial to retrofit various drains in the Albany urban area and approves a re-allocation of \$20,000 from the Stormwater Drainage Masterplan, to fund the trial.

ITEM 13.7.1 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR STANTON

SECONDED COUNCILLOR PRICE

THAT Council:

- a. **SUPPORTS** the development of a “Rain Garden Demonstration” trial to retrofit various drains in the Albany urban area; and
- b. **APPROVES** a re-allocation of \$20,000 from the Stormwater Drainage Masterplan, to fund the trial.

**MOTION CARRIED 7-3
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

ITEM NUMBER: 13.7.2
ITEM TITLE: Proposal to excise portion of reserve land for Lake Seppings road reserve

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward	:	SER 086 (Frederickstown Ward)
Summary of Key Points	:	Proposal to excise portion of Reserve 1299 for road reserve.
Land Description	:	Crown Reserve 1299
Proponent	:	City of Albany
Owner	:	Crown
Reporting Officer(s)	:	Executive Support Officer Grant Funding and Finance (S Pepper)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Bulletin Attachment(s)	:	Nil

Maps and Diagrams:

1. Follows this report.

BACKGROUND

2. Over the years, Council has received numerous complaints about the condition of Lake Seppings Drive, between Hanson Street and Drew Lane. The current gravel road is in poor condition, requiring regular grading to maintain access to adjoining properties.
3. It has been identified the current road carriageway is not located within the dedicated road reserve, but rather in Reserve 1299.

DISCUSSION

4. Staff have investigated the various concerns, reviewed the ongoing maintenance costs and traffic counts for the road, and conclude the road needs to be upgraded.
5. An assessment of the current Lake Seppings Drive road highlights it is split into two sections and has sealed and unsealed sections. The area south of Hanson Street has not been developed.
6. In 2005, staff completed a detailed study of a possible connection, which involved land resumptions, re-location of existing services and road dedication processes, and identified the costs of the project were not viable for Council.
7. The Lake Seppings Drive carriageway north of Hanson Street was constructed prior to 1980, through a portion of Reserve 1299, rather than using the dedicated road reserve to the west. It is assumed the gravel track was developed off the road reserve to avoid vegetation stands and rock outcrops.

WORKS & SERVICES REPORTS

Item 13.7.2 continued.

8. Reserve 1299 is vested in the City of Albany, with its purpose being “Parklands”. It is part of the Lake Seppings Reserve area that is a remnant patch of native vegetation isolated from other vegetation by urban development. In 2001, a Management Plan was developed for the area to address various flora and fauna issues, drainage concerns, and to improve traffic control around the Lake Seppings reserves. This Plan was not adopted by Council and it is to be redrafted in the near future.
9. Property owners to the north of Anzac Road have dual frontage access, with their primary access being Drew Lane, while those between Hanson Street and Anzac Road can only use Lake Seppings Drive.
10. The cost of relocating the current gravel road which runs from Hanson Street to the northern sealed section of Lake Seppings Drive, and constructing and sealing it from Hanson Street to Anzac Road is \$70,000. The road construction will be subject to future budget considerations and external funding opportunities.
11. The excision of land from Reserve 1299 is the first step in resolving long standing issues with this road alignment and will allow staff to achieve a final resolution.

PUBLIC CONSULTATION / ENGAGEMENT

12. In response to public concerns the City has maintained and regularly graded the gravel road strip along Lake Seppings Drive.

GOVERNMENT CONSULTATION

13. No referral to government agencies was required.

STATUTORY IMPLICATIONS

14. Section 51 of the Land Administration Act, 1997, -

Cancellation, etc of reserves generally.

Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.

15. Under the Land Administration Act 1997, section 56, Dedication of Roads –

- (1) *If in the district of a local authority –*
 - (a) *land is reserved or acquired for use by the public, or is used by the public, as a road under care, control and management of the local government;*
 - (b) *in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*
 - (i) *the holder of the freehold in that land applies to the local government, requesting it to do so; or*
 - (ii) *those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*

or

WORKS & SERVICES REPORTS

Item 13.7.2 continued.

(c) *land comprises a private road of which the public has had uninterrupted use for a period not less than 10 years,*

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

16. Nil.

POLICY IMPLICATIONS

17. Not applicable.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. Council has the following options in relation to the proposal:

- a. 1) seek approval for the excision of portion of Reserve 1299, for road reserve purposes,
2) seek approval to dedicate the resultant land as road reserve, and
3) subsequent to the road dedication, construct and seal Lake Seppings Drive north of Hanson street to Anzac Road; or
- b) 1) seek approval for the excision of portion of Reserve 1299, using the current alignment, for road reserve purposes,
2) request the current road reserve be incorporated into reserve 1299,
3) seek approval to dedicate the resultant land as road reserve, and
4) subsequent to the road dedication, construct and seal Lake Seppings Drive north of Hanson Street to Anzac Road.

19. Should Council choose to do nothing, there is a possibility of public liability issues arising, should an accident occur on the reserve, rather than a dedicated road reserve.

SUMMARY CONCLUSION

20. It is recommended a portion of Reserve 1299 be excised, as per drawing number WAAY0026/001ZA, and the resultant land be amalgamated with the current road reserve, to allow the construction and dedication of the new road, without the destruction of any vegetation or increased costs of removing rock. The current gravel road would then be closed to the public and incorporated back into the reserve.

WORKS & SERVICES REPORTS

Item 13.7.2 continued.

Councillor Buegge left the Chamber at 10.03pm.

ITEM 13.7.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENTS: SIMPLE MAJORITY

MOVED COUNCILLOR WISEMAN

SECONDED COUNCILLOR WALKER

THAT Council agrees to:

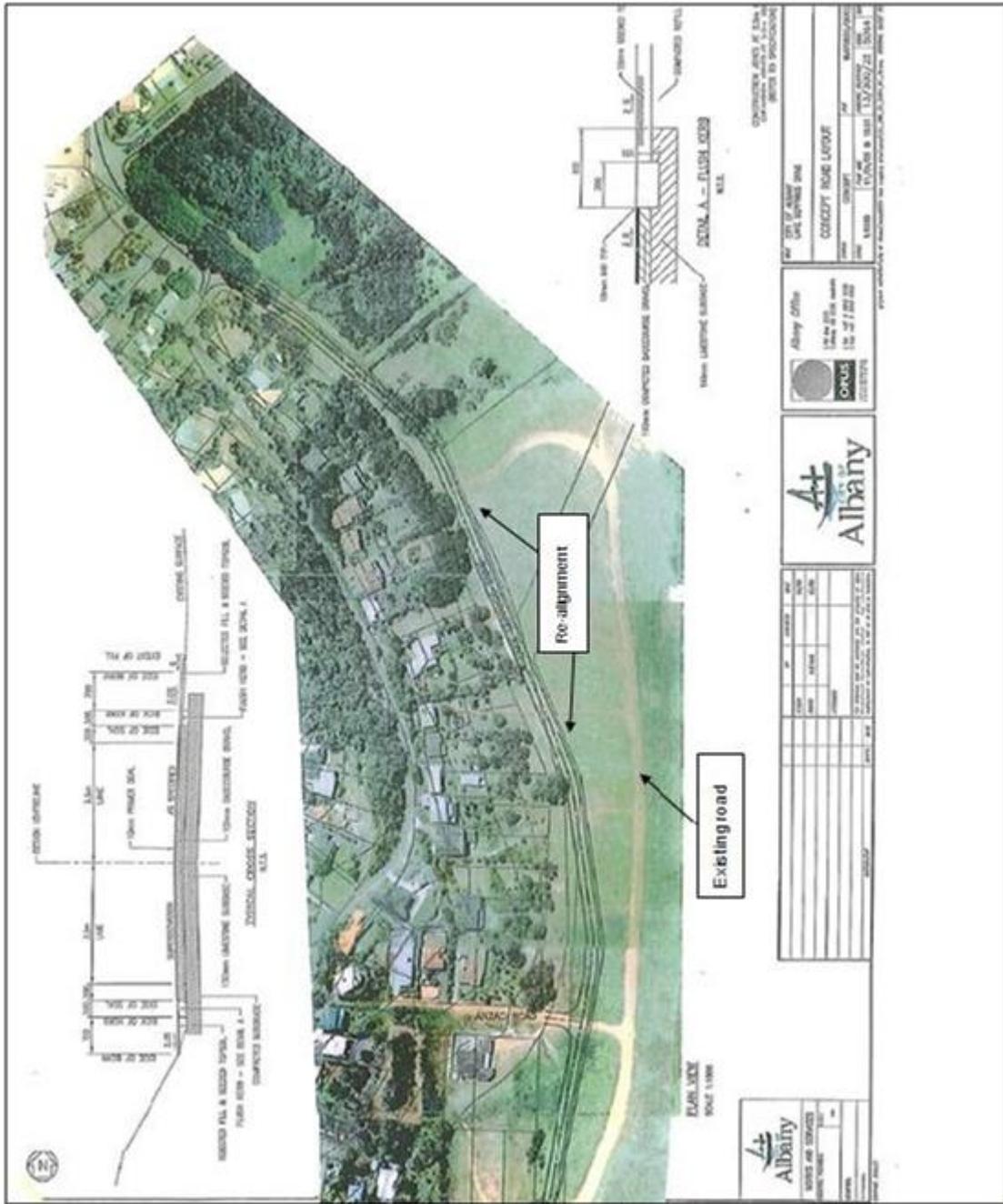
- a. **SEEK** approval for the excision of portion of Reserve 1299, as per drawing number WAAY0026/001ZA, from the Department of Planning and Infrastructure for road reserve purposes, in accordance with section 51 of the Land Administration Act; and
- b. **SEEK** approval to dedicate the resultant land as road reserve, in accordance with section 56 of the Land administration Act.

MOTION CARRIED 9-0

REFER DISCLAIMER

WORKS & SERVICES REPORTS

Item 13.7.2 continued



WORKS & SERVICES REPORTS

ITEM NUMBER: 13.7.3
ITEM TITLE: Proposal to acquire land for Mueller Street extension

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : STR 131 (Vancouver Ward)
Summary of Key Points : Proposal to acquire land from lot 252 Mueller Street for road reserve purposes
- Land Description** : Portion of lot 252 Mueller Street
Proponent : City of Albany
Owner : STV Investments Pty Ltd
Reporting Officer(s) : Executive Support Officer Grant Funding and Finance (S Pepper)
- Disclosure of Interest** : Nil
Previous Reference : OCM 19.04.05 Item 13.3.5
OCM 20.06.06 Item 18.1
OCM 19.12.06 Item 13.7.3
OCM 16.01.07 Item 13.7.1
- Bulletin Attachment(s)** : Nil

Maps and Diagrams:



WORKS & SERVICES REPORTS

Item 13.7.3 continued.

BACKGROUND

1. The proposed acquisition of portion of lot 252 Mueller Street for road reserve purposes has been under consideration since April 2005 with negotiations relating to previous and current landowners.
2. A late response to a sale offer, subject to Council approval, has been submitted by the landowner for consideration. Staff now seeks Council approval to accept the offer, and stop the compulsory acquisition process currently operating.

DISCUSSION

3. Under the City's Roads Masterplan, funding was to be provided in the short term to reconstruct portion of Cumming Road to accommodate the vehicular traffic using that road, the long term stability of that road is problematic with the depth of peat that exists below the road reserve. It is proposed to link Mueller Street to Cull Road to achieve the required road connection.
4. The improvement of road exposure for adjoining land parcels has economic advantages to those land owners, and has the potential to create another urban development front for consumers, in close proximity to the City centre, creating a direct road route through Lockyer will also remove unwanted traffic from other local roads in the suburb.
5. The City of Albany Town Planning Scheme 3 has identified an area between Cumming Road, Cull Road, Little Oxford Street and Wolfe Road within the "Residential Development" zone. The City of Albany Town Planning Scheme 1A identifies an area to the east of Cull Road as "Future Urban" zone. The total land area is approximately 73ha. Development of those lots cannot proceed until an overall structure plan has been prepared. The preparation of that plan has been completed and is currently available for public comment. The area has the potential to be connected to all the necessary services.
6. Council resolved to resume the land via compulsory acquisition at the Ordinary Council Meeting 16/01/07.
7. Council Staff have obtained land valuations for the portion of land to be acquired.. A final letter of offer was presented to the owners, but as a reply was not forthcoming, staff sought Council approval in January 2007, to commence compulsory acquisition action. Negotiation offers have been provided since, to no avail, with compulsory action being instigated in September 2008.
8. On 27 October 2008, the applicants have responded to the last Council offer. In September 2008, Council also agreed to excise land from Reserve 25337 for the extension of Townsend Street to Mueller Street. That land is no longer required.

PUBLIC CONSULTATION / ENGAGEMENT

9. Nil

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

GOVERNMENT CONSULTATION

10. Nil

STATUTORY IMPLICATIONS

11. Council has been in protracted negotiations with the current land owners of Lot 252 Mueller St, to acquire a portion of land to create a road reserve. In January 2007, Council agreed to compulsory acquisition action in accordance with the Land Administration Act, but fresh negotiations, have resolved the issues.
12. Section 170 of the Land Administration Act, enables Council to progress with the compulsory acquisition of the land, should negotiations not be resolved.
13. Pursuant to Section 56 of the Land Administration Act, Council is able to dedicate the resultant land as a public road.

FINANCIAL IMPLICATIONS

14. The City of Albany has budgeted for land development of the Council-owned Cull Road Subdivision, which includes the construction of the Mueller Street extension. The acquisition costs will be funded from the Roads Masterplan Road Construction account.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

15. 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.”

POLICY IMPLICATIONS

16. Nil

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. Council has two options –

- It may choose to accept the current offer to purchase portion of lot 252 Mueller Street, in accordance with the independent sworn valuation offer obtained, plus 10%; or
- Advise the applicants, that it intends to continue with the compulsory acquisition action currently in place. (Compensation will be payable on completion of the acquisition process).

SUMMARY CONCLUSION

18 The compulsory acquisition process will take approximately twelve months to complete. Council may wish to finalise these negotiations, which were commenced in 2005, and accept the current sworn valuation, plus 10%, by authorising the Chief Executive Officer to negotiate the sale.

ITEM 13.7.3 - OFFICER RECOMMENDATION

VOTING REQUIREMENT – ABSOLUTE MAJORITY

MOVED COUNCILLOR PRICE

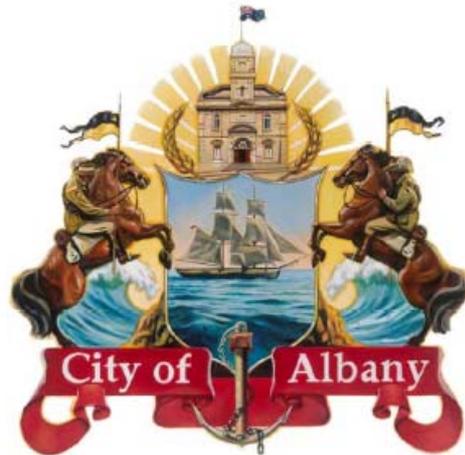
SECONDED COUNCILLOR WALKER

THAT Council agrees to;

- a. **DELEGATE to the Acting Chief Executive Officer authority to negotiate a settlement for portion of Lot 252 Mueller Street and if no agreement is reached by 30th November 2008 continue with compulsory acquisition of portion of lot 252 Mueller Street in accordance with section 170 of the Land Administration Act; and**
- b. **SEEK approval to dedicate the resultant land as road reserve in accordance with section 56 of the Land Administration Act.**

**MOTION CARRIED 9-0
ABSOLUTE MAJORITY**

Item 13.7.3 continued.



MINUTES

ASSET MANAGEMENT AND CITY SERVICES STRATEGY AND POLICY COMMITTEE MAN236/AM806611

**Held on
Thursday 2nd October 2008
4.30pm**

ALAC Meeting Room

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

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8.0	Closure of Meeting	3

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

COMMITTEE MEETING MINUTES – 02/10/2008

** REFER DISCLAIMER **

1.0 DECLARATION OF OPENING

The Chairperson Councillor Des Wolfe declared the meeting open at 4.35pm.

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

Attendances:

Chairperson	D. Wolfe
Mayor	M.J. Evans JP
Councillors	K. Stanton G. Kidman

Observer	J. Matla
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Guests	S. Fretton G. Crockford
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Acting Executive Director of Works & Services Manager City Services Acting PA to EDWS (minutes)	P. Brown I. Neil J. Haigh
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Apologies/Leave of Absence:

Councillors	J. Walker C. Morris D. Wiseman
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3.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

**MOVED: COUNCILLOR STANTON
SECONDED: COUNCILLOR GORDON**

THAT the Minutes of the Asset Management and City Services Strategy and Policy Committee Meeting of 4TH September 2008 as previously distributed be confirmed as a true and accurate record of proceedings.

MOTION CARRIED 5-0

4.0 DISCLOSURE OF INTEREST

Nil.

5.0 ITEMS FOR DISCUSSION

At the commencement of the meeting, Simon Fretton and Gary Crockford from the Port Authority provided a brief overview of the Port's position on the realignment project of Princess Royal Drive. Simon and Gary left the meeting at 5pm.

5.1 WAAMI – Improvement Strategy

Acting Executive Director of Works & Services Peter Brown advised that all of the benchmarks for the WAAMI have been met so far. The WAAMI internal working group is meeting on Thursday, 9th October 2008 in anticipation of the workshop being held on 28th October 2008.

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

COMMITTEE MEETING MINUTES – 02/10/2008

** REFER DISCLAIMER **

Councillor Stanton enquired as to which of the sessions would be most beneficial for Councillors to attend. Acting EDWS Peter Brown advised that he would obtain more information on the sessions and circulate to relevant parties.

5.2 Waste Update

City Services Manager Ian Neil advised that Steve Ditchburn had been appointed as Waste Supervisor.

Ian Neil also advised that a Draft Strategic Waste Management Plan had been submitted to the State Government for approval and gave an overview of the Management Plan. Some of the issues highlighted were the development of a commercial recycling plan and ways to encourage more recycling from business. Two possible ways of doing this were to offer the service like we do to the domestic sector and to increase fees on the weighbridge.

Several other parts of the Management Plan highlighted by Ian Neil were:

- Development of a Household Hazardous Waste Facility
- Extending the life of Bakers Junction
- Collaboration with other Councils in the Great Southern.

Ian advised that all committee members would be receiving a copy of the Draft Strategic Waste Management Plan prior to the next Asset Management and City Services Strategy and Policy Committee Meeting.

Several comments were made by Councillors that they had received complaints that the normal blue bin was not large enough for large families. Ian Neil advised that households could purchase additional bins – whether it be the blue bin, recycling or green waste. The householder would incur a charge for this and also a charge for collection but this cost was minimal compared to what householders in Perth pay.

It was suggested that this information should be made more well known to the public and City Services Manager Ian Neil and Mayor Milton Evans work together on ways to raise awareness on the subject.

5.3 Right of Way Update

As agreed at the last Asset Management and City Services Strategy and Policy Committee Meeting, the Right of Way Strategy is to be referred back to the 21st October Ordinary Council Meeting with clarification on the Strategy and advertising for Rowley Street.

5.4 Airport Café

Ian Neil advised that several possibilities are still being explored including the “Café to service a plane” idea. Ian outlined the main pitfall with getting the vending machines is that they come from over east and the businesses wanted a fixed term contract for the City to have the 3 vending machines. If, once a café was up and running, the City broke the contract, we’d be up for approximately \$700-\$1,000 (all machines).

WORKS & SERVICES REPORTS

Item 13.7.3 continued.

COMMITTEE MEETING MINUTES – 02/10/2008

** REFER DISCLAIMER **

Ian advised that he has organised the vending machines but there is about a 5 week lead time.

Peter Brown advised that he and Ian will put together a business plan to explore all options available including a liquor license.

6.0 AGENDA ITEMS FOR NEXT MEETING

- 6.1 Strategic Waste Management Plan Update.
- 6.2 Pathway Strategy Update Including Financial Modelling.
- 6.3 Airport Business Plan for Café.
- 6.4 Improvement Strategy.

7.0 TIME AND DATE OF NEXT MEETING

Tracy Blaszkow to be invited.

The next meeting of the Committee is scheduled for **6.00pm Thursday 6th November 2008** in the **Margaret Coates Boardroom**.

8.0 CLOSURE OF MEETING

The meeting closed at 6.20pm.

WORKS & SERVICES REPORTS

13.8 – WORKS & SERVICES COMMITTEES

ITEM NUMBER: 13.8.1

ITEM TITLE: Asset Management & City Services Strategy and Policy Committee Meeting Minutes – 2nd October 2008

File Number or Name of Ward	: MAN 236 (All Wards)
Summary of Key Points	: Committee Items for Council Consideration.
Reporting Officer(s)	: Acting Executive Director Works & Services (P Brown)
Disclosure of Interest	: Nil
Bulletin Attachment(s)	: Nil

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 13.8.1 – COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR STANTON

SECONDED COUNCILLOR PRICE

THAT the minutes of the Asset Management & City Services Strategy and Policy Committee held on Thursday 2nd October 2008 be RECEIVED (copy of minutes follows this report).

MOTION CARRIED 9-0

**GENERAL MANAGEMENT
SERVICES
Reports**

GENERAL MANAGEMENT SERVICES REPORTS

14.1 STRATEGIC DEVELOPMENT

Nil.

14.2 ORGANISATIONAL DEVELOPMENT

Nil.

GENERAL MANAGEMENT SERVICES REPORTS

*Councillor Paver declared a Financial Interest and left the Chamber at 10.08pm.
The nature of Councillor Paver's interest is that he derives income from the Tourism industry.*

14.3 ECONOMIC DEVELOPMENT

ITEM NUMBER: 14.3.1
ITEM TITLE: APPOINTMENT OF MEMBERS TO THE ALBANY TOURISM AND MARKETING COMMITTEE (ATMAC)

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: STR 208 (All Wards)
Summary of Key Issues	: Appoint industry/community members to the Albany Tourism Marketing Committee (ATMAC)
Reporting Officer(s)	: Manager Economic Development (J Berry)
Disclosure of Interest	: Nil
Previous Reference	: OCM 16/09/08, Item 14.5.2
Bulletin Attachment Reference	: Nil

BACKGROUND

1. The Albany Tourism Marketing Advisory Committee (ATMAC) works with staff and industry to prepare and review the City's tourism marketing activities.
2. Committee membership is currently made up of three (3) elected members (Councillors Morris, Kidman and Walker) and four (4) industry representatives (Ms Gaynor Clarke and Mr Simon Shuttleworth). The Committee currently has two industry representative vacancies.

DISCUSSION

3. On the 19th June 2008, Council advertised for nominations to the Committee in the Albany Advertiser and Albany Extra. Nominees were requested to demonstrate their experience, skills and knowledge in tourism marketing or other professional background related to media and public relations. They were also asked to provide an outline of the contribution they could make to boost the level of marketing and promotion of Albany. Nominee details were reviewed by the Albany Tourism Marketing Advisory Committee and short-listed for Council consideration.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.3.1 continued

4. Nine nominations were received being:

- Pam Lincoln – Oranje Tractor Wines (Go Taste Albany & Albany Bike Users Group)
- Keith Bales – International Industry experience (currently Perth based)
- Joanna Hands – Albany's Bayview Backpackers
- Annette Davis – Arts and Heritage Consultant
- Elise Van Gorp – Great Southern Region Marketing Association Coordinator (nomination withdrawn)
- Noelene Evans - The Rocks, Albany
- Jonathan Jones – Kalgan Queen Scenic Cruises
- Graham Harvey – Albany Chamber of Commerce and Industry (nomination withdrawn)
- Murray Gomm - Oranje Tractor Wines (Go Taste Albany & Albany Bike Users Group)

5. On the 26 August 2008 the ATMAC Committee met and recommended Council consider increasing membership from four members to five members so as to broaden specific skills, knowledge and experience in tourism marketing across a range of tourism industry sectors. The Committee also reviewed the applicants and unanimously short-listed the following nominees:

- Pam Lincoln – Oranje Tractor Wines
- Annette Davis – Arts & Heritage Consultant
- Graham Harvey – Albany Chamber of Commerce and Industry Inc

6. At OCM 16/09/08 the appointment of new members to the Committee lapsed as the vote did not achieve Absolute Majority.

7. On 26 September 2008 Mr Harvey withdraw his nomination to the Committee

8. The purpose of this report is to resubmit the two nominees recommended by ATMAC for appointment by Council.

PUBLIC CONSULTATION / ENGAGEMENT

9. Nominations for the positions on the ATMAC were advertised in the Albany Advertiser.

GOVERNMENT CONSULTATION

10. Not applicable.

STATUTORY IMPLICATIONS

11. The Local Government Act 1995 states that the voting requirement for appointment of committee is Absolute Majority.

"5.10. Appointment of committee members

(1) A committee is to have as its members —

(a) persons appointed by the local government to be members of the committee (other than those referred to in paragraph (b)); and*

(b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required."*

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.3.1 continued.

FINANCIAL IMPLICATIONS

12. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

Goal 2: Economic Development ... Albany will be Western Australia's first choice for regional investment offering a wide range of development, employment and learning opportunities within a robust economy.

Objective 2.1 Albany will be a City where renewable energy completely powers the region.

City of Albany Mission Statement:

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

POLICY IMPLICATIONS

14. There are no policy implications.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. Option One. Industry representation remains at four positions and proceed with Officer Recommendation.

16. Option Two. Increase the industry representation and appoint more industry representatives

SUMMARY CONCLUSION

17. The ATMAC committee currently has two industry representative vacancies and appointment of committee members is essential.

ITEM NUMBER – 14.3.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR PRICE**

THAT Council APPOINT the following persons to the Albany Tourism Marketing Advisory Committee:

- a. Pam Lincoln – Oranje Tractor Wines
- b. Annette Davis – Arts & Heritage Consultant

**MOTION CARRIED 8-0
ABSOLUTE MAJORITY**

Councillor Paver returned at 10.09pm.

GENERAL MANAGEMENT SERVICES REPORTS

14.4 CORPORATE GOVERNANCE

ITEM NUMBER: 14.4.1

ITEM TITLE: GOVERNANCE AND MEETING FRAMEWORK – MEETING CYCLE

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER: **Executive Function.** Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward	:	MAN 186 (All Wards)
Summary of Key Issues	:	Review of meeting arrangements for the City of Albany's Council and Strategy & Policy Committee Meetings.
Reporting Officer(s)	:	Manager Executive Services (C Grogan)
Disclosure of Interest	:	Nil
Previous Reference	:	Item 14.2.1 OCM 19/02/2008 Item 16.3 OCM 21/10/2008
Bulletin Attachment Reference	:	1.4.1 – Proposed Calendar

BACKGROUND

1. Council adopted the Governance and Meeting Framework Policy in February 2008 which established four strategy and policy committees. The regularity dates and times of the four committees were determined by each individual committee. The Council has determined these Committees will now meet no earlier than 6pm on the proposed meeting day. Whereas two of these committees formerly met on the one day, this will no longer be practical and it is considered that a clearly defined and more coherent meeting cycle needs to be established to facilitate more efficient and effective decision making.

DISCUSSION

2. In terms of reviewing the cycle of meetings the following factors have been taken into consideration:
 - a. Ensuring that Councillors have sufficient preparation time for Agenda Briefing Meetings and Ordinary Council Meetings;
 - b. Ensuring that those Committees with the more pressing strategy and policy items are programmed in such a way as to allow timely and smooth flow of business from Committee to Council meetings; and
 - c. The efficiency of the administration of the entire meeting cycle.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued.

3. The proposed regular times and dates of Council and Strategy & Policy Committee meetings are shown below:
 - a. The Asset Management and City Services Strategy and Policy Committee to meet at 6pm on the 1st Tuesday of the month;
 - b. Council Agenda Briefing meetings to occur at 7pm on the 2nd Tuesday of the month;
 - c. Ordinary Council Meetings to occur at 7pm on the 3rd Tuesday of the month;
 - d. The Planning and Environment Strategy & Policy Committee to meet at 6pm on the 3rd Thursday of the month;
 - e. The Economic and Community Development Strategy & Policy Committee to meet at 6pm on the 4th Tuesday of the month; and
 - f. The Corporate Strategy and Governance Strategy & Policy Committee to meet at 6pm on the 4th Wednesday of the month.
4. Shown in the Bulletin is an annual calendar of all proposed meeting times for the period commencing November 2008 through to December 2009.

PUBLIC CONSULTATION / ENGAGEMENT

5. Not applicable.

GOVERNMENT CONSULTATION

6. Not applicable

STATUTORY IMPLICATIONS

7. The Local Government Act 1995 Division 2 and the Local Government (Administration) Regulations 1996 cover all aspects of Council meetings and Committees.

FINANCIAL IMPLICATIONS

8. The proposed meeting cycle does not result in any additional meetings and therefore there will be no additional costs incurred.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued.

POLICY IMPLICATIONS

10. The proposed calendar of meetings is entirely in line with Council's Governance Framework Policy adopted in February 2008.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. There are numerous options for the programming of regular Council meetings, however this proposed cycle has been designed to ensure that Councillors have sufficient uninterrupted preparation time for Agenda Briefing Meetings and Ordinary Council Meetings, and provides for those Committees that generally deal with the more pressing strategy and policy items to be programmed in such a way as to allow timely and smooth flow of business from Committee to Council meetings.

SUMMARY CONCLUSION

12. In conclusion, the current cycle of Strategy and Policy Committees is proving inefficient and burdensome, and therefore needs to be reviewed.
13. The cycle of meetings proposed in this item would provide a more effective and efficient meeting cycle and provides greater certainty for Councillors and Officers alike.

ITEM NUMBER: 14.4.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council APPROVES the following regular times and dates of Council Meetings and Strategy & Policy Committee Meetings from November 2008 until December 2009 inclusive:

- a. The Asset Management and City Services Strategy and Policy Committee to meet at 6pm on the 1st Tuesday of the month;
- b. Council Agenda Briefing Meetings to occur at 6pm on the 2nd Tuesday of the month;
- c. Ordinary Council Meetings to occur at 7pm on the 3rd Tuesday of the month;
- d. The Planning and Environment Strategy & Policy Committee to meet at 6pm on the Thursday immediately following the Council meeting;
- e. The Economic and Community Development Strategy & Policy Committee to meet at 6pm on the 4th Tuesday of the month; and
- f. The Corporate Strategy and Governance Strategy & Policy Committee to meet at 6pm on the Wednesday immediately following the Council meeting.
- g. No committee meetings are conducted during the period 24th to the 31st December.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.4.1 continued.

ITEM NUMBER: 14.4.1 - AMENDED OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR STANTON

SECONDED COUNCILLOR WOLFE

THAT Council APPROVES the following regular times and dates of Council Meetings and Strategy & Policy Committee Meetings from November 2008 until December 2009 inclusive:

- a. **The Asset Management and City Services Strategy and Policy Committee to meet at 6pm on the 1st Tuesday of the month;**
- b. **Council Agenda Briefing Meetings to occur at 6pm on the 2nd Tuesday of the month;**
- c. **Ordinary Council Meetings to occur at 7pm on the 3rd Tuesday of the month;**
- d. **The Planning and Environment Strategy & Policy Committee to meet at 6pm on the Thursday immediately following the Council meeting;**
- e. **The Economic and Community Development Strategy & Policy Committee to meet at 6pm on the 4th Tuesday of the month; and**
- f. **The Corporate Strategy and Governance Strategy & Policy Committee to meet at 6pm on the Wednesday immediately following the Council meeting.**
- g. **No committee meetings are conducted during the period 22nd December 2008 to 05th January 2009.**

MOTION CARRIED 9-0

GENERAL MANAGEMENT SERVICES REPORTS

14.5 GENERAL MANAGEMENT SERVICE COMMITTEES

Nil.

Councillor Buegge returned to the Chamber at 10.12pm.

15.0 ELECTED MEMBERS' REPORT/INFORMATION BULLETIN

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR PRICE
SECONDE COUNCILLOR PAVER**

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

MOTION CARRIED 10-0

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

ITEM NUMBER: 16.1

**ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR PAVER – REFLECTIVE ROOF POLICY
GOODE BEACH**

ITEM 16.1 – NOTICE OF MOTION BY COUNCILLOR PAVER

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR PRICE**

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council PREPARE a reflective building materials policy to introduce controls on the use of reflective roofs on houses and walls of sheds at Goode Beach and that the proposed policy be based upon the Shire of Busselton “use of reflective building materials” policy document.

MOTION CARRIED 8-2

Councillors Reason:

1. The proposed draft policy adopted by Council at the October meeting will not protect the residents of Goode Beach from glare generated from reflective roofing materials. The draft policy defines materials by name, rather than their reflective qualities and the impact of glare from roofs and outbuildings is experienced beyond the immediate neighbours of the development site.
2. Council has the capacity to introduce policies on a suburb by suburb basis and the Goode Beach community has sought a suitable planning response to problems associated with glare, particularly from roofing materials.

OFFICERS REPORT

Author: Executive Director Development Services (R Fenn)

STATUTORY IMPLICATIONS

3. Clause 6.9 of the City of Albany Town Planning Scheme 3 provides the framework for Council to prepare a town planning scheme policy. In order to achieve the objectives of the scheme, 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 development control.

Item 16.1 continued.

POLICY IMPLICATIONS:

4. The Residential Design Codes limit the areas where Council may vary the code provisions. Amongst those variations is the capacity to introduce local policies to vary or replace the acceptable development provisions relating to building design (element 6.3).

FINANCIAL IMPLICATIONS:

5. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

6. Establishing a reflective roof policy over part or the entire District has no strategic implications.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

7. Introducing a reflective roof and outbuilding policy will still require interpretation of applications by City staff. The potential for proponents to seek a State Administrative Tribunal review of the City's decision is therefore increased.
8. At the October Council meeting, it was resolved that a similar draft policy be advertised for comment and that draft policy sought to incorporate Goode Beach within a larger policy area. If this motion is passed, and Council resolves to finally adopt either policy, the area affected by the respective policies needs to be clearly defined.

COMMENT

9. When considering the Busselton policy, the Planning and Environment Strategy and Policy Committee felt that the restrictions placed on solar roofs, solar panels and glazing was too restrictive. The Committee was also uncomfortable with the requirement in the policy to consult with the "surrounding" landowners, given the Residential Design Codes limits consultation to an "adjoining" landowner.
10. The impact of glare can be experienced some distance from an offending property and the extent of that impact can be subjective. Most roofing materials and metal clad outbuildings "weather" over a period of time and the level of reflective glare reduces accordingly.
11. There is no legal or practical impediment to a separate policy being introduced at Goode Beach to control roofing materials and the finishes on the walls and roofs of outbuildings. However, the building industry and City staff would be concerned if there are multiple policies dealing with roofing materials across the urban area; whilst the rationale for this approach may be sound, it will clearly cause confusion and the potential for an error in decision-making.

17.0 MAYORS REPORT

The Deputy Mayor read the Mayors Report:

Fellow Councillors:

It is my great pleasure to present this month's report in the absence of Mayor Milton Evans who is currently in France after undertaking the formal signing of a Friendship Agreement between the City of Albany and the City of Peronne. We have had very positive reports back from the Mayor in regards to the hospitality he has received, the success of the visit and the enthusiasm with which the people of Peronne look forward to progressing relationships between our two cities. Mayor Evans will present a full report to Council on his return.

Of significant importance this month was the appointment of our new Chief Executive Officer, Mr Paul Richards. Mr Richard's appointment was endorsed by Council at a Special Meeting held on 5th November 2008.

Mr Richards holds an MBA from Birmingham University and had a 20-year police career in the UK before coming to Western Australia in 2006.

He was head of the WA Police State Intelligence Division until earlier this year, when he took up the appointment as Ravensthorpe Chief Executive.

Previous police positions held by Mr Richards include Director of Intelligence and Head of Professional Standards for the Wiltshire Constabulary.

He is originally from Wales, is 41 years old and is married to Sarah with whom he has two sons Rhys (5) and Max (3). His two older children, Jamie (15) and Sophie (11), live in the UK.

Mr Richards will start work at the City of Albany on the 1st December 2008.

Some of the other significant events that occurred over the past month at which the Mayor, myself or Councillors officiated were:

- The Albany Residential College Annual Graduation Awards Night;
- Welcome to delegates attending The Australian Property Institute Regional Conference;
- 2008 Master Builders Association/Bankwest Building Awards;
- Over 50's "Have a Go Day";
- Top Trails WA Award Ceremony. The City of Albany received an award for the Ellen Cove to Albany Port walking trail;
- St Joseph's College Presentation Night;
- Keep Albany Beautiful 2008 Showcase and Awards ceremony;
- RSL Memorial Services for the Desert Mounted Corps Memorial; the Nurses Memorial and Remembrance Day;
- A group Citizenship Ceremony at which we welcomed 7 new Australian citizens to Albany;
- A Civic Reception to welcome the RAAF 709 Squadron to Albany; and finally
- A ceremony to mark the maiden voyage of the woodchip ship "The Crystal Pioneer".

These are by no means all of the events that occurred over the month and I would like to acknowledge those Councillors who have represented the Mayor, and Council, to ensure we had a presence at almost all of the events to which we were invited.

Thank you.

Item 17.0 continued.

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR PRICE**

THAT the Mayor's Report dated 18th November 2008 be received.

MOTION CARRIED 10-0

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

ITEM NUMBER: 18.1

ITEM TITLE: EXTRAORDINARY ELECTIONS

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

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

File Number or Name of Ward	: MAN 016 (Frederickstown Ward)
Summary of Key Points	: Agree to conduct the extraordinary election by postal vote. Confirm the proposed extraordinary election schedule.
Proponent	: City of Albany
Reporting Officer(s)	: Corporate Governance Coordinator (S Jamieson)
Disclosure of Interest	: Nil
Previous Reference	: OCM 15/06/06 Item 12.2.1 OCM 20/02/07 Item 14.4.1
Bulletin Attachment(s)	: Nil

BACKGROUND

1. As a result of Councillor Morris resigning on Monday 4th November 2008, there is a legislative requirement to conduct an extra-ordinary election.
2. The current procedure required by the Local Government Act 1995 is that written agreement of the Electoral Commissioner has to be obtained before the vote is taken.
3. This agreement is subject to the proviso that the City of Albany also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.
4. In order to achieve this following the two motions need to be passed by a by absolute majority:

Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and

Decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election

Item 18.1 continued

DISCUSSION

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

PUBLIC CONSULTATION / ENGAGEMENT

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

GOVERNMENT CONSULTATION

10. The Corporate Governance Coordinator contacted the WAEC to ascertain the election process time line. Correspondence from the Western Australian Electoral Commission, Electoral Commissioner follows this report.
11. WAEC proposed time line is based on the suggested polling date of Saturday 28th February 2009. The proposed electoral schedule follows this report.

Item 18.1 continued

STATUTORY IMPLICATIONS

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

“4.61. Choice of methods of conducting the election

(1) The election can be conducted as a —

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

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

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

** Absolute majority required.*

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

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

**Absolute majority required.’*

14. Section 4 of the Act states as follows:

“4.8. Extraordinary elections

(1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 or 2.33 an election to fill the office is to be held.

(2) An election is also to be held under this section if section 4.57 or 4.58 so requires.

(3) An election under this section is called an "extraordinary election"

Item 18.1 continued

“4.9. Election day for extraordinary election

(1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed - (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or

(b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).

(2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.1 O (b) applies, it cannot be later than 4 months after the vacancy occurs.

(3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to -

(a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and

(b) advise the CEO of the day fixed.

FINANCIAL IMPLICATIONS

15. The cost of running the extra ordinary election will be approximately \$17,000 dollars.
16. The estimated cost to conduct the election is \$13,000 including GST which is based on the following assumptions:
 - 3,700 electors;
 - Response rate of approximately 50%; and
 - Count to be conducted in Albany.
17. Costs not incorporated in the estimate include:
 - Non-statutory (i.e. additional advertising in community newspapers and promotional advertising);
 - Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
 - One local government staff member to work in the polling place on Election Day.
18. The cost of running the extraordinary election has not been budgeted for.

Item 18.1 continued

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision:

Nil

Priority Goals and Objectives:

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

City of Albany Mission Statement:

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. **Option One.** "postal election" which is an election at which the method of casting votes is to be posting or delivering them to an electoral officer on or before election day; or
22. **Option Two.** "voting in person election" which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
23. The preferred option is Option One as:
- The running of elections is not the core business of the Chief Executive Officer; and
 - Having the election run by the WAEC will ensure statutory compliance is met.

SUMMARY CONCLUSION

24. The proposed polling date, Saturday 28th February 2009, for the extraordinary Election Day allows enough time for the electoral requirements to be complied.
25. A postal election is the preferred option.

Item 18.1 continued

ITEM NUMBER – 14.5.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR STANTON

SECONDED COUNCILLOR WALKER

THAT Council:

1. **DECLARE**, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and.
2. **DECIDE**, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election
3. **ALLOCATE \$17,000** to conduct the election and that this amount is subject to the next quarterly review.
4. **CONFIRM** the suggested polling date; being Saturday 28th February 2009.

MOTION CARRIED 9-1

Item 18.1 continued.



WESTERN AUSTRALIAN
Electoral Commission

ELECTION TIMETABLE
City of Albany
Local Government Extraordinary Election
21st February 2009

DT

Days to Polling Day	Local Government Act	References to Act/Regs	Day	Date
80	Last day for agreement of Electoral Commissioner to conduct postal election.	LGA 4.20 (2)(3)(4)	Wed	10/12/2008
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Wed	10/12/2008
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Sat	20/12/2008
70 to 56	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments. Preferred date Wednesday 24 December 2008	LGA 4.39(2)	Sat to Sat	20/12/2008 to 3/01/2009
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day. Preferred date Wednesday 7 January 2009	LGA 4.47(1)	Sat	3/01/2009
50	Close roll 5.00pm	LGA 4.39(1)	Fri	9/01/2009
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Wed	14/01/2009
44	Nominations Open First day for candidates to lodge completed nomination paper, in the prescribed form, with the Returning Officer. Nominations period is open for 8 days.	LGA 4.49(a)	Thu	15/01/2009
38	If a candidate's nomination is withdrawn not later than 4pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Wed	21/01/2009
37	Close of Nominations 4.00pm on the 37th day before election day.	LGA 4.49(a)	Thu	22/01/2009
36	CEO to prepare an owners' & occupiers' roll for the election. Electoral Commissioner to prepare residents' roll.	LGA 4.41(1) LGA 4.40(2)	Fri	23/01/2009
22	Lodgement of election packages with Australia Post.	Approx	Fri	6/02/2009
19	Last day for the Returning Officer to give Statewide public notice of the election. Preferred date Wednesday 28 January 2009	LGA 4.64(1)	Mon	9/02/2009
3	Commence processing returned election packages	Approx	Wed	25/02/2009
0	Polling Day Close of poll 6.00pm	LGA 4.7	Sat	28/02/2009

Post Polling Day	Post Declaration	References to Act/Regs	Date
4	Public Notice of the result.	LGA 4.77	4/03/2009
14	Report to Minister. The report relating to an election under section 4.79 is to be provided to the Minister within 14 days after the declaration of the result of the election.	Reg.81	14/03/2009
28	An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.	LGA 4.81(1)	28/03/2009

Item 18.1 continued.



WESTERN AUSTRALIAN Electoral Commission

Level 2 111 St George's Terrace
Perth Western Australia 6000
GPO Box F316 Perth
Western Australia 6841
PHONE (08) 9214 0400
EMAIL wacc@wacc.wa.gov.au
WEBSITE www.wacc.wa.gov.au
FAX (08) 9226 0577

LGE 841

Mr Peter Madigan
Acting Chief Executive Officer
City of Albany
PO Box 484
ALBANY WA 6331

Attention: Stuart Jamieson

Dear Mr Madigan

Extraordinary Election

I refer to Stuart Jamieson's email of 10 November 2008 requesting an estimate to conduct an extraordinary election for the Fredrickstown ward of the City of Albany as a postal election.

The estimated cost to conduct the extraordinary election would be \$13,000 including GST which has been based on the following assumptions:

- 3,700 electors;
- response rate of approximately 50%; and
- count to be conducted in Albany.

Costs not incorporated in this estimate include:

- non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising);
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns; and
- one local government staff member to work in the polling place on election day.

The Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis. Please note that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for our charges is all materials at cost and a margin on staff time only.

104520



Item 18.1 continued.

From: 61892260577 Page: 3/4 Date: 11/11/2008 4:12:37 PM

In accordance with section 4.20(4) of the *Local Government Act 1995*, I agree to be responsible for the conduct of an extraordinary election on a date to be appointed by Council.

If the City of Albany wishes to have the election conducted as a postal election, Council will now need to pass the following two motions by absolute majority:

1. declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
2. decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the extraordinary election will be as a postal election.

An election schedule is enclosed for Saturday 28 February 2009, which is a date that has been suggested for the election.

If you have any further queries please contact Phil Richards on 9214 0443.

Yours sincerely


Warwick Gatley AM
ELECTORAL COMMISSIONER

11 November 2008

Enc.

19.0 CLOSED DOORS

Nil

20.0 NEXT ORDINARY MEETING DATE

Tuesday 16th December 2008, 7.00pm

21.0 CLOSURE OF MEETING

There being no further business the Deputy Mayor declared the meeting closed at 10.27pm.

Confirmed as a true and accurate record of proceedings.

D Wolfe
Deputy Mayor

Appendix A**WRITTEN NOTICE OF DISCLOSURE**

Name	Item Number	Nature of Interest
Councillor Kidman	11.1.1	Financial. Councillor has a potential future financial interest. Councillor left the Chamber.
Councillor Williams	11.1.1	Impartiality. Councillor is personal friends of proponents. Councillor remained in the Chamber for the debate and vote.
Councillor Price	11.3.3	Proximity. Councillor owns property at 70 Spencer St, Albany. View of Councillor's property could be affected by this development. Councillor left the Chamber.
Councillor Wiseman	11.3.3	Impartiality. Councillor owns property close to the subject site. Councillor left the Chamber.

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING

Name	Item Number	Nature of Interest
Councillor Paver	14.3.1	Financial. Councillor derives income from the Tourism industry. Councillor left the Chamber.

INTEREST DISCLOSED BY OFFICERS

Nil

Appendix B

Agenda Item 12.1 refers

**SUMMARY OF ACCOUNTS
CERTIFICATE**

Municipal Fund

Cheques	Totalling	\$184,490.10
Electronic Fund transfer	Totalling	\$3,608,727.18
Credit Cards	Totalling	\$11,176.55
Payroll	Totalling	<u>\$802,677.00</u>
	Total	\$4,607,070.83

CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling **\$4,607,070.83** which was submitted to each member of the Council, dated 31st October 2008, 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.

William Peter Madigan

Acting Chief Executive Officer

MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling **\$4,607,070.83**, dated 31st October 2008, was submitted to the Council, and that the amounts are recommended to the Council for payment.

Desmond Wolfe

Deputy Mayor

TABLED DOCUMENTS

Councillor Bostock – Item 11.1.1

I have visited Mr. Soumelidis current premises and was impressed with the standard of his operation, he manages an excellent business and you will recall that I fought to prevent its closure. It is therefore distressing that I cannot support this application which clearly falls at the first planning hurdle.

I share the sentiment of those that wrote to us and signed a petition in his support, but our determination must be based on sound planning practice. The first planning principal is to ensure best possible land use and avoid conflict between differing uses

Finding a loophole and wriggling through the letter of the law is simply not acceptable. The intent of our planning framework is to guide us in making sensible, informed, equitable decisions that provide for fair, orderly, economic and sustainable use and development of land.

The existing factory is subject to a closure notice approved by this Council on grounds that it is a “Noxious Industry” and cannot operate in a “General Industrial Zone”, indeed it can only be accommodated in a “Noxious Industry Zone”.

The intent of the new site is “Light Industry” and detailed in our adopted strategic plan ALPS (Albany Local Planning Strategy) this is to be phased out, industry is to be moved out of the city and this area is to be dedicated to “Town Mixed Business”. There is tourist accommodation in close proximity and plans for new residential accommodation as close as 50 meters from the proposed fish processing premises. It is within the confines of the central region of the city.

Mayor and councillors one does not have to be an expert town planner to appreciate the blatant contradiction, it beggars belief that this application is before as at all, but one must look at the planning imperatives. The following documents all have a bearing on this proposal, and all lead one to the conclusion that a fish processing facility on this site is contrary to good planning practice. It includes the Environmental Protection Authorities recommended 500 meters buffer zone for fish processing and The Barker Road Industrials Area Town Planning Policy which specifically precludes fish processing on this site.

The model scheme text requires that reasons for planning decisions and any deviations from established policy must be explained on planning grounds. I therefore ask,

How can we justify ignoring our Town Planning Scheme 1A,

How can we justify ignoring The Barker Road Industrial Policy,

How can we justify ignoring our adopted Long Term Planning Strategy ALPS

How can we justify ignoring Western Australia Planning Commission Policy 4.1, State Industrial Buffer Policy.

How can we justify ignoring State Planning Policy Framework, Policy No. 1

How can we justify ignoring the Environmental Protection Authority’s, guide No.3 Separation Distances between Industrial and Sensitive Land use?

AND How will we defend an application next month for an abattoir in Hercules Crescent or indeed next door to any of us...it is an unlisted use, thus following the planning logic and precedent set in this case entirely acceptable.

C-2

Mayor and Councillors I would like to see the applicant settled and able to continue serving the city and his customers' interstate without interference but this site is simply not appropriate, a fish processing facility is completely inconsistent with the objectives of the area.

The risk of odour difficulties in the fish processing industry is considerable, even with the state of the art facility the movement of 5 to 6 tons of fresh fish coming in and out of the building each week and the boiling of shell fish on site renders it impossible to guarantee an odour free operation.

It is also on the public record that in legal and planning terms any measures taken to mitigate the impact of a land use cannot be considered relevant in determining its proper classification. In other words a state of the art facility or labelling it a 'service industry' or 'unlisted use' does not change its proper health department classification; it remains an 'offensive trade' and as such requires appropriate buffers.

We already have genuine concerns from neighbours; this conflict is the crux of the matter. The odour risk and the need to separate land use is repeatedly recognised in our planning policies and is central to effective planning.

It remains our responsibility to consider most carefully the objectives of our policies and the guidelines from experienced authorities. We must protect the amenity of the area and ensure sustainable land use. We do no favours to the public or the applicant if we approve a development that later becomes a problem.

Councillor Jill Bostock.