

# **MINUTES**

## **ORDINARY MEETING OF COUNCIL**

**Held on  
Tuesday, 19<sup>th</sup> December 2006  
7.00pm  
City of Albany Council Chambers**

# City of Albany

## **\*\* Disclaimer \*\***

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

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

Signed \_\_\_\_\_

**Andrew Hammond**  
Chief Executive Officer

Date: 2<sup>nd</sup> January 2007

## TABLE OF CONTENTS

<b>1.0</b>	<b>Declaration of Opening</b>	<b>4</b>
<b>2.0</b>	<b>Record of Attendance/Apologies/Leave of Absence (Previously Approved)</b>	<b>4</b>
<b>3.0</b>	<b>Opening Prayer</b>	<b>4</b>
<b>4.0</b>	<b>Response to Previous Public Questions Taken On Notice</b>	<b>4</b>
<b>5.0</b>	<b>Public Question Time</b>	<b>4</b>
<b>6.0</b>	<b>Confirmation Of Minutes of Previous Meeting</b>	<b>15</b>
<b>7.0</b>	<b>Applications For Leave Of Absence</b>	<b>15</b>
<b>8.0</b>	<b>Disclosure of Financial Interests</b>	<b>15</b>
<b>9.0</b>	<b>Matters for Which Meeting May Be Closed</b>	<b>16</b>
<b>10.0</b>	<b>Petitions/Deputations/Presentations</b>	<b>16</b>
<b>11.0</b>	<b>Reports – Development Services</b>	<b>17</b>
11.1	Development	
11.1.1	Development Application - Hotel (Esplanade) - 1 - 3 Flinders Parade, Middleton Beach	18
11.1.2	Development Application - Multiple Dwellings - 4 Barry Court, Collingwood Park	34
11.1.3	Development Application - Change of Use of Residence and Caretakers Dwelling to Holiday Accommodation - Lot 116 Eden Road, Nullaki	70
11.1.4	Development Application - Grouped Dwelling on Rural Zoned Land - 429 Chester Pass Road, Warrenup	75
11.1.5	Development Application – Multiple Dwellings – Lots 9 & 12 Earl Street, Albany	80
11.1.6	Planning Compliance - Lot 3 (27-29) Golf Links Road, Middleton Beach	93
11.2	Health, Building & Rangers	
	Nil	98
11.3	Development Policy	
11.3.1	Advertisement of Subdivision Guide Plan for Amendment 179 - Lots 50 & 51, Link Road, Marbellup	99
11.3.2	Final Scheme Policy - Lockyer Residential Development Zone and Future Urban Zone - Conceptual Structure Plan	102
11.3.3	Initiate Scheme Amendment - Loc 6511, 304 Two Peoples Bay Road, Kalgan	108
11.3.4	Initiate Scheme Amendment - Conservation Zone - Nullaki Pensinsula	113
11.3.5	Initiate Scheme Amendment - Lots 17, 18, 19, 20, 21, 22, 27, 28 and 29 Mead Road and Lot 30 Nanarup Road, Kalgan	118
11.4	Reserves Planning	
	Nil	124

11.5	Development Services Committees	
	Nil	124
<b>12.0</b>	<b>Reports – Corporate &amp; Community Services</b>	<b>125</b>
12.1	Finance	
	12.1.1 List of Accounts for Payment	126
	12.1.2 Financial Activity Statement	128
	12.1.3 Demographic Survey / Forecast	132
	12.1.4 Funding – Albany Cemetery Board	135
12.2	Administration	
	Nil	140
12.3	Library Services	
	Nil	140
12.4	Day Care Centre	
	Nil	140
12.5	Town Hall	
	Nil	140
12.6	Recreation Services	
	12.6.1 Albany Leisure and Aquatic Centre Upgrade - Construction	141
12.7	Corporate & Community Services Committee	
	12.7.1 Albany Senior Advisory Committee meeting minutes – 16 <sup>th</sup> November 2006	149
	12.7.2 Albany Arts Advisory Committee meeting minutes – 8 <sup>th</sup> November 2006	150
	12.7.3 Internal Review Committee meeting minutes – 6 <sup>th</sup> November 2006	151
12.8	Council Representation	
	Nil	152
<b>13.0</b>	<b>Reports – Works &amp; Services</b>	<b>153</b>
13.1	City Assets - Asset Management	
	Nil	154
13.2	City Services – Waste Management	
	Nil	154
13.3	City Services – Airport Management	
	Nil	154
13.4	City Services – Contract Management	
	13.4.1 Contract C06041 Upgrade Emu Point Swimming Facility	155

13.5	City Services – Property Management	
	13.5.1 Building Extension - Carlyles Function Centre	158
	13.5.2 New Leases – Lotteries House	166
13.6	City Works – Capital Works	
	Nil	170
13.7	City Works – Reserves, Planning & Management	
	13.7.1 Realign Francis Road, Lowlands	171
	13.7.2 Proposed Road Closure - William Street, Little Grove	180
	13.7.3 Proposal to acquire land from Mueller Street	184
	13.7.4 Clearing in Council Controlled Land	187
13.8	Works & Services Committees	
	13.8.1 Bushcarers Advisory Committee Minutes – 8 <sup>th</sup> September 2006	192
<b>14.0</b>	<b>Reports – General Management Services</b>	<b>194</b>
14.1	Strategic Development	
	Nil	195
14.2	Organisational Development	
	14.2.1 Schedule of Ordinary Council Meetings and Agenda Briefings 2007	196
14.3	Economic Development	
	14.3.1 Proposed Donation of Miniature House Collection to City of Albany	201
14.4	General Management Services Committee	
	14.4.1 Minutes of the Albany Tourism Marketing Advisory Committee	206
	14.4.2 Minutes of the Special Meeting of Electors – 4 <sup>th</sup> December 2006	207
	14.4.3 Minutes of the General Meeting of Electors – 5 <sup>th</sup> December 2006	208
<b>15.0</b>	<b>Elected Members’ Monthly Report / Information Bulletin</b>	<b>209</b>
<b>16.0</b>	<b>Motions Of Which Previous Notice Has Been Given</b>	<b>209</b>
	16.1 Off Road Vehicles – Rescission Motion	209
<b>17.0</b>	<b>Mayors Report</b>	<b>210</b>
<b>18.0</b>	<b>Urgent Business Approved by Mayor or by Decision of the Meeting</b>	<b>210</b>
<b>19.0</b>	<b>Closed Doors</b>	<b>210</b>
	12.7.3 Internal Review Committee meeting minutes – 6 <sup>th</sup> November 2006	210
<b>20.0</b>	<b>Next Ordinary Meeting Date</b>	<b>210</b>
<b>21.0</b>	<b>Closure of Meeting</b>	<b>210</b>

## 1.0 DECLARATION OF OPENING

Her Worship the Mayor declared the meeting open at 7.01pm and extended a welcome to all present.

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

Mayor	-	A Goode, JP
Councillors	-	DW Wellington
	-	MJ Evans, JP
	-	P Lionetti (from 7.05pm to 8.00pm)
	-	SM Bojcun
	-	JD Williams
	-	DJ Wolfe
	-	RH Emery
	-	J Waterman
	-	S Marshall
	-	D Wiseman
	-	R Paver
	-	J Jamieson
	-	I West
Chief Executive Officer	-	AC Hammond
Executive Director Corporate & Community Services	-	WP Madigan
Executive Director Works & Services	-	L Hewer
Executive Director Development Services	-	R Fenn
Minute Secretary	-	JR Byrne
Approximately 260 members of the public		
4 media representatives		

### Apologies / Leave of Absence:

Councillor J Walker

## 3.0 OPENING PRAYER

Mayor Goode asked everyone to be upstanding and read aloud 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

### **\*S Austin**

Is there sufficient space on North side of Council Administrative buildings North Road to accommodate the proposed Albany Entertainment Centre (AEC)?

Item 5.0 continued

*The Executive Director Development Services, Mr Robert Fenn, responded and advised that yes, there is sufficient space on the north side of the Council Administration building on North Road to accommodate the proposed Albany Entertainment Centre. However, the capacity to use the land for that purpose is conditional upon environmental clearances and Council's preparedness to use it for that purpose.*

Councillor Lionetti arrived at 7.05pm during the address by Ms A Kerruish.

**\*A Kerruish, Bodycare Health Club**

Spoke as a representative of various health clubs and spoke against the inclusion of a gym and fitness centre in the ALAC redevelopment. She made the following points:

- Albany's unique rural / urban population dispersion makes market research risk / prediction of trends difficult
- No guarantee market Council is entering is unique / growing and not derived from acquiring existing members from other clubs
- Fitness market extremely volatile / capital intensive
- Potential for another competitor to enter market before ALAC upgrade complete
- City of Bunbury example of sporting facility with new gym upgrade in financial distress
- Low cost memberships cannot be provided based on welfare or low income need – National Competition Policy doesn't allow it
- Subsidies from Council's community development budget would allow current gym operators to provide low cost socially based gym activity at present
- Council could run at a loss ad infinitum, private enterprise use own capital, cannot withstand operating losses
- National average net profit for privately operated gyms in Australia = 12% per annum, before owner's drawings. Loss of 10% of members to new facility would see current operators close doors
- Councillors have opportunity to save \$1million of ratepayers' funds, and not expose the City to huge commercial risks in market whose growth is based upon theoretical projections from Cities on other side of the country
- In interests of good governance, responsible financial managements and spirit of fairness and equity, I urge you to proceed with the redevelopment of ALAC WITHOUT a gymnasium.

**\*D Amato**

Re: Agenda Item 11.1.6 Planning Compliance Lot 3 (27-29) Golf Links Road, Middleton Beach

We, the owners of Lot 3 Golf Links Road, Middleton Beach request that Council resolve NOT to enforce the breach of the Scheme and take no further action against the owners or tenants.

We purchased the property in September 2005 with existing tenants David Moss & Co and a decommissioned Service Station.

This site has had varied uses apart from the Service Station, over many years. Including Fullers Leisure Centre selling caravans and trailers, Swift Drafting, Paul Terry International offices, the Topiary Tree Gift shop, solicitors Moss & Co and Albany Building Co.

Item 5.0 continued

We purchased the property believing we could continue to use the site in this manner especially as tenancy was a feature of sale. A proposal for rezoning to Tourist / Residential had been initiated by the previous owners and we have continued with this although it is not a priority.

We engaged Real Estate Agents Wellington & Reeves to act on our behalf as property managers.

Moss & Co. relocated in December 2005.

Wellington & Reeves tenanted Greenacres Nursery in the vacant service station section in April 2006. A lease was drawn up through solicitors Haynes Robinson and is current until April 2007.

Leeder Homes took one of the vacant rooms for office use in April 2006.

Estate Agents Walton Pietropaolo approached Planning seeking relocation to the site. It was then that it appears this matter became an issue with the Planning Department and they raised the matter of 'illegal tenancy'.

The owners met Planning to discuss the zoning. At that meeting we were advised that Greenacres had to demonstrate a 50% creating 'Art and craft' component. Leeder Homes, because they had occupied within 6 months of previous office tenant were eligible to stay.

Greenacres Nursery applied for occupancy which has now been opposed by the Planning Department.

As owners we believe we have acted responsibly, we purchased the property through licensed Real Estate Agents, we employed professional property managers to act on our behalf, we engaged solicitors to draw up the lease agreement.

We are now confronted with a situation where we face prosecution by Council and we will be left with a vacant site. We are investors, not property developers. Our intention with this property was for long term investment, keeping the site tenanted and in good order with a view to changing the zoning to tourist/residential some time in the future.

We do not believe that the recommendations of the Planning Department serve the best interests of the community in this instance.

Should Council decide to adopt the recommendations we will be forced to evict our tenants within 28 days, leaving the site vacant.

Middleton Beach is one of our prime tourist and residential areas. Vacant buildings become targets for graffiti and vandalism as we have clearly witnessed with the disused service station site on the corner of Seymour Street and Middleton Road. This site has become an eyesore along one of our major tourist and residential access roads. It has graffiti, broken window, the fence has collapsed in part and it looks derelict.

Item 5.0 continued

What exists now on our property at Lot 3 Golf Links Road is a visually attractive, clean, quiet business that does not attract undesirables and is supported by the residents of the area. As is demonstrated in the petition obtained by the tenants.

Please also note inaccuracies in the Planning Report – Background Section 4 – the base zoning of the land IS NOT 'Residential' it is 'Service Station' with additional use 'display and sale of art and craft products'.

The petition referred to in Item 15 of the Development Services report contains 174 signatures, not 143 as advised in the report. A copy of the petition is tabled.

**\*S Bezard**

Tonight the Council will be reviewing the motions put forward at the Special Electors meeting. I would like to speak on behalf of Albany Waterfront Action Group (AWAG) and remind people that the motion to sack the council was not put forward by our group and was not even on the agenda.

Our group represents a growing body of people in the community and the 1800 signatures collected in October demonstrate this. Over 1500 were residents of Albany and the Great Southern and the others were tourists. All tourists spoken to are adamantly against high buildings on the waterfront. Our greatest concern is that there has not been adequate consultation in the form of pictorial information and also in asking community opinion.

We have asked Landcorp to show a photo montage of the plans but they keep fobbing us off with computerised pictures that are totally inadequate.

How many of you saw Landcorp's artist impression of the waterfront development in today's Albany Advertiser. This is an insult to the intelligence of the average person and if compared to the precinct and structure plans is totally inaccurate. The buildings shown in the Landcorp drawing are not representative of their true heights or bulk as depicted in the precinct plan.

For example the fly tower on the entertainment centre appears to be 2 or 3 storeys instead of seven. The bridge disappears off the left side of the parade as though it starts somewhere further east than the penny post. I could spend another twenty minutes pointing out all the inaccuracies of the drawing but don't have the time now.

How can anyone make a judgement on such a distorted picture of the waterfront project? I challenge the Councillors and public to go to the rotunda and see for yourselves.

It is time for the Mayor and the Councillors to stand up for the people of Albany and demand that Landcorp stop treating us with contempt and give us thorough, accurate information and full public consultation.

I would like to ask you:

What reasons have we ever been given for an Entertainment Centre being put on the foreshore with its inherent traffic problems, blocking of heritage vistas and taking up space? All we know is that the Mayor has said that the Council was coerced into putting it there. What sort of criteria is that? How is that serving the electors if that is not what they want?

Item 5.0 continued

I am hearing statements such as it is too late and the horse has bolted.

I phoned the Department of Planning and Infrastructure (DPI) and found that the structure plan has not been passed by the Planning Commission. I also phoned the Heritage Council of WA and have been told that they have asked Landcorp to prepare a heritage impact statement which hasn't yet been done.

Why is it then we are being told that it is too late to do anything? Why is the money being spent on an architect for the AEC when there is not a guarantee that the project will proceed as planned?

Tonight we are asking the Council to carefully consider our motions from the Special Electors meeting but in particular the one where we asked for survey of all householders in the Albany postal district.

The outcome of this would be that the people have a chance to express their wishes about the size, bulk and location of buildings on the waterfront. It would also make way for a better relationship between the people and the Councillors. Give the people a chance to be fully informed and have a voice.

**\*Mr Murray**

In relation to the waterfront development, is the Council now sidelined by the State Government and Landcorp as part of the process?

*The Executive Director Development Services, Mr Robert Fenn, responded by advising that Council has put in place the controls to regulate the future development of the Albany Waterfront site. The Western Australian Planning Commission is yet to grant approvals for the subdivision of the land.*

Is the Council happy with how the planning process has occurred?

*Her Worship the Mayor advised that she could not respond as she does not represent all Councillors.*

**\*G Brown**

Represented those members of the public in support of Off Road Vehicle (ORV) activity on Council beaches and reserves. He supported the original officers recommendation, which had been made following substantial consultation and urged Councillors to support the rescission motion and subsequent motions of Councillor Lionetti. He also asked Council to consider Item 16.1 early, due to the large public gallery in attendance, many of which were families with children, present to hear the debate on the matter.

Mr Brown tabled a petition against the closure of all beaches and reserves in the City of Albany's jurisdiction to off-road vehicles.

**\*B Hammer**

Mr Hammer spoke in relation to Item 16.1 and spoke against the rescission of the decision made at the 21 November 2006 Ordinary Council meeting. Mr Hammer noted that no other coastal local authority in Southern WA permits Off Road Vehicle activity on beaches and reserves. In addition, he noted insurance implications, liability implications, safety issues, disturbance of the peace associated with noise of such vehicles etc.

Item 5.0 continued

**\*T Garland**

To Madam Mayor, Staff, Councillors and Electors,

We all want the foreshore to be developed.

The wider community is now starting to become aware of the foreshore development because of the publicity and petitions which are occurring as a result of the failed consultation processes from the City Council and the state government.

The majority of the people that I have spoken to, believe that it is far too dangerous to have an entertainment centre and hotel complex on the very busy Albany port road. The highest concentration of trucks and trains coincide with peak holiday season at the foreshore. Vehicles bank up York Street now. What has been done to address safety concerns for vehicles to and from the harbour and those vehicles using the port?

The majority of people that I have spoken to also believe that the foreshore should be in keeping with the historic precinct of Stirling Terrace and that multi storey buildings should not be placed on the foreshore blocking the harbour views.

What heritage requirements are there for this historic precinct?

Landcorp have not given the community any accurate or reliable sketches or drawings regarding the buildings on the foreshore. The architects impression in today's Albany Advertiser is a perfect example of a misleading drawing released by Landcorp. From this sketch, the community would assume that there is no loss of view of the harbour from the Rotunda or anywhere along Stirling Terrace. But Landcorp have not put in any of the commercial buildings on the East side of the jetty, or the hotel complex west of the jetty. The heights are completely inaccurate especially the fly tower on the entertainment centre.

Landcorp have been contacted today regarding this drawing and no-one from Landcorp is available now until after the Christmas break.

I previously requested that photo montages be completed by Landcorp and I provided 3 photographs for them to see, two from the historic Stirling Terrace Precinct (the rotunda and further east towards the Stirling Club and one from the end of the town jetty looking towards the town). I am still waiting.

I request that council obtain and provide to the community as accurate as possible drawings or photographs in order for the community to truly see the impact that these proposed buildings will have from Stirling Terrace towards the town jetty and from the town jetty looking towards the town.

Peter Watson stated over a week ago that the marina is not conditional on the Entertainment centre, (which we understood was the case) and that underground services were to commence early in the new year for the entertainment centre.

Why would this occur before the plans have been approved by the WA Planning Commission and why would Council engage an architect before planning approval?

Item 5.0 continued

What I am requesting is that there is no entertainment centre at the foreshore and no multi level hotel only a marina with complimentary shops, cafes and restaurants which are all low rise which keep in with the historic precinct on the East side and parks and gardens on the west side.

I request that any developments on the foreshore are to be with detailed community consultation and surveys by the Albany City Council as previously promised. Please refer to my motion regarding community consultation at the recent Electors Meeting.

The outcomes that we could expect with detailed community consultation is a development that we can all be proud of that will blend in with the historic precinct of Stirling Terrace not block the town and harbour views from most angles or put the lives of many members of the community at risk unnecessarily.

**\*K Buttfeld**

As the Injury Prevention Coordinator for Great Southern Population Health I would like to add my support to the submission for a gymnasium, which may be under review, in the future re-development of the Albany Leisure and Aquatic Centre.

In 2003 I was a member of the City of Albany Community Facility Tour group, when we travelled to Perth to consider design options for the upgrade of ALAC. The tour highlighted for me, the quality and range of facilities which have been built in recent years in Perth, which are able to cater for specific user groups, such as seniors, children and the disabled. The gym and the aqua facilities were the main areas of interest, as these facilities were then, and remain still, under-developed in Albany.

Albany had then, and continues to have a growing population. The projected increase in people aged over 60 years of age in WA will go from 16% of our population to 33% of our population in the next 40 years. As at 2002 Albany already have nearly 25% of its population over 60, and our population is also living longer. The increasing age and population growth places challenges on all service providers, and it is important we plan carefully to cater for their needs into the future.

In the region over 150 seniors fall each year, and require hospitalisation as a result of their fall. One in three seniors will have a fall each year, and the impact of that fall can be devastating for the individual and costly to the community. Falls is a complex issue and there are many factors that can contribute. Being physically active and maintaining independent mobility are extremely important in preventing falls and allowing people to remain active and contribute to our community. Providing a range of environments which support moderate forms of exercise to promote strength, flexibility and balance are the responsibility of State and Local Government as well as Health Services.

Great Southern Population Health runs 5 weekly physiotherapy supported community based exercise classes in Albany for seniors. These classes are on referral from physiotherapist and GP's. These groups cater for those frail aged and less-able seniors with chronic health conditions such as diabetes, osteoporosis, arthritis and heart conditions). The classes cater for up to 20 seniors in a group, and there are currently waiting lists to attend. Once these seniors have gained a reasonable level of exercise, they are encouraged by the senior physiotherapists to progress on to a community based class.

Item 5.0 continued

The current community programs and classes run through the four existing private gyms in Albany cater to varying degrees for the well and active seniors. There are two gyms who provided 'senior specific' generic classes and they are well supported but are not able to cater for any further groups, particularly if they have specific health needs and/or require supervision and support.

All of the existing private gyms have access issues – one doesn't allow children, one is on the second floor and not accessible for people with some mobility issues, one is women-only, thus not able to cater for couples or older men (a key target group for increasing physical activity).

For some seniors 'moving on' to the community programs offered through the private gyms has proved unsuccessful, with people returning to their groups after being injured within the generic program, or not able to climb the stairs to access classes.

This is certainly not a criticism of the existing gyms, who do a great job catering for the well-seniors. It is a criticism of an attitude that as planners and recreational designers we cater for one 'generic group' – seniors, when in fact we need to cater for people within a forty year age-span and with differing needs and issues.

The ALAC gymnasium could cater for all age groups – and would allow for a 'family friendly environment' where parents can bring their children and take part in a variety of activities. Imagine mum working out in the gym, while her children are enrolled in swimming or squad training. Where the family cycles down to ALAC, parks their bikes in the new compound, dad uses the gym, mum meets some friends and does an aerobic class and grandma supervises the kids in the pool, while sipping her cappuccino.

With many younger seniors providing care for their elderly parents, you can also imagine a sixty year old daughter could do a gym workout while her 85 year old mum does a gentle aqua class.

The opportunity exists for the new gymnasium to cater for the existing population and for the next 20 years. In 2026, many in this room will be well over sixty.

I ask the councillors to support the new gym and plan and develop our recreational facilities to cater for these groups, now and into the future.

Her Worship the Mayor sought the Council's approval to extend Public Question Time in accordance with Clause 2.3 (1) of the City of Albany Standing Orders Local Law. Public Question Time was extended by a unanimous show of hands.

**\*B Iffla**

I am Brian Iffla, a 20 year permanent resident and owner Cheynes Beach Caravan Park. In that period of time I have seen at first hand the increase in numbers of motorbikes, quadbikes and buggies using the beach, as such I would like to propose that a compromise be formulated, as opposed to the outright ban imposed at last months meeting.

I support the original proposal put forward by the Council staff to set aside an area of the beach and allow these vehicles to be trailered to this point. I would however like to see this distance along the beach extended to approximately 3kms along from the Kybra Rd access to the beach. There is a natural clearing here in the dune area that

Item 5.0 continued

could provide parking. It is also far enough along for the noise to be reduced and is away from the main swimming areas.

I feel that there is definite need for an area to be set aside as there is an extremely large number of people who find immense family pleasure in riding their bikes etc. The Council decision last month to enforce a total ban is totally inconsiderate to the people who do the right thing and respect other beach users.

I also feel there needs to be a stronger ranger presence that there has been in the past.

**\*S Walker**

Good evening to the Mayor and elected Councillors.

I would like to speak on behalf of an action group against the closure of Cheynes Beach to off-road vehicles.

Firstly...I would rhetorically like to ask 'Why would you employ qualified, experienced people who prepare a researched succinct report and then totally ignore their suggestions?'

Rangers and the Manager of Planning, at the request of the Council, have spent a considerable amount of time and resource, talking to people, being at the site, researching the area, interviewing long term residents, talking to people who live and work in the area, some for 30 years, then propose an alternative plan which tackles the issues raised.

Have they had their proposal appropriately considered?

Has it been put out to public debate?

Did this happen before the complete ban was put into place? This seems to go against the Albany 3D Corporate Plan which aims at 'Making Albany an exciting place to live'.

We are not putting our heads in the sand or suggesting that there is no issue with the way that some people are carrying on with their off-road vehicles. We are taking affront to the fact that there are many many more families, people and voters that use the beaches safely and have lots of recreational time with their families there.

What we are suggesting is finding a compromise that can take place to the benefit of all people.

Some of the points raised at the meeting that passed the ban and some that have been raised since talking to various councillors should be re-visited.

Comparing Albany's locality to Lancelin and the issues encountered there is like comparing apples and oranges. Does anyone know how many entrances and exits to the coastal sand dunes are around that part of the coast? It is accessible to about 2 million people!

Item 5.0 continued

It is no surprise that the 2 rangers employed encountered dissident behaviour and even with high powered bikes could not catch these people. But let us not forget we are talking about an absolute minority of beach users. This really needs to be put in context!

People will hurt themselves, accidents do happen. This is a reality of life. A comparison to Cheyne's Beach and Lancelin needs context.

Cheyne's Beach is isolated.

You need transport to get there.

This transport is parked in one area.

There is only one entrance and exit.

The fuel range of an off road vehicle cannot take you away from the area.

Your rangers, if needed to enforce certain rules, can actually do it!

An issue was raised that Cheyne's Beach is a fragile environment.

Tell me which beach is not?

Tell me which Natural area is not?

Once storm can damage an environment far greater than human activity caused by off-road vehicles.

Did you know that the bay was once deep water? It is not now.

The fishermen have been living at Cheyne's Beach for 30 years...have they had an effect? Have they been given the courtesy to ask has the region changed?

Discussion also included that birdlife and certain marsupials found at Cheyne's Beach are being affected. I would have thought that the addition of 100 home sites, as I have heard may be an option, would seriously damage this very fragile region.

It seems that insurance played a big part of your decision.

Ask any insurance company about the issue of 'who is negligent or liable?'

Of course they would want liability...that is how they make money!

So where does liability stop?

Do you stop people from using Eyre Park because there is a lake?

Do you need to put a fence up?

Do you stop the children from playing on the swings?

Do you close all the parks?

Do you place bubble wrap around every tree on council property in case someone walks into one?

If this is a reaction to where we, the tax payer, who employ you, had to compensate for the accident at Middleton Beach then surely this is flawed. If the sign had been erected when it was reported then the payout and attribution of blame, as recorded by the courts at 60% council and 40% self, may have been hugely different.

The police force employs a lot of people.

They have national programs aimed at us in all aspects of life.

In road safety we are constantly having advertising programs, speed cameras, booze buses, fatigue stops, harsher penalties but what keeps happening...

The road toll keeps on climbing!

You will always get people that break the rules.

Do you stop everyone from driving on the road and only have public transport?

Item 5.0 continued

Because this is what you are proposing! Sure lets get a compromise, register the bikes, impose appropriate safety gear, change the area, encourage people to Dob in a hoon, put up signage, patrol with rangers but let protect our Australian way of life, our heritage, let families enjoy themselves on our beaches, get kids out of the house from in front of the computer games, get kids off the streets and let them enjoy what we had...what you had.

Society can only benefit if families play together...lets look at a compromise.

**\*M Roberts**

Spoke to Item 11.1.2 Development Application – Multiple Dwellings – 4 Barry Court, Collingwood Park. Mr Roberts advised that the Department of Planning and Infrastructure (DPI) has responded to Council's previous resolution on this matter and has said that it does not have the authority to give the requested approval. It would therefore appear the approval rests with the City of Albany. Further advice has been sought from the DPI in relation to site engineering information, however the DPI engineers assessed the wrong site – leaves little confidence in the DPI's ability to provide sound advice.

He encouraged Council to accept the amended officer recommendation as a reasonable outcome. He further encouraged Council to reject Councillor Paver's alternate motion.

**\*T Harrison**

Mr Harrison spoke about erosion control at Emu Point and that he had previously raised the suggestion with the Chief Executive Officer that sand from the Albany Port Authority's dredging operations be dumped at Emu Point, to prevent coastal erosion without the need for rock walls. He alleged the Chief Executive Officer had said that the City could not use that sand because of possible contamination of unexploded ordinance (UXO).

Despite this, he has become aware that the same sand is being dumped on private property in Torbay as landfill.

He also alleged that sand and seaweed has been taken from Ellen Cove by the City, instead of using it for erosion control.

*The Executive Director Works and Services, Mr Les Hewer, responded and advised that the sand / dredge spoil is the property of the Albany Port Authority and up to them what they do with it. In addition, the spoil is contaminated with UXO. The City of Albany would not take the risk of using contaminated spoil for use in a public area.*

*He further advised that he would investigate the use of the contaminated spoil on private property as landfill and any associated implications or breaches of legislation.*

In accordance with Clause 2.2 of the City of Albany Standing Orders Local Law, Her Worship the Mayor sought the Council's approval to change the order of business, to consider Item 16.1 Off Road Vehicles – Rescission Motion, after Item 10 and prior to Item 11, for the benefit of the public gallery.

**MOVED COUNCILLOR LIONETTI  
SECONDED COUNCILLOR JAMIESON**

**THAT the order of business be changed to enable Item 16.1 Off Road Vehicles – Rescission Motion, to be considered after Item 10 and prior to Item 11.**

**CARRIED 14-0**

## **6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 21<sup>st</sup> November 2006;
  - Special Council meeting held on 5<sup>th</sup> December 2006;
- as previously distributed be confirmed as a true and accurate record of proceedings.

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR MARSHALL**

**THAT the following minutes:**

- Ordinary Council meeting held on 21<sup>st</sup> November 2006;
  - Special Council meeting held on 5<sup>th</sup> December 2006;
- as previously distributed be confirmed as a true and accurate record of proceedings.

**CARRIED 14-0**

## **7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **8.0 DISCLOSURE OF FINANCIAL INTERESTS**

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
Councillor Wellington	11.1.5	Owns portion of adjoining property
Councillor Lionetti	11.1.6	Former tenant from Spencer Park Shopping Centre
Councillor Williams	13.5.1	Marriage Celebrant – holds wedding ceremonies at the venue

**9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

12.7.3 Internal Review Committee meeting minutes – 6<sup>th</sup> November 2006  
[Section 5.23 (2)(f) of the Local Government Act 1995 – impairment of investigation]

**10. PETITIONS/DEPUTATIONS/PRESENTATIONS**

Ms Denise Amato tabled a petition in relation to Item 11.1.6 Planning Compliance Lot 3 (27-29) Golf Links Road, Middleton Beach. The petition seeks the approval of the continuation of Greenacres floral studio at 27 Golf Links Road, providing floral and craft services for births, gifts, weddings, flora tributes and retailing house / garden plants and seedlings.

Mr Gary Brown tabled a petition in relation to Item 16.1 Off Road Vehicles – Rescission Motion. The petition is against the closure of all beaches and reserves in the City of Albany’s jurisdiction to off-road vehicles.

Item 16.1 Off Road Vehicles – Rescission Motion was considered by the Council at this point in accordance with its earlier resolution;

*‘THAT the order of business be changed to enable Item 16.1 Off Road Vehicles – Rescission Motion, to be considered after Item 10 and prior to Item 11.’*

Councillor Wiseman left the meeting at 8.00pm following consideration of Item 16.1  
Councillor Lionetti retired from the meeting at 8.00pm following consideration of Item 16.1

# **Development Services**

## **REPORTS**

**DEVELOPMENT SERVICES REPORTS**

**- R E P O R T S -**

**11.1 DEVELOPMENT**

Councillor Wiseman returned to the meeting at 8.04pm during consideration of Item 11.1.1

**11.1.1 Development Application - Hotel (Esplanade) - 1 - 3 Flinders Parade, Middleton Beach**

- File/Ward** : A89428, A89478 (West Ward)
- Proposal/Issue** : New Hotel
- Subject Land/Locality** : Lots 16 & 17 (1-3) Flinders Parade, Middleton Beach
- Proponent** : TPG Town Planning and Urban Design
- Owner** : WCP Plaza (Albany) Pty Ltd
- Reporting Officer(s)** : Senior Planning Officer (J Devereux) & Executive Director Development Services (R Fenn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : Issue Notice of Planning Scheme Consent
- Bulletin Attachment** : Comments from Coastal and Natural Resource Planning branch of the DPI
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**BACKGROUND**

1. An application has been received for the redevelopment of the current hotel at Middleton Beach, known as the Esplanade Hotel. The application proposes the construction of a new building incorporating 81 hotel rooms, a public bar, conference room, restaurant, bottle shop, bakery, deli and other associated hotel facilities. Copies of the plans, the attached planning report and photomontages will be tabled at the meeting; Councillors received a set of those documents prior to the commencement of the advertising period.
2. A demolition licence has been issued for the existing hotel and the demolition of the building is expected to start in mid January 2007.
3. The application was advertised for the required 21 days under the scheme. A total of 35 submissions were received during this period. Comments have also been received from Tourism WA and the Coastal and Natural Resource Planning branch of the Department of Planning and Infrastructure (DPI). Copies of the submissions will be tabled at the meeting.
4. Within the same site, a planning application has also been lodged for the construction of 30 multiple dwelling units, over the car parking area located to the rear of the development proposal that is currently being considered by Council. The only considerations given to that second application in the current report are the requirements to ensure adequate on-site car parking has been provided and that services are available to meet the needs of that component of the development. It is anticipated that the second application will be placed before Council at its February 2007 meeting.
5. Under the City of Albany's Development Services Directorate, Development Guidelines for Scheme No 1A, the proposal is required to be presented to Council for consideration as the value of the proposed development exceeds \$1.5 million.

**STATUTORY REQUIREMENTS**

6. Under the City of Albany's Town Planning Scheme No.1A (Scheme) the land use class of 'Hotel' is a SA (discretionary decision after the proposal is advertised) use that can be considered by Council in the "Tourist Residential" zone.
7. Section 7.8A of the scheme requires that Council give consideration to a number of issues in its decision-making process. Amongst those matters are;
  - The aims and provisions of the scheme;
  - The requirements for orderly and proper planning;
  - Any relevant state strategy or policy;
  - Any policy adopted by Council;
  - The compatibility of the use with its setting;
  - Any social or cultural issues;
  - Whether the land is affected by flooding or any other constraint;
  - Traffic generation;
  - Availability of services;
  - Landscaping of the site;
  - Submissions received; and
  - Any other planning consideration the Council feels is relevant.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

9. There are no financial implications relating to this item. The proposed development does not dramatically alter the existing infrastructure surrounding the site.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

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

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

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

- *Excellent community infrastructure and services;*
- *Being the regional retailing and services hub;*

***Mission Statement:***

*The City of Albany is committed to...*

- *Delivering excellent community services;*
- *Providing sound governance;*

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

11. The development generally complies with the provision of the scheme. However, there are a number of matters that Council is asked to give special consideration to when assessing this application; those issues include plot ratio, car parking, building height and public comments. The Proponent has provided a detailed report addressing many of the planning considerations and the planning considerations contained in that report have been accepted by staff unless otherwise stated.

Plot Ratio

12. Plot ratio is the proportional relationship of the floor space of the proposed development to the area of the property upon which it is to be constructed. Under the Scheme, the allowable plot ratio is 0.5. The proposed hotel has a plot ratio of 0.56, which is 0.06 over the prescribed limit. As the building contains considerable landscaping within the actual built form and the built form is broken up into small modules, the extra plot ratio is seen as having no detrimental affect on the amenity of the area, the site or the actual development.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

Car Parking

13. The proposed hotel and associated facilities require a total of 134 car parking bays, based upon the requirements in the scheme and the mixture of uses within the site. The current application shows 162 bays being provided on-site to accommodate the current development and the proposed apartments (requiring an additional 72 bays).
14. When the approval for the existing hotel was granted in 1990, Council provided to the developer certain dispensations to improve the public domain at Middleton Beach, including the opportunity to construct 18 car parking bays in Marine Terrace and 41 in Adelaide Crescent, in lieu of providing those required bays on site. These additional 59 bays would provide the developer with an excess of parking to the site demands.
15. The apartment proposal has changed the site allocation for parking and that development sets out 119 car parking bays on site and maintains the credit for the bays previously supplied in Marine Terrace and Adelaide Crescent to bring the total supply to 178 bays. An additional six (6) apartments are proposed to be added onto the site, the basement car park has been redesigned to resolve evolving construction requirements and the car parking demand has been increased to 194 bays (assuming that the demand for bays arises at concurrent time periods), leaving a potential deficiency of 16 bays.
16. Council is only considering the hotel development application at this time, however the car parking areas will be fixed during consideration of this application. The options available to Council include accepting a car parking deficiency on-site, requiring additional bays to be provided, require cash in lieu to be paid for the undersupply of parking or more closely analysing site usage. It is the opinion of staff that less than half of the proposed apartments would require more than one car parking space and the scheme requirement of two (2) bays per unit is excessive in this instance. Visitors to the units have the capacity to use the public car parking areas provided on-site, to use roadside parking spaces or spill into the larger open car park areas provided by the previous developer in Adelaide Crescent and Flinders Parade.

Setbacks

17. The development generally complies with building setback from boundaries as required by the Scheme. The development proposes a front setback ranging from 3.0m to 38.65m and the Scheme establishes a 9.0m minimum front setback requirement. Although the development is not fully compliant with the front setback requirement of the scheme, it is consistent with the setback of the existing hotel and the “average setback” of approximately 20.0m is well in excess of the scheme requirement. As shown on the locality plan, a substantial resumption was previously taken from the frontage of the northern-most lot and the closest portion of the building to the frontage occurs at this portion of the site.

State Planning Policies

18. In assessing this development proposal, Council needs to consider any relevant State Planning Policy. In this regard, Council must give due consideration to Statement of Planning Policy 2.6;- State Coastal Planning Policy (SPP2.6) and Development Control Policy DC6.1;- Country Coastal Planning Policy (DC6.1).
19. As stated in the response from the Coastal and Natural Resource Planning branch of the DPI, included in the Elected Members Report / Information Bulletin, SPP2.6 is the higher order and prevailing policy.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

20. The intent of the SPP 2.6 is to require developments to give due consideration to coastal processes and for community aspirations for the development of coastal areas. The objectives for the policy are clear in that it sets out to;
- *Protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
  - *Provide for public foreshore areas and access to these on the coast;*
  - *Ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
  - *Ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.*

21. Following is an analysis of the matters to be considered under SPP 2.6, to verify that this policy has been adequately addressed in the development application process.

**Building Height Restrictions**

22. The current SPP2.6 does not directly stipulate building heights; however, the WAPC has drafted amendments to include a height restriction of 21.0m for an area within a 300m setback distance from the horizontal setback datum established for that section of the coast. The maximum height of the proposed development is 17.9m above natural ground level, which would make it compliant with the amended policy, should it be adopted.
23. Notwithstanding that the WAPC intends to increase the height limits of buildings along the coastal fringe of the State, the current WAPC DC6.1 policy states at clause 3.5.5;

*“To avoid intrusive development, the following should be considered; No building within 500 metres of the coast, shall exceed 12 metres in height unless it is approved by the State Planning Commission.*

*For the purposes of this policy ‘height’ means ‘the vertical measurement taken between the mean point of the natural ground level within the area occupied by the structure and the highest point of the roof vertically above that point on the ground, excluding minor vertical projections such as chimneys and vent pipes’.*”

24. The application was referred to the DPI for approval, as it is over 12.0m. Support for the height of the proposed building has been received from the Coastal and Natural Resource Planning branch of the DPI and a copy of the notification has been included in the Elected Members Report / Information Bulletin.

**Physical Processes Setback Requirements**

25. The City had previously engaged the services of Rogers and Associates to undertake modelling of coastal processes along Middleton Beach and that resulted in a report in 1997.
26. This report acknowledges the impacts of storm surge, sea level rises, etc and indicates that the section of beach fronting the proposed development is accreting sand (as evidenced by the reduced water depth at the end of the Ellen Cove jetty).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

27. The DPI's Coastal and Natural Resource Planning branch have advised that the setback provided for the development is suitable to cater for any future coastal events and has sought certain assurances and information from Council and the developer to ensure coastal processes do not impact upon the development.

**Public Interest**

28. The proposed development has no impact on the public domain, which is segregated from the subject site by the Flinders Parade road reserve, and therefore complies with the policy

**Coastal Strategies and Management Plans**

29. The City of Albany has been working with community members and interest groups to prepare a foreshore management plan which is capable of being implemented by the City of Albany. A final draft of that plan has been completed and will be implemented in due course, as community expectations dictate and financial resources permit.
30. As detailed above, a number of detailed reports have been prepared to address specific environmental issues affecting this locality and those reports remain active inputs to all decision-making within the foreshore reserve and on adjacent private allotments.
31. The proposed development has no impact on the foreshore reserve.

**Environment**

32. Although a storm water system has not yet been designed, the applicants have detailed in their report the intention to develop a water sensitive design approach to the building and site. That approach is intended to include the retention and effective management of stormwater.
33. The applicant has also indicated a desire to undertake a broad range of environmental initiatives upon the site (grey water reuse, on-site power generation, alternate fuel sources for hotel vehicles, micro climate control to avoid air conditioning) however these measures do not affect the status or management of the reserve fronting the subject land.

Impact Upon Locality

34. The developer has produced three (3) photomontages showing the relationship of the new development to the existing built form. Views are provided from Adelaide Terrace (near Belneaire Seaside Resort), the Marine Drive roundabout and from Flinders Parade (north of the surf club building). The structure ranges in height up to five (5) storeys however it is contained within a maximum overall height of 17.9m.
35. The location of the site is such that the proposed building is in an isolated corner of the Middleton Beach suburb. The additional height of the building will not remove the ocean views that are available to other properties located to its west. The northern portion of the building is reduced in height so that it "ties into" the height of the existing three (3) storey structure (Castlereigh) on the northern side of Barnett Street. The ground floor of the main building is also proposed to be set at the level of Flinders Parade, approximately 1.5m lower than the existing building, further reducing the impact of the height of the structure.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

36. When viewed from a distance the proposed building, with roof top vegetation, is likely to blend into the vegetated backdrop created by Mount Adelaide, from adjoining streets the existing built form is likely to obscure views of the building and when viewed from Ellen Cove the building will appear as a series of smaller, loosely fitting elements, rather than a monolithic structure.
37. From the information provided, it would appear that the proposed development is unlikely to place any additional demands upon the local road network, drainage infrastructure or other services that exist in the locality.

Public Comment

38. A total of 35 submissions were received during the 21 day advertising period. A majority of the submissions did not believe that the design was suitable for the character of the surrounding area and did not like the design in general.
39. Council is required to assess each development application on its merit against the Town Planning Scheme controls that apply to the site and the locality into which the development is to be located. There are only a small number of situations, mainly in defined heritage precincts, Council can debate and dictate the architectural qualities of a building that can be constructed on a parcel of land.
40. The subject site is not located in an area that Council has prepared and adopted design guidelines and therefore there is no ability for Council to determine a planning application based on the comments received on the building's design. A close examination of the built form along Flinders Parade and Adelaide Crescent reveals a mixture of building styles, heights, finishes and ages. There is no prevailing built form and there is no policy foundation for Council to dictate the building's character. The structure is a contemporary building and its form is not reflected in any other buildings in Albany.
41. With the recent introduction of energy efficiency standards for buildings, the Minister for Local Government and Regional Development is demanding that designers turn to alternate materials and building forms to save energy and to embrace new construction techniques and materials available to the building industry. The acceptance or otherwise of the aesthetics of the proposed building is a personal matter; nationally significant buildings like the Sydney Opera House, Melbourne's Federation Square and the Perth Bell Tower were not constructed without some degree of community debate on the design solution.

Conclusion

42. The land is zoned "Tourist Residential" and the replacement of the existing hotel with a larger structure is consistent with the zoning provisions. Issues associated with setbacks, heights, plot ratios, etc have been adequately addressed by the proponent and the design of the building on the site. The developer is seeking to utilise car parking bays within adjoining road reserves for public parking and to carry forward the car parking bonuses that were extended to the previous development.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

43. Community concern is centred on the external appearance of the proposed building and the design selected provides a new form of building construction for Albany. The sustainability principles embodied in the design required that a different approach to be taken to the way the hotel rooms were configured. Council has no policies applying to this locality that require a certain built form to be achieved and a refusal of the development application on the grounds of its appearance is likely to be overturned on review by the State Administrative Tribunal (SAT).

**RECOMMENDATIONS**

1. THAT Council resolves, pursuant to clause 4.10 of the City of Albany Town Planning Scheme 1A, in respect to the application for Planning Scheme Consent for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach to accept the following variations to the development standards affecting that lot;
  - a) 59 car parking bays located within the Adelaide Terrace and Flinder Parade road reserves, funded by a previous owner of the subject land, shall be credited to the car parking requirements of the current development;
  - b) Car Parking requirements for the proposed future apartment buildings shall be calculated using a ratio of 1.5 bays per unit;
  - c) The plot ratio applying to the subject site shall be increased to 0.6; and
  - d) Pursuant to clause 4.8 of the City of Albany Town Planning Scheme 1A Council shall accept Flinders Parade as a secondary street frontage for the purpose of determining setbacks and acknowledge a minimum setback of 3.0m.
  
2. THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach, subject to the following conditions: -
  - a) Lots 16 and 17 Flinders Parade are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.
  - b) Accessways to the hotel units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 – 2001.
  - c) Prior to a Building Licence being issued by the City for the approved development, the Developer is to provide a detailed schedule of finishes for the approval of the City of Albany
  - d) At no cost to the City, a sealed drainage system, which has been certified by a practising Civil Engineer, shall be provided by the Developer to drain surface stormwater from the lowest portion of the re-contoured site into Council's drainage system.
  - e) The Developer shall undertake an assessment of the finished floor levels of the proposed development to ensure the building is not affected by storm surge or groundwater level fluctuations.
  - f) The new driveways crossovers are to be constructed by the Developer to Council's specification, levels and satisfaction.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- g) The Developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the exiting surfaces and alignments, where the existing cross over(s) is to be removed.
- h) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, sign posted and appropriately lit during the hours of darkness.
- i) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
- j) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 – 1993.
- k) Within the approved car park, bays specifically designated for use by owners of apartments are to be suitably segregated from the public car parking spaces and sign posted for tenant usage.
- l) Landscaping plans, showing size, species, location and reticulation of planted vegetation are to be submitted to the City prior to the issue of a building licence.
- m) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
- n) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- o) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
- p) All plumbing fittings on external walls shall be concealed from external view.
- q) The height of the building shall not exceed the heights set out on the approved plan.
- r) No advertising signs are to be erected on the lot without the City's approval, in accordance with the City of Albany's Sign Bylaws.
- s) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of the grant of the Planning Scheme Consent.
- t) No materials are to be stored within the Flinders Parade or Adelaide Crescent road reservation, and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- u) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
  - i) the delivery of materials and equipment to the site;
  - ii) the storage of equipment and materials for the approved development;
  - iii) the parking arrangements for the contractor and subcontractors; and
  - iv) other matters likely to impact on the surrounding properties.

*Voting Requirement Simple Majority*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**ADDENDUM**

44. In response to the request for additional information from Councillors, a schedule of car parking arrangements has been prepared. That schedule highlights that the current Esplanade development required 337 car parking bays to be provided and that requirement was met by 80 bays being provided on-site, 59 bays being provided within the adjoining road reserves as a cash in lieu equivalent and dispensations of 150 bays being credited for the Function Room and 48 bays being simply waived.
45. The current development (if approved) requires 232 bays [taking into consideration a second development application proposing apartments on the western side of the land] and the plan provides for 119 on-site bays. The proponent is requesting credits for the 59 on-street bays previously provided, the carrying forward of a 25 bay credit for the function centre and a reduction in the City's requirements for car parking for the hotel rooms (0.6 bays per unit in lieu of the current requirement of 1 bay per unit). The Proponent does not wish to reduce the allocation of bays for the apartments below the scheme requirements (refer to paragraph 16) and considers the scheme requirement of 1 bay per hotel unit is excessive in this instance, as most guests arrive in Albany by air.

**AMENDED RECOMMENDATIONS**

1. THAT Council resolves, pursuant to clause 4.10 of the City of Albany Town Planning Scheme 1A, in respect to the application for Planning Scheme Consent for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach to accept the following variations to the development standards affecting that lot;
  - a) 59 car parking bays located within the Adelaide Terrace and Flinder Parade road reserves, funded by a previous owner of the subject land, shall be credited to the car parking requirements of the current development;
  - b) Car Parking requirements for the proposed future apartment buildings shall be calculated using a ratio of 1.5 bays per unit;
  - c) The plot ratio applying to the subject site shall be increased to 0.6; and
  - d) Pursuant to clause 4.8 of the City of Albany Town Planning Scheme 1A Council shall accept Flinders Parade as a secondary street frontage for the purpose of determining setbacks and acknowledge a minimum setback of 3.0m.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

2. THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach, subject to the following conditions: -
- a) Lots 16 and 17 Flinders Parade are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.
  - b) Accessways to the hotel units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 - 2001.
  - c) Prior to a Building Licence being issued by the City for the approved development, the Developer is to provide a detailed schedule of finishes for the approval of the City of Albany.
  - d) At no cost to the City, a sealed drainage system, which has been certified by a practising Civil Engineer, shall be provided by the Developer to drain surface stormwater from the lowest portion of the re-contoured site into Council's drainage system.
  - e) The Developer shall undertake an assessment of the finished floor levels of the proposed development to ensure the building is not affected by storm surge or groundwater level fluctuations.
  - f) The new driveways crossovers are to be constructed by the Developer to Council's specification, levels and satisfaction.
  - g) The Developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.
  - h) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, sign posted and appropriately lit during the hours of darkness.
  - i) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
  - j) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 - 1993.
  - k) Within the approved car park, bays specifically designated for use by owners of apartments are to be suitably segregated from the public car parking spaces and sign posted for tenant usage.
  - l) Landscaping plans, showing size, species, location and reticulation of planted vegetation are to be submitted to the City prior to the issue of a building licence.
  - m) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
  - n) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
  - o) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
  - p) All plumbing fittings on external walls shall be concealed from external view.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- q) The height of the building shall not exceed the heights set out on the approved plan.
- r) No advertising signs are to be erected on the lot without the City's approval, in accordance with the City of Albany's Sign Bylaws.
- s) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of the grant of the Planning Scheme Consent.
- t) No materials are to be stored within the Flinders Parade or Adelaide Crescent road reservation, and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- u) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
  - i) the delivery of materials and equipment to the site;
  - ii) the storage of equipment and materials for the approved development;
  - iii) the parking arrangements for the contractor and subcontractors; and
  - iv) other matters likely to impact on the surrounding properties.

*Voting Requirement Simple Majority*

.....  
MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR EVANS

1. THAT Council resolves, pursuant to clause 4.10 of the City of Albany Town Planning Scheme 1A, in respect to the application for Planning Scheme Consent for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach to accept the following variations to the development standards affecting that lot;
  - a) 59 car parking bays located within the Adelaide Terrace and Flinders Parade road reserves, funded by a previous owner of the subject land, shall be credited to the car parking requirements of the current development;
  - b) The car parking requirements for the function centre within the site not be waived and that arrangements be made by the developer to construct the 25 bays on Council Reserves in the locality;
  - c) Car Parking requirements for the hotel units shall be calculated using a ratio of 0.6 bays per unit;
  - d) The plot ratio applying to the subject site shall be increased to 0.56; and
  - e) Pursuant to clause 4.8 of the City of Albany Town Planning Scheme 1A Council shall accept Flinders Parade as a secondary street frontage for the purpose of determining setbacks and acknowledge a minimum setback of 3.0m.
2. THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach, subject to the following conditions: -

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- a) Lots 16 and 17 Flinders Parade are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.
- b) Accessways to the hotel units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 - 2001.
- c) Prior to a Building Licence being issued by the City for the approved development, the Developer is to provide a detailed schedule of finishes for the approval of the City of Albany.
- d) At no cost to the City, a sealed drainage system, which has been certified by a practising Civil Engineer, shall be provided by the Developer to drain surface stormwater from the lowest portion of the re-contoured site into Council's drainage system.
- e) The Developer shall undertake an assessment of the finished floor levels of the proposed development to ensure the building is not affected by storm surge or groundwater level fluctuations.
- f) The new driveways crossovers are to be constructed by the Developer to Council's specification, levels and satisfaction.
- g) The Developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.
- h) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan, plus an additional 25 bays to be constructed on Council Reserves in the locality, are to be constructed to a sealed standard, line marked, sign posted and appropriately lit during the hours of darkness.
- i) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
- j) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 - 1993.
- k) Within the approved car park, bays specifically designated for use by owners of apartments are to be suitably segregated from the public car parking spaces and sign posted for tenant usage.
- l) Landscaping plans, showing size, species, location and reticulation of planted vegetation are to be submitted to the City prior to the issue of a building licence.
- m) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
- n) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- o) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
- p) All plumbing fittings on external walls shall be concealed from external view.
- q) The height of the building shall not exceed the heights set out on the approved plan.
- r) No advertising signs are to be erected on the lot without the City's approval, in accordance with the City of Albany's Sign Bylaws.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- s) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of the grant of the Planning Scheme Consent.
- t) No materials are to be stored within the Flinders Parade or Adelaide Crescent road reservation, and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- u) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
  - i) the delivery of materials and equipment to the site;
  - ii) the storage of equipment and materials for the approved development;
  - iii) the parking arrangements for the contractor and subcontractors; and
  - iv) other matters likely to impact on the surrounding properties.

*Voting Requirement Simple Majority*

Reason:

- Considerable concessions have been made in the past for the provision of car park spaces and the changes above will ensure that the developer will provide 25 additional bays, situated on Council Reserves in the locality, constructed to an appropriate standard.

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR EVANS**

1. **THAT Council resolves, pursuant to clause 4.10 of the City of Albany Town Planning Scheme 1A, in respect to the application for Planning Scheme Consent for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach to accept the following variations to the development standards affecting that lot;**
  - a) **59 car parking bays located within the Adelaide Terrace and Flinders Parade road reserves, funded by a previous owner of the subject land, shall be credited to the car parking requirements of the current development;**
  - b) **The car parking requirements for the function centre within the site not be waived and that arrangements be made by the developer to construct the 25 bays on Council Reserves in the locality;**
  - c) **Car Parking requirements for the hotel units shall be calculated using a ratio of 0.6 bays per unit;**
  - d) **The plot ratio applying to the subject site shall be increased to 0.56; and**
  - e) **Pursuant to clause 4.8 of the City of Albany Town Planning Scheme 1A Council shall accept Flinders Parade as a secondary street frontage for the purpose of determining setbacks and acknowledge a minimum setback of 3.0m.**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- 2. THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the development of a Hotel at Lots 16 & 17 Flinders Parade, Middleton Beach, subject to the following conditions: -**
- a) Lots 16 and 17 Flinders Parade are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.**
  - b) Accessways to the hotel units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 - 2001.**
  - c) Prior to a Building Licence being issued by the City for the approved development, the Developer is to provide a detailed schedule of finishes for the approval of the City of Albany.**
  - d) At no cost to the City, a sealed drainage system, which has been certified by a practising Civil Engineer, shall be provided by the Developer to drain surface stormwater from the lowest portion of the re-contoured site into Council's drainage system.**
  - e) The Developer shall undertake an assessment of the finished floor levels of the proposed development to ensure the building is not affected by storm surge or groundwater level fluctuations.**
  - f) The new driveways crossovers are to be constructed by the Developer to Council's specification, levels and satisfaction.**
  - g) The Developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the exiting surfaces and alignments, where the existing cross over(s) is to be removed.**
  - h) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan, plus an additional 25 bays to be constructed on Council Reserves in the locality, are to be constructed to a sealed standard, line marked, sign posted and appropriately lit during the hours of darkness.**
  - i) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.**
  - j) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 - 1993.**
  - k) Within the approved car park, bays specifically designated for use by owners of apartments are to be suitably segregated from the public car parking spaces and sign posted for tenant usage.**
  - l) Landscaping plans, showing size, species, location and reticulation of planted vegetation are to be submitted to the City prior to the issue of a building licence.**
  - m) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.**
  - n) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.**
  - o) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

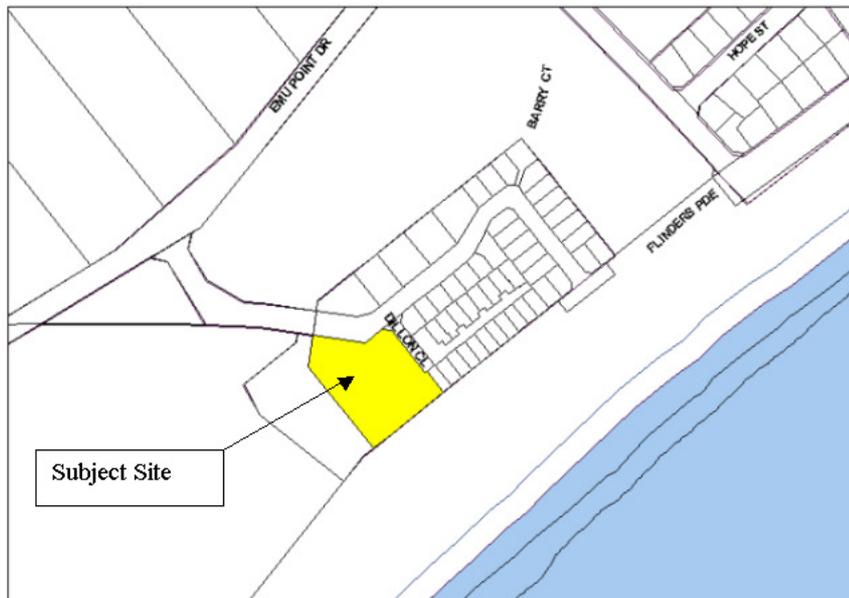
- p) All plumbing fittings on external walls shall be concealed from external view.**
  - q) The height of the building shall not exceed the heights set out on the approved plan.**
  - r) No advertising signs are to be erected on the lot without the City's approval, in accordance with the City of Albany's Sign Bylaws.**
  - s) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of the grant of the Planning Scheme Consent.**
  - t) No materials are to be stored within the Flinders Parade or Adelaide Crescent road reservation, and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.**
  - u) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;**
    - i) the delivery of materials and equipment to the site;**
    - ii) the storage of equipment and materials for the approved development;**
    - iii) the parking arrangements for the contractor and subcontractors; and**
    - v) other matters likely to impact on the surrounding properties.**
- CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

The Chief Executive Officer left the meeting at 8.31pm and returned at 8.32pm during consideration of Item 11.1.2.

**11.1.2 Development Application - Multiple Dwellings - 4 Barry Court, Collingwood Park**

<b>File/Ward</b>	:	A179283 (Breaksea Ward)
<b>Proposal/Issue</b>	:	Proposal to construct 30 units (apartments)
<b>Subject Land/Locality</b>	:	Lot 140, 4 Barry Court, Collingwood Park
<b>Proponent</b>	:	Roberts Gardiner Architects
<b>Owner</b>	:	Walker Paddon Real Estate Pty Ltd SR & NC Reynolds Pty Ltd Keycentral Pty Ltd
<b>Reporting Officer(s)</b>	:	Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 19/09/06 Item 11.1.3 OCM 10/12/96 Item 7.40.2
<b>Summary Recommendation</b>	:	Issue Planning Scheme Consent
<b>Bulletin Attachment</b>	:	Correspondence between City and DPI
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**BACKGROUND**

1. At the September 2006 meeting of Council, an application was considered to construct thirty (30) residential units (multiple dwellings) on Lot 140 Barry Court, Collingwood Park. The 6108m<sup>2</sup> land parcel is zoned “Tourist Residential” within Town Planning Scheme 1A.
2. The proposed self-contained apartments are to be between 120m<sup>2</sup> and 134m<sup>2</sup> in floor area and the site plan shows car parking is to be provided in an underground car park and a barbecue area and tennis court is to be provided within the site. The proposed development is 4 storeys above ground level and the structure is 14.5m above ground level at the highest point (15.5m above ground level if an average is applied across the building footprint).
3. Council resolved at that meeting as follows;  
  
*“THAT Council support the issuing of a Notice of Planning Scheme Consent, upon receipt of approval from the Western Australian Planning Commission, for the development of 30 Multiple Dwellings at Lot 140, (4) Barry Court, Collingwood Park”;*  
*and*  
  
*“THAT Council delegate to the Manager Planning and Ranger Services authority to issue a conditional Planning Scheme Consent, upon receipt of approval from the Western Australian Planning Commission, for the development of thirty (30) Multiple Dwellings on Lot 140, (4) Barry Court, Collingwood Park”.*
4. Letters were forwarded to the WAPC seeking “approval” for a building of that height adjacent to the coast and copies of the responses received from the WAPC are included in the Elected Members Report / Information Bulletin.
5. The responses from the WAPC do not satisfy the resolution passed by Council and this matter is returned for Council’s determination.

**STATUTORY REQUIREMENTS**

6. The land use “Multiple Dwellings” is an “SA” (discretionary) use in the Tourist Residential zone as per the TPS1A zoning table and its planning merit can be considered by Council.
7. Clause 7.8A of the Scheme states that *“Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application;*
  - (c) *any approved Statement of Planning Policy of the Commission;*
  - (e) *any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State;*
  - (f) *any Town Planning Scheme policy adopted by the Council under clause 7.21 and any other plan or guideline adopted by the Council under the Scheme;*
  - (i) *the compatibility of the use or development with its setting;*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- (o) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (y) *any relevant submissions received on the proposal; and*
- (zb) *any other planning consideration the Council considers relevant.”*

8. The draft Statement of Planning Policy No. 2.6 - “*State Coastal Planning*” and the Development Control Policy No. 6.1 - “*Country Coastal Planning Policy*” are to be given consideration in relation to the assessment of this proposal. Policy DC 6.1 states at clause 3.5.5;

*“To avoid intrusive development, the following should be considered;*

- i) *No building within 500 metres of the coast, shall exceed 12 metres in height unless it is approved by the State Planning Commission. For the purposes of this policy ‘height’ means ‘the vertical measurement taken between the mean point of the natural ground level within the area occupied by the structure and the highest point of the roof vertically above that point on the ground, excluding minor vertical projections such as chimneys and vent pipes’.*

**POLICY IMPLICATIONS**

9. Under Clause 7.8A of the Scheme Council shall have due regard for any Town Planning Scheme Policy adopted by Council under Clause 7.21, any other plan or guideline adopted by the Council under the Scheme, any Statement of Planning Policy of the Commission and any relevant policy or Strategy of the Commission or any relevant planning policy adopted by the Government of the State.
10. Council has previously given consideration to “The Barry Court Design Guidelines” adopted by Council in February 1997. The previous report also made mention of the requirements relating to policy DC 6.1 and verbal advice was given to Councillors by staff that the requirements of SPP 2.6 were met by the application.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

12. The locality is identified in the Albany Local Planning Strategy as a Tourist Accommodation Node.

**COMMENT/DISCUSSION**

13. Included in the Elected Members Report / Information Bulletin is a copy of the correspondence that has passed between staff at the City of Albany and officers of Coastal Planning Branch of the Department of Planning and Infrastructure (DPI) following Council’s decision. That correspondence is self-explanatory.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

14. It is obvious from the correspondence that the “approval” of the Western Australian Planning Commission for the proposed development will not be forthcoming. The DPI officers have advised *“the wording of this particular subsection of DC 6.1 appears to be the cause of confusion regarding approval responsibility. Though the language suggests that it is a matter over which the WAPC has approval, the status of DC 6.1 is that it is a policy only and has no statutory effect. The wording does not alter the statutory process of approval under planning legislation which provides that development approvals for land zoned under a local government’s LPS are to be approved by the relevant authority.”*
15. Those officers further state that *“the role of the coastal branch of the DPI is to provide technical advice on the provisions of DC 6.1 and SPP 2.6 to ensure that they are given due consideration”* and *“the WAPC cannot legally compel local government to comply with the requirements of State planning policies.”*
16. In summary, the DPI (Coastal Planning Branch) officers are advising Council that;
  - a. The impact of DC 6.1 and SPP 2.6 appear to have been duly considered by Council when considering building height and the Coastal Planning Branch does not have any objection to raise on this matter. The height restriction adjacent to the coast is under review and the revised policy will allow development up to five storeys (not exceeding 21.0m) and in certain circumstances, developments of eight storeys (32.0m) may also be considered.
  - b. Council has given consideration to the public interest in regards to visual amenity, and the requirements of SPP 2.6 have been met.
  - c. Council has addressed issues of coastal strategies and management plans, and the environmental and infrastructure as they relate to the site and the adjoining foreshore reserve.
  - d. Notwithstanding that the subject land was created in the early 1990s, and that Council has had two coastal reports prepared which indicate that the current coastal setback of 105.0m (from permanent vegetation line to proposed building) is acceptable to accommodate coastal processes, each development should be technically assessed to ensure there are no other factors that should be taken into consideration.
17. Council’s resolution precluded staff from issuing a Notice of Planning Scheme Consent until the WAPC had “approved” the height of the proposed development. This application is referred back to Council so that the additional information provided by the Coastal Planning Branch of the DPI can be taken into consideration and a final determination reached on the development application.

**RECOMMENDATION:**

THAT Council resolves to issue a conditional Notice of Planning Scheme Consent for the development of 30 Multiple Dwelling Units at Lot 140, (4) Barry Court, Collingwood Park subject to;

- A. Conditions to be complied with prior to issue of a Building Licence:
  - A1 The proposal is to comply with any details and/or amendments marked in red as shown on the approved plan.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- A2 The ground floor level of the approved development is to be established at a level of 7.5m AHD as detailed in the site feature survey carried out by Harley Survey Group.
- A3 Prior to the issue of a building licence a traffic management plan, prepared by a suitably qualified professional, to be submitted to and approved by the City of Albany.
- A4 The proposed bin storage area (marked as service area on approved plan) shall be fitted with an access gate and hose cock and shall contain a floor waste outlet and such details shown on plans submitted for building licence approval to the satisfaction of the City of Albany.
- A5 A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
- A6 Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.
- A7 Detailed plans and specifications of the proposed method of stormwater disposal are to be submitted for approval by Council prior to the issue of a building licence.  
*(Note: Such plans should identify invert levels, cover levels and pipe size and grade).*
- A8 A schedule of building finishes is to be supplied to the City prior to issue of a building licence.
- A9 Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
  - a) the delivery of materials and equipment to the site;
  - b) the storage of equipment and materials for the approved development;
  - c) the parking arrangements for the contractor and subcontractors; and
  - d) other matters likely to impact on the surrounding properties.
- B. Conditions to be complied with prior to occupancy of use:
  - B1 External clothes drying facilities shall be provided for each dwelling, or alternatively, dryers shall be provided within each dwelling.
  - B2 Vehicular parking, manoeuvring and circulation areas indicated on the approved plan being constructed, properly drained and sealed to the satisfaction of Council. Car parking bays are to conform to Australian Standard AS2890.1 – 1993.
  - B3 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.
  - B4 All land indicated as landscaped area on the approved plan being developed prior to, or concurrently with the practical completion of the building(s) to the satisfaction of Council.
  - B5 All communal infrastructure as shown on the approved plans shall be completed and functional prior to occupancy of use (e.g barbecues, tennis court, gazebo).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- B6 A Management Strata Plan shall be prepared and submitted for the consideration and support of Council, to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act 1985 (as amended):
  - (i) The management of the development in relation to the tourist accommodation potential for all unit owners
  - (ii) The selection and proposed function of a singular manager/booking agency for the holiday accommodation proponents.

*(Note: Before occupying the development you must contact a planning officer from the City of Albany on 98419383 and demonstrate that conditions B1 – B6 have been complied with).*

C. Conditions of an ongoing nature:

- C1 All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
- C2 All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- C3 No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
- C4 No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.
- C5 The 'entry' and 'exit' points to the site shall be clearly signed with the designated visitor parking bays being clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".
- C7 All landscaped areas are to be maintained in good condition thereafter.

*Voting Requirement Simple Majority*

.....  
**ADDENDUM**

- 18. At page 11 of the Elected Members Report / Information Bulletin, there is an advice (dated the 3<sup>rd</sup> November 2006) from the Director for Environment and Sustainability, within the Department of Planning and Infrastructure, that he would refer to the coastal engineers of the Department the information available from Council on coastal processes at Middleton Beach to evaluate the setback of the proposed development against that policy.
- 19. An email was recently received from the coastal engineers however the information contained therein and the plan attached to the report related to existing developed lots, located to the north of the subject land within the Barry Court policy area; those lots are located 90.0m from the HSD and any future development would need to be set back 8.0 metres from that boundary to achieve the required default setback of 98.0m under the policy. The development on the subject lot is set back 5.0m from the ocean boundary and aerial photography for this area indicates that there is a variation in the width of the dunal system between the lots incorrectly assessed and the subject land. The DPI has been made aware of this oversight and no further feedback has been received to date.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

20. SPP 2.6 states at paragraph 6:

*“This policy will guide local governments, other agencies, the Town Planning Appeals Tribunal and State Government of those aspects of State planning policy concerning the protection of the coast that should be taken into account in planning decision-making. Given the variation of coastal environments in the State and the range of development and use contexts that can be presented, it is important that this policy, and the setback guidelines in Schedule One, be applied to each case under consideration on its merits using the best available information, common sense and a precautionary approach.”*

21. The current advice would indicate the proposed development is located at least 95.0m from the HSD. An additional condition is proposed (A10) to resolve the current uncertainty over the DPI’s advice and a minor change is also proposed to condition A2.

**AMENDED RECOMMENDATION:**

THAT Council resolves to issue a conditional Notice of Planning Scheme Consent for the development of 30 Multiple Dwelling Units at Lot 140, (4) Barry Court, Collingwood Park subject to;

- A. Conditions to be complied with prior to issue of a Building Licence:
- A1 The proposal is to comply with any details and/or amendments marked in red as shown on the approved plan.
  - A2 The ground floor level of the approved development is to be established at a level of 7.5m AHD as detailed in the site feature survey dated September 2006.
  - A3 Prior to the issue of a building licence a traffic management plan, prepared by a suitably qualified professional, to be submitted to and approved by the City of Albany.
  - A4 The proposed bin storage area (marked as service area on approved plan) shall be fitted with an access gate and hose cock and shall contain a floor waste outlet and such details shown on plans submitted for building licence approval to the satisfaction of the City of Albany.
  - A5 A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
  - A6 Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.
  - A7 Detailed plans and specifications of the proposed method of stormwater disposal are to be submitted for approval by Council prior to the issue of a building licence.  
*(Note: Such plans should identify invert levels, cover levels and pipe size and grade).*
  - A8 A schedule of building finishes is to be supplied to the City prior to issue of a building licence.
  - A9 Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
    - a) the delivery of materials and equipment to the site;

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- b) the storage of equipment and materials for the approved development;
  - c) the parking arrangements for the contractor and subcontractors; and
  - d) other matters likely to impact on the surrounding properties.
- A10 The approved building is to be set back from the coastal property boundary in accordance with advice received from the Coastal Planning Branch of the DPI pursuant to SPP2.6.
- B. Conditions to be complied with prior to occupancy of use:
- B1 External clothes drying facilities shall be provided for each dwelling, or alternatively, dryers shall be provided within each dwelling.
  - B2 Vehicular parking, manoeuvring and circulation areas indicated on the approved plan being constructed, properly drained and sealed to the satisfaction of Council. Car parking bays are to conform to Australian Standard AS2890.1 – 1993.
  - B3 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.
  - B4 All land indicated as landscaped area on the approved plan being developed prior to, or concurrently with the practical completion of the building(s) to the satisfaction of Council.
  - B5 All communal infrastructure as shown on the approved plans shall be completed and functional prior to occupancy of use (e.g barbecues, tennis court, gazebo).
  - B6 A Management Strata Plan shall be prepared and submitted for the consideration and support of Council, to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act 1985 (as amended):
    - (i) The management of the development in relation to the tourist accommodation potential for all unit owners
    - (ii) The selection and proposed function of a singular manager/booking agency for the holiday accommodation proponents.

*(Note: Before occupying the development you must contact a planning officer from the City of Albany on 98419383 and demonstrate that conditions B1 – B6 have been complied with).*
- C. Conditions of an ongoing nature:
- C1 All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
  - C2 All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
  - C3 No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
  - C4 No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- C5 The 'entry' and 'exit' points to the site shall be clearly signed with the designated visitor parking bays being clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".
- C6 All landscaped areas are to be maintained in good condition thereafter.

*Voting Requirement Simple Majority*

.....

MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR MARSHALL

THAT Council:

- i) Declines to issue planning scheme consent in this matter on the grounds that the proposal is inconsistent with Council's 'Coastal Development – Building Height Restrictions' Policy; and
- ii) Invites the proponents to resubmit their application once Urbanizma has completed the work it has been engaged to do under Item 11.1.1 of this meeting.

*Voting Requirements Simple Majority*

.....

Reason:

- The proposed development is not for a resort hotel as envisaged by the Barry Court Design Guidelines but for a multiple residential dwelling. The Coastal Development Building Heights Restrictions Policy limits the height of developments in the Policy area to 7.5 metres. Under paragraph 11 of the Policy an exception is made to the height restriction specifically for "the proposed hotel site on Lot 1379 Barry Court". Since the proponent's application is not for the hotel proposed by the Barry Court Design Guidelines but for a multiple residential dwelling of 15.5 metres it is inconsistent with the Coastal Development - Building Heights Restrictions Policy. Council has engaged Patrick de Villiers of Urbanizma to review the height restrictions prescribed by this policy. In the event that this review results in the adoption by Council of a new policy permitting developments in the policy area to be at least 15.5 metres high Council will be pleased to carry forward and reconsider the proponent's application at that time.

In support of his alternate motion in relation to Item 11.1.2, Councillor Paver gave an address to the Council, which he requested be tabled. In that address he referred to the following documents:

- Council Policy - Design Guidelines – Lot 1379 Barry Court
- Council Policy – Coastal Development Building Height Restrictions
- Critique by Councillor Paver of the way City of Albany staff have dealt with Item 11.1.5 of the Agenda of the Ordinary Council Meeting of 19<sup>th</sup> September 2006.

Each of the above documents, including Councillor Paver's address, were tabled and appear at the end of the Item.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR MARSHALL**

**THAT Council:**

- i) Declines to issue planning scheme consent in this matter on the grounds that the proposal is inconsistent with Council's 'Coastal Development – Building Height Restrictions' Policy; and**
- ii) Invites the proponents to resubmit their application once Urbanizma has completed the work it has been engaged to do under Item 11.1.1 of this meeting.**

**LOST 3-10**

**RECORD OF VOTE**

For the motion: Councillors Marshall, Paver and Jamieson

Against the motion: Mayor Goode, Councillors Bojcun, Emery, Wellington, Waterman, Williams, Evans, Wolfe, West and Waterman.

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WELLINGTON**

**THAT Council resolves to issue a conditional Notice of Planning Scheme Consent for the development of 30 Multiple Dwelling Units at Lot 140, (4) Barry Court, Collingwood Park subject to;**

- A. Conditions to be complied with prior to issue of a Building Licence:**
- A1 The proposal is to comply with any details and/or amendments marked in red as shown on the approved plan.**
  - A2 The ground floor level of the approved development is to be established at a level of 7.5m AHD as detailed in the site feature survey dated September 2006.**
  - A3 Prior to the issue of a building licence a traffic management plan, prepared by a suitably qualified professional, to be submitted to and approved by the City of Albany.**
  - A4 The proposed bin storage area (marked as service area on approved plan) shall be fitted with an access gate and hose cock and shall contain a floor waste outlet and such details shown on plans submitted for building licence approval to the satisfaction of the City of Albany.**
  - A5 A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.**
  - A6 Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.**
  - A7 Detailed plans and specifications of the proposed method of stormwater disposal are to be submitted for approval by Council prior to the issue of a building licence.**  
*(Note: Such plans should identify invert levels, cover levels and pipe size and grade).*

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

- A8** A schedule of building finishes is to be supplied to the City prior to issue of a building licence.
- A9** Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
- a) the delivery of materials and equipment to the site;
  - b) the storage of equipment and materials for the approved development;
  - c) the parking arrangements for the contractor and subcontractors; and
  - d) other matters likely to impact on the surrounding properties.
- A10** The approved building is to be set back from the coastal property boundary in accordance with advice received from the Coastal Planning Branch of the DPI pursuant to SPP2.6.
- B.** Conditions to be complied with prior to occupancy of use:
- B1** External clothes drying facilities shall be provided for each dwelling, or alternatively, dryers shall be provided within each dwelling.
- B2** Vehicular parking, manoeuvring and circulation areas indicated on the approved plan being constructed, properly drained and sealed to the satisfaction of Council. Car parking bays are to conform to Australian Standard AS2890.1 – 1993.
- B3** 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.
- B4** All land indicated as landscaped area on the approved plan being developed prior to, or concurrently with the practical completion of the building(s) to the satisfaction of Council.
- B5** All communal infrastructure as shown on the approved plans shall be completed and functional prior to occupancy of use (e.g barbecues, tennis court, gazebo).
- B6** A Management Strata Plan shall be prepared and submitted for the consideration and support of Council, to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act 1985 (as amended):
- (i) The management of the development in relation to the tourist accommodation potential for all unit owners
  - (ii) The selection and proposed function of a singular manager/booking agency for the holiday accommodation proponents.
- (Note: Before occupying the development you must contact a planning officer from the City of Albany on 98419383 and demonstrate that conditions B1 – B6 have been complied with).*
- C.** Conditions of an ongoing nature:
- C1** All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- |  |                           |
|--|---------------------------|
| <p><b>C2</b> All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.</p> <p><b>C3</b> No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.</p> <p><b>C4</b> No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.</p> <p><b>C5</b> The 'entry' and 'exit' points to the site shall be clearly signed with the designated visitor parking bays being clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".</p> <p><b>C6</b> All landscaped areas are to be maintained in good condition thereafter.</p> | <p><b>CARRIED 9-4</b></p> |
|--|---------------------------|

**RECORD OF VOTE:**

For the motion: Mayor Goode, Councillors Bojcun, Emery, Wellington, Waterman, Williams, Evans, Wolfe and Waterman

Against the motion: Councillors Marshall, Paver, Jamieson and West

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Address to City of Albany Council by Councillor Paver in support of his alternative motion on Item 11.1.2 in the Agenda of the Ordinary Council meeting of 19th December 2006.**

Madam Mayor

Before addressing my alternative motion I wish to table the following documents:

- 1) The Barry Court Design Guidelines - adopted by Council in 1996.
- 2) The Coastal Development - Building Heights Restrictions Policy adopted by the City of Albany in 1998.
- 3) A critique of the agenda item on the Barry Court Development Application prepared for the City of Albany Ordinary Council Meeting on 19th September 2006.

Madam Mayor

Good governance as I have said on many occasions is not governance by whim and caprice but governance in accordance with right and reason. This is enshrined in the common law and by statute. Thus Council is required at common law to have regard to all material considerations when coming to its resolutions. And under clause 7.8A of our TPS1 these material considerations are defined to include state and local planning policies.

To enable Councillors to comply with their legal obligation to have regard to planning policies staff are required by contract to present them to Councillors when reporting on particular planning applications. This is a matter of substance and not form. Staff must make a rational determination of the relevant policies, present the material provisions of those policies fully to Council, examine objectively their application to the particular planning application and make appropriately logical recommendations for Council's decision.

Madam Mayor, it is my contention that the staff have failed to deal with the Barry Court application in the manner required of them by law. The result of their failure to do so on 19th September 2006 was that a majority of Councillors endorsed an officer recommendation that was improper on two counts. Firstly, and this is made clear in the letter from Mr Singleton of the Department of Planning and Infrastructure, by resolving to approve the Barry Court application "upon receipt of approval from the Western Australian Planning Commission", Council effectively abdicated its statutory duty to decide the application itself. This was ultra vires. So too was Council's second resolution to delegate to the Manager Planning and Ranger Services authority "to issue a conditional planning scheme consent upon receipt of approval of the Western Australian Planning Commission". That this resolution was also ultra vires is demonstrated by the fact that the Manager has found it necessary to bring the Barry Court application back to Council. What he is seeking today is a Council resolution that would not have been necessary but for illegality evident on the face of the resolutions of the September meeting. What he is seeking is a resolution that remedies the unlawfulness of those resolutions.

But there is a second reason why Council's resolution of September was improper. Staff failed to bring to Council's attention the contents of the most important local policy relevant to the Barry Court application, namely the Coastal Development -

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

Building Heights Restrictions Policy. The result is that Council endorsed his recommendation to approve the Barry Court application without having regard to relevant considerations. This is ultra vires and unlawful.

Now Madam Mayor my criticisms of the way staff dealt with the Barry Court application in the September agenda are contained in the critique I have tabled. I requested staff a week ago to distribute this critique to all Councillors along with the relevant policies, namely the Coastal Development Policy and the Barry Court Design Guidelines. At the same time, I gave notice of my alternative motion for tonight's agenda item on the Barry Court application. As of 1.00pm today the Policies had been distributed but not the critique. As for my alternative motion it was dealt with only yesterday and distributed today. This sort of thing is deplorable. It has severely impaired the capacity of Councillors to become sufficiently enlightened to avoid passing another irrational resolution on the Barry Court proposal tonight.

If you have not had timeous access to my critique I hope you have taken the trouble to make yourselves familiar with the contents of the Barry Court Design Guidelines and the Coastal Development Policy. I asked the staff to distribute these to you because they had done nothing to date to bring their contents to your attention.

The Barry Court design Guidelines were adopted by Council in 1996. They related to Lot 1379 Barry Court and catered in paragraph 9) for the subdivision of Lot 1379 into 19 small 350 square metre lots "for either permanent residential use or holiday use" and six larger lots varying from 1000 to 5675 square metres "for tourist orientated uses". The land that is the subject of the current application is the 5675 square metre lot. In paragraph 9 this site is specifically described as the "resort hotel site". The intention of the Guidelines with regard to this site and the other 5 tourism sites is plainly expressed in Paragraph 25) where it says "sites identified for tourist development should not be used for permanent residential development". In paragraph 31) the Guidelines accord this site special status by exempting it from the requirement that all development shall not be visible from Middleton Beach. The reason for this site being granted this exemption is clearly because it was identified as a resort hotel site, the jewel in the crown of 6 sites intended to be developed for purely tourism purposes.

Given these provisions of the Barry Court Design Guidelines it escapes me entirely how the staff can recommend that Council approve a multiple residential dwelling on this site. Such a recommendation is entirely inconsistent with the intent and wording of the Barry Court Design Guidelines.

Staff would have you believe that your support for this residential development is discretionary under the TPS1. This is true but this does not mean that your discretion is limitless. You must have regard for relevant local planning policies when exercising your discretion. The Barry Court Design Guidelines is one of the relevant local planning policies that you are required rationally to consider and you can see now, from the provisions that I have quoted, that it is contrary to the spirit and the wording of these guidelines to countenance a multiple residential dwelling on a hotel resort site.

**DEVELOPMENT SERVICES REPORTS**

## Item 11.1.2 continued

But there is a second and in my view more important local planning policy that is relevant to this application. It is the Coastal Development - Building Heights Restrictions Policy. This was adopted by the City of Albany in 1998 two years after the adoption of the Barry Court Guidelines. The Commissioners engaged Professor Newman to prepare this policy because they regarded the stretch of coast along the length of Middleton Beach as so important to the City of Albany that it needed to be subjected to specific planning controls that were not provided in the Town Planning Scheme. The Policy lays down a maximum height for development in the policy area of 7.5 metres. Lot 1379 is in the policy area. Since the Barry Court Design Guidelines had already been adopted by the City of Albany, the policy needed to address any inconsistencies in those guidelines. How was this done? Well, Professor Newman looked at the 6 sites identified for tourist oriented uses and saw that under the guidelines 5 were capable of 2 and 3 storey development and one was capable of 4 storey development. He restricted development on the 5 sites to 7.5 metres but allowed development on the proposed hotel site to exceed 7.5 metres. The relevant paragraph of the policy is paragraph 11). It provides : "With the exception of the proposed hotel site on Lot 1379 Barry Court no development in the policy area shall exceed a height of 7.5 metres". The wording of this paragraph is important because it shows that the reason for treating this site differently from all the others, both tourism and residential sites, was because it was a proposed hotel site. Had it been a proposed residential site it would not have been exempted from the 7.5 metre height restriction.

Madam Mayor and Councillors I have had to do what the staff have failed to do and that is to bring to your attention as clearly as time allows the relevant policy considerations that you are required to take into account when deciding this agenda item. These considerations require that we decline to approve this development application on the grounds that what is proposed is a multiple residential dwelling and not a resort hotel and that a resort hotel is the only development exempted from the building height restriction of 7.5 metres laid down in the Coastal Development : Building Heights Restrictions Policy. The appropriate way forward from here is to let Patrick de Williers of Urbanizma review the height restriction of 7.5 metres and report back to Council. Once his review has been completed and the City has amended the Coastal Development Policy the applicants should be invited to resubmit their application without charge in the event that the amended policy makes provision for a height limit of at least 15.5 metres. This is the approach to this matter that a responsible planning authority should take. It should not ignore its policies and then having done so bring them to Council at a future date and rescind them because they have not been applied.

In conclusion I hereby table this address and ask Councillors to support my alternative motion.

Item 11.1.2 continued



## Council Policy

# Design Guidelines Lot 1379 Barry Court

© City of Albany 2006

Adoption Date: UNAVAILABLE  
Adoption Reference: OCM Item UNAVAILABLE  
Review Date: 30.06.2006  
Maintained By: Executive Director Development Services  
Document Reference: NP0000 V1

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Overview**

- 1) Lot 1379 Barry Court, together with the adjacent Lot 1380 are owned by the Albany Golf Club and zoned Tourist Residential under the provisions of Council's Town Planning Scheme No 1 A. The Albany Golf Club proposes to sell Lot 1379 and utilise the proceeds to develop a new club house on Lot 1380. Subdivision approval to subdivide Lot 1379 into 9 lots of 2000m<sup>2</sup> and a larger lot of 6820m<sup>2</sup> has previously been issued subject to conditions which include the provision of a final environmental assessment for the subject land and the adjacent Middleton Beach Foreshore Area. Advice to the applicant also requires a Design and Management Policy to be prepared in accordance with the CoA Town Planning Scheme No 1A.
- 2) An independent assessment of the proposed development was commissioned by the CoA and identified the key issues in terms of development impact, environmental assessment and management requirements.
- 3) A revised concept plan has now been prepared for the site and was considered by the CoA Council at the November meeting when it was resolved to advise the applicant that Council was prepared to receive detailed policy guidelines on environmental, building and management arrangements.

**Objective**

- 4) The purpose of these design guidelines is to ensure future development of Lot 1379 Barry Court will address the key issues identified by Council in terms of the use of the site, the visual and environment impacts and character and quality of the development.

**Scope**

- 5) The subject land is located at the north-east end of the Albany Golf Course between Golf Links Road and Middleton Beach. Griffith Street is located approximately 100 metres to the north east. Access to the site is provided to Golf Links Road by Barry Court which is unconstructed.
- 6) An unconstructed road reserve also runs along the coastal side of the property and extends between Griffith Street and Ellen Cove. It is proposed that this reserve be closed and incorporated within the Foreshore Reserve.
- 7) A dual use path has been constructed within the Foreshore Reserve and is connected to the site by a network of existing tracks.
- 8) The site itself is heavily vegetated with regrowth vegetation and is surrounded by similar vegetation which forms part of the recreation reserve associated with the golf course. A driving range is proposed immediately to the north west of the site

Adoption Date: UNAVAILABLE  
Adoption Reference: OCM Item UNAVAILABLE  
Review Date: 30.06.2006  
Maintained By: Executive Director Development Services  
Document Reference: NP0000 V1

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Definitions**

CoA	City of Albany
CALM	.....REPLACED BY DEC (Department of Environment and Conservation)
AHD	

**Policy Statement**

**Description of Proposed Development Concept**

- 9) In keeping with the zoning of the land and Council's aspirations for Lot 1379, the development concept proposes to subdivide the property into a number of lots which will specifically be set aside for tourist orientated uses. Six lots comprising about 74% of the site (excluding the road reserve) and ranging in size from 1000m<sup>2</sup> to 5675m<sup>2</sup> will provide for a combination of strata titled holiday units, short stay motel units and a resort hotel site. To provide variety and a level of activity throughout the year, nineteen smaller freehold lots are proposed which can be developed for either permanent residential use or holiday use. These lots are clustered at the north eastern end of the development in order to provide some separation from the purely tourist sites. Lot sizes average 350m<sup>2</sup> and the design guidelines aim to provide an integrated, high quality streetscape.
- 10) Deep sewerage will be provided to all proposed development together with underground power, water and telecommunications.
- 11) With the exception of the main tourist resort development, all development will be restricted in height so that it will not be visible from the beach immediately in front of the site. A range of one, two and three storey development is proposed, with the three storey development being located to the rear of the site along the north western boundary. The two and three storey development will provide views of the ocean but will not overlook the beach.
- 12) A height limitation of up to four storeys is proposed for the main tourist site, parts of which may be visible from the beach. It is intended that this be a landmark building providing a focal point of interest. Preliminary cross sections of the site indicate that a four storey building can be accommodated without being overly intrusive.
- 13) In view of the demand for tourist accommodation, staging of the development will be necessary. It is proposed that the nineteen freehold lots and the three tourist lots adjacent to the north western boundary be developed first. The remaining lots will be retained pending interest in the development of the

Adoption Date: UNAVAILABLE  
Adoption Reference: OCM Item UNAVAILABLE  
Review Date: 30.06.2006  
Maintained By: Executive Director Development Services  
Document Reference: NP0000 V1

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

motel and tourist resort. Amalgamation of these remaining sites would be possible to create a suitable site for a larger tourist resort should this be required.

- 14) Access to the beach is provided by two pathways, which will connect through to the existing dual use path. The detailed design and management of these pathways will need to ensure that access to the beach is carefully controlled in order to avoid causing damage to the fragile dune system.
- 15) Adherence to an overall plot ratio of between 0.5 and 0.6 and a minimum landscaping requirement of between 40% and 50% of the site will provide the basis for the achievement of a balance between buildings and vegetation. Given the extent of development proposed, retention of existing vegetation within the site itself will be difficult to achieve. Comprehensive revegetation of the site is proposed using endemic native species wherever possible. The revegetation program will be used to screen and soften the impact of the development as well as creating a high level of amenity within the development. Particular consideration will need to be given to the potential for wind erosion of the sandy soils. Management and appropriate on-going maintenance of the vegetation will enable the height of the tree canopy to be increased within and adjacent to the site to assist with screening of the development.
- 16) The Albany Golf Club has undertaken to develop a driving range immediately to the north of the subject land. Sensitive development of the proposed driving range and appropriate management of access around the development site will enable representative samples of existing vegetation to be conserved together with associated local fauna.

**Planning Context**

- 17) As both subdivision and development of Lot 1379 is proposed, planning approval is required from both Albany Town Council and the Western Australian Planning Commission.
- 18) Lot 1379 and 1380 are currently zoned Tourist Residential under the provisions of Council's Town Planning Scheme Number No 1A. This zoning permits a variety of tourist orientated uses as well as permanent residential development. Development standards are contained within the Zone Development Table in Appendix III of the Scheme text and are reproduced below.

**Zone Development Table**

Zone	Minimum Lot area (m <sup>2</sup> )	Minimum Effective Frontage (metres)	Maximum Plot Ratio	Minimum Boundary Setbacks (metres)	Minimum Landscaping % of site	Minimum Car parking spaces	Other
Tourist residential	2000	20	0.5	Front 9.0 Rear 7.5 Side 2 per storey	50	2	As for residential;

- 19) A minimum lot size of 2000m<sup>2</sup> is required on order to encourage comprehensive development of tourist uses and discourage development of small sites scattered amongst existing residential uses. This provision, together with the minimum frontage and boundary setback requirements will

Adoption Date: UNAVAILABLE  
 Adoption Reference: OCM Item UNAVAILABLE  
 Review Date: 30.06.2006  
 Maintained By: Executive Director Development Services  
 Document Reference: NP0000 V1

102 North Road, Yakamia WA 6330  
 PO Box 484, Albany WA 6331  
 Tel: (+61 8) 9841 9333  
 Fax: (+61 8) 9841 4099  
 staff@albany.wa.gov.au  
 www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

## Item 11.1.2 continued

need to be relaxed in order to allow for the nineteen smaller lots. Clause 4.10 of the Scheme text allows for the provisions to be relaxed, subject to advertising for a 21day period.

- 20) The property also abuts land reserved for Parks and Recreation, which is designated as a Place of Heritage Value within the CoA Scheme.
- 21) Plot ratio and minimum landscaping requirements contained within the Zone Development Table, which will ensure there is ample scope for vegetation to be reestablished. The proposed design guidelines will provide further detailed guidance and control in relation to the proposed use of the site, landscaping and vegetation, building design and layout, colour and treatments, roofing materials and profiles. Subdivision approval will enable conditions to be placed on the development to ensure services such as constructed vehicular access, underground power, reticulated water, sewerage and drainage are provided. Conditions relating to the provision of public open space, uniform fencing, identification of vegetation worthy of being protected and preparation of an environmental assessment have also been applied to the site.
- 22) These design and management guidelines can be adopted as formal policy by Council in accordance with Clause 7.21 of the Scheme text. Advertising of the proposal for public comment for a minimum of (21) twenty one days is required following which the draft policy is either adopted or amended. This process ensures that the adopted policy is given due weight when the development is being considered by the CoA Council.

**Design and Management Guidelines****Overall Aims**

- 23) The overall aims of the design and management guidelines are to ensure the development of Lot 1379:
  - a) is predominantly for tourist orientated uses,
  - b) will blend in with the surrounding landscape,
  - c) will minimise visual impacts from Middleton Beach, surrounding areas and public vantage points, and
  - d) will minimise impacts on surrounding vegetation, fauna and foreshore reserve.
- 24) In order to achieve these aims the following guidelines and management provisions will need to be addressed.

**Preferred Uses**

- 25) Development and land use should generally conform to the concept plan and sites identified for tourist development should not be used for permanent residential development. Residential development should be restricted to the smaller freehold lots at the north - eastern end of the development.
- 26) Staging for the proposed development should endeavour to achieve the option for the development of a tourist resort on the larger tourist site adjacent to Lot 1380. Amalgamation of the tourist resort site with adjoining sites is acceptable should a larger site be required for the resort.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- 27) The smaller freehold lots at the north eastern end of the site may be used for either permanent residential use or as holiday accommodation.

**Subdivisional Criteria**

- 28) Lot size shall generally be in accordance with the concept plan. Lot sizes for tourist accommodation shall generally be a minimum of 2000m<sup>2</sup> with larger lots for a tourist resort and short stay motel.
- 29) The R50 density code shall generally apply to tourist accommodation and the R40 density code shall apply to the smaller lots at the eastern extremity of the site.

**Plot Ratio**

- 30) A plot ratio of 0.5 shall apply for the overall development of the site. Subject to the applicant demonstrating to the CoA that the proposed development can conform with the design and management guidelines, the CoA may agree to increase the plot ratio to 0.6 should this be necessary to accommodate the development as outlined in the concept plan.

**Visual Impact**

- 31) It is intended that, with the exception of the tourist resort development and a possible lookout tower, all development on Lot 1379 shall not be visible from Middleton Beach. While it is proposed that the tourist resort be designed as a landmark building, preliminary cross sections indicate that a four storey building would not be overly intrusive when viewed from Middleton Beach.
- 32) As the site is also visible from the more elevated areas of the surrounding residential suburbs of Collingwood Park, Mira Mar, Mount Clarence and Middleton Beach, the following design guidelines are proposed to minimise visual impacts.
- a) The proposed development shall be integrated with the existing landscape and dunal topography. Given the irregular nature of the dunal topography, some remodelling of the topography may be required in order to enable proposed single, two and three storey development to be integrated with the land form. Such site works shall ensure that they blend in with the contours immediately adjacent to the site and that a fill limit of 8 metres AHD is observed.
  - b) Following completion of all site works, a maximum building height for each lot will be calculated from detailed cross sections by the applicants prior to application being made for planning consent for each lot.
  - c) Extensive planting and irrigation of native peppermint trees around the periphery of the site and in strategically located areas within the development shall be required in order to develop a tree canopy which will ensure the development blends in with the landscape. A balance will need to be achieved in order to provide views of the ocean from the development.
  - d) All development shall be designed and constructed of materials, which allow them to blend into the landscape surrounding the site. The use of reflective materials such as zincalume and white and pale cream colours shall not be permitted for roofs.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Fauna**

- 33) As it has been identified that Western Ringtail Possums may be present on Lot 1379 a survey of the area shall be carried out to determine whether they are present and to estimate the size and conservation value of the population. If deemed necessary a trapping and relocation program shall be carried out. As proposed, staging of the development will allow the movement of fauna into adjoining bushland areas.

**Flora and Vegetation**

- a) Prior to construction proceeding, a detailed vegetation survey be carried out to identify any significant species that can be retained and to identifying any rare or endangered species.
- b) If any rare or endangered species are identified, liaison will occur with **CALM** to provide for relocation of species prior to works commencing on site.
- c) Prior to planning consent for any development of the site, an overall revegetation plan shall be provided to Council's satisfaction. The plan shall include a rehabilitation species list, which shall include wherever practical, species endemic to the locality.
- d) The revegetation plan shall include the planting of a significant number of native peppermints as outlined in **6.5(iii)** above.
- e) As required by Council's development standards, at least 50% of the site shall be landscaped. Some relaxation of this requirement may be necessary for the small residential lots and the tourist resort site, but shall not be less than 40% of the site.
- f) Prior to construction commencing on site, a detailed construction management plan will be prepared which outlines measures to constrain all works to the site, dispose of all cleared vegetation, and protect surrounding vegetation.

**Environmental Management Plan**

- 34) The proponent shall prepare an Environmental Management Plan for Lot 1379 which includes the environmental management measures outlined in **section 6.6 and 6 7 above.**

**Streetscape**

- 35) It is proposed to create a streetscape with a friendly, holiday village type atmosphere, both within the tourist and residential components of the development. The following guidelines aim to achieve this objective:
- a) All development shall be orientated to and have an open interface with the street,
- b) All car parking shall be located behind the building line, or where this is not possible on the larger tourist lots, shall be landscaped and screened from the street to the CoA's satisfaction,
- c) Fencing of the front boundary and forward of the building line shall not exceed a height of 1.2 metres and shall be constructed with a minimum of 50% open element. Materials may include dressed

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

timber, wrought iron, powder coated metal picket. These materials may also be combined with bricks piers to match the main building,

- d) Fencing of the side and rear boundaries shall be constructed of uniform materials with preference given to capped timber (timbalap or pinelap) with a maximum height of 1.8 metres. Colourbond metal fencing and fibro fencing shall not be permitted.

**Buildings**

- 36) It is intended to encourage high quality design commensurate with the significance of the precinct in terms of Albany's tourist industry, the surrounding landscape and adjoining Place of Heritage Value.
- 37) Within the residential component of the development, all development shall be designed and assessed in accordance with the Amcord Urban Design Guidelines. These guidelines are considered most appropriate for achieving the desired quality of development on small lots. The aim is not to dictate the style of development other than to discourage the standard 'project' style home. A mix of traditional, contemporary and modern building styles is anticipated.

**Heights**

- 38) The height of the buildings will be dictated by the number of storeys indicated on the concept plan for each site and the cross sections which will ensure all development, other than the tourist resort and lookout tower, cannot be seen from Middleton Beach. For the purposes of calculating the height of buildings, a maximum floor to floor height of 3.0 metres is to be used inclusive of any attic or room within the roof space,

**Walls**

- 39) 70% of solid surfaces of any facade shall be smooth or textured rendered masonry.
- 40) The remaining 30% of any solid surface of any facade may consist of stud framed "weatherboard", face brick or painted face brick.

**Roofs are to**

- 41) have pitches in the range of 26.5° to 35° with low pitch (1° to 3°) being allowed only as foils to the main roof pitch and then only behind parapets.
- 42) contain gabled elements in preference.
- 43) where possible have the internal volume they create used as living space (without increasing building bulk) e.g. attics.

**Garages**

- 44) In order to minimise the impact of garages within the small lot subdivision, it is recommended that they be set back slightly behind the building line and that tandem parking be used where possible. Where double garages are proposed on small lots, particular care is needed to integrate the design with the main building in order to reduce the impact on the streetscape.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Signage**

- 45) All signage shall be integrated with the design of either the building, fencing or entry statement of proposed development. Stand alone pylon style signage shall not be permitted.

**Landscaping**

- 46) Landscaping plans associated with individual developments shall be based on an overall revegetation plan to ensure view corridors are retained, endemic species used where possible and native peppermint trees incorporated to develop a tree canopy.

**Building Setbacks**

- 47) Building setbacks shall be designed and assessed in accordance with Amcord Urban Design Guidelines. In order to enable space to be provided behind development for car parking, the front setback shall be 3 metres.

**Outbuildings.**

- 48) Outbuildings must be of the same materials as the main building on the site and have a maximum area of 20m<sup>2</sup>.

**Solar Access/Control**

- 49) Lots have been designed to maximise opportunities for solar access/control. Amcord Urban Design Guidelines should be used to ensure development capitalises on these opportunities.

**Materials & Colours**

- 50) Material and colour schedules may include:
- a) Render:
    - i) Self coloured - cream, terracotta, pastel hues,
    - ii) Painted - cream, terracotta, pastel hues.
  - 51) Face Brick - equivalent to dark and light Albany bricks.
  - 52) Stabilised Rammed Earth/Limestone.
  - 53) Weatherboards/ply:
    - a) painted or clear finish.
    - b) lighter or darker to complement or contrast with adjoining finishes.
  - 54) Window/door frames - lighter or darker to complement or contrast with adjoining finishes.
  - 55) Glazing - clear, etched, patterned.
  - 56) Roofs:
    - a) colorbond corrugated iron, clay or concrete tiles,
    - b) mid green, mid brown, terracotta, mid grey, sandstone.
  - 57) Details/highlights:
    - a) Painted,

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- b) beige, ochre, pastels, dark greens, teal blues, dusky reds, dusky greens.

**Appurtenances and Structures**

- 58) Appurtenances and structures such as radio and TV aerials, antennae, masts, dishes, solar collectors, air conditioners, plant and equipment etc. shall be concealed from view unless the item can be demonstrated to be an integral part of the building and character of the design.

**Animal Keeping**

- 59) No poultry or equine animals to be kept on lots.

**Legislative and Strategic Context**

- 60) State here any relevant Strategic context (for example the 3D Corporate Plan) and/or Federal or State legislation, directives, guidelines, Acts or Regulations that provide the broad framework within which the policy operates and/or with which it needs to comply.

**Review Position and Date**

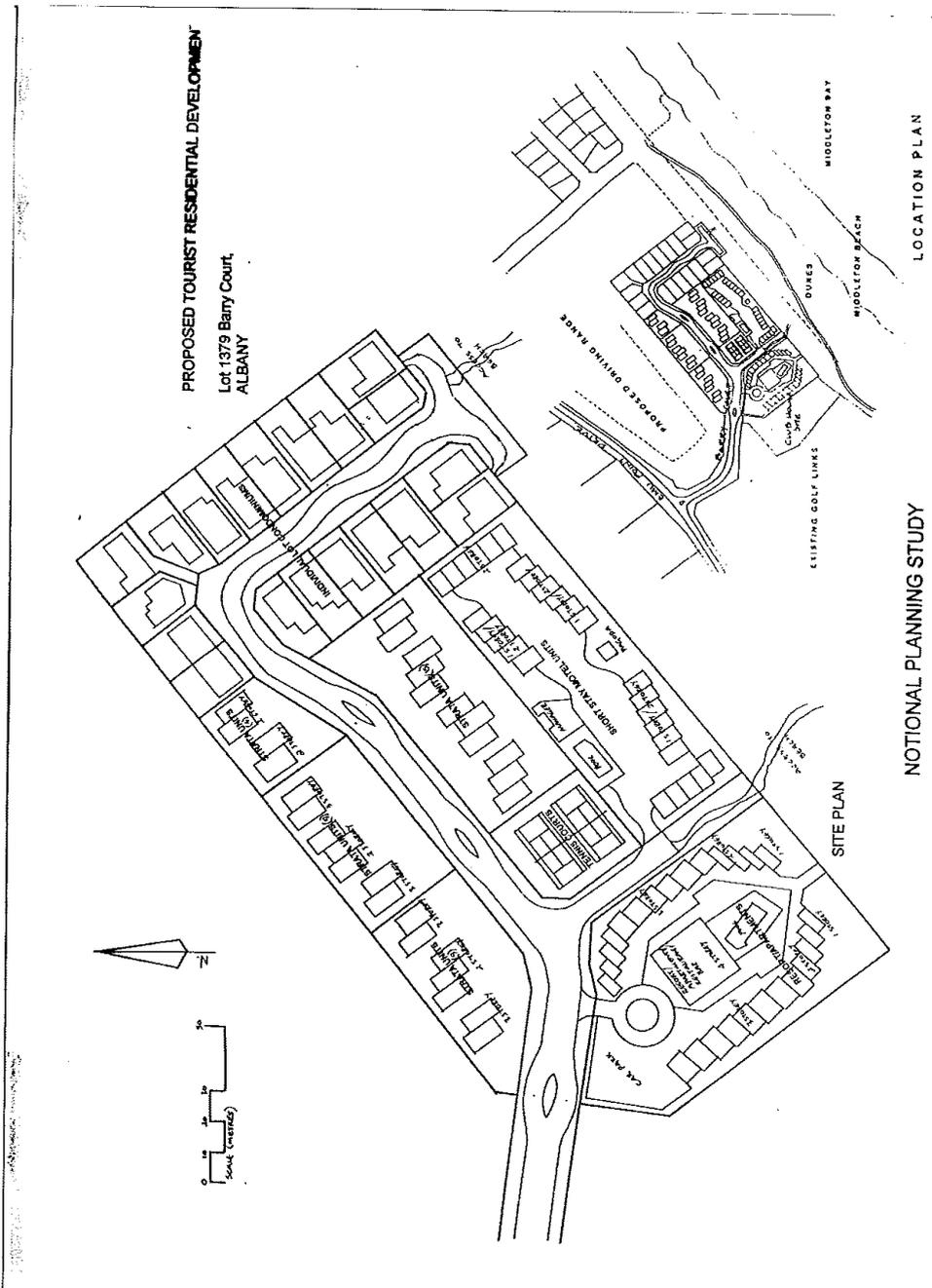
- 61) Manager Planning and Rangers to review on or before 30.06.2009.

**Associated Documents**

- Amcord Urban Design Guidelines
-

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued



**Figure 1**

CEO Authorisation: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Adoption Date: UNAVAILABLE  
Adoption Reference: OCM Item UNAVAILABLE  
Review Date: 30.06.2006  
Maintained By: Executive Director Development Services  
Document Reference: NP0000 V1

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

Item 11.1.2 continued



## Council Policy

# Coastal Development Building Height Restrictions

© City of Albany 2006

Adoption Date: 07.04.1998  
Adoption Reference: OCM Item 6.1.1  
Review Date: 30.06.2009  
Maintained By: Executive Director Development Services  
Document Reference: NP06660 V2

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Overview**

- 1) Middleton Beach is located in the north western portion of King George Sound at Albany. The white sands and clear waters of Middleton Beach are part of the attraction of the area for both residents and visitors to Albany.
- 2) Middleton Beach is a strip of unique coastline stretching from Ellen Cove to Emu Point. Its relatively undeveloped state is highly valued by the community and its proximity to the township, the rugged shoreline beyond the beach, the impressive views from surrounding vantage points over the beach and the high levels & vegetation cover are equally important qualities to the community.
- 3) A University of Western Australian study found that high property prices near Middleton Beach reflect the popularity of the locality and the lifestyle opportunities that are present for landowners. Of the number of tourists surveyed during the study 44% visited Middleton Beach and enjoyed its scenic qualities, 63% walk trails and 40% to other attributes. Albany residents surveyed also advised that 49% visit the beach on at least a weekly basis for its scenic qualities, walk trails, swimming, surfing, or relative seclusion.
- 4) The attributes making Middleton Beach an important Albany and Great Southern regional asset could be compromised if urban developments were to impinge upon the visual qualities of the locality. The WA Planning Commission introduced policy No. DC6 1 Country Coastal Planning (June 1989) to provide guidance on coastal projects. That policy suggested that no building exceeds 12 metres in height (approximately 4 stories) within 500 metres of the coast. This statewide guideline/standard is inappropriate for development adjacent to Middleton Beach.
- 5) This policy is treated as a development policy under clause 7.21 of the Town of Albany Planning Scheme 1A and it will have the legislative support of the Town Planning and Development Act, 1928 (as amended).

**Objective**

- 6) The policy seeks to establish an appropriate maximum height for developments in close proximity to Middleton Beach. The Town Planning Scheme 1A provisions provide some guidance on development standards to protect individual amenity and prevent overlooking of neighbouring properties, however, they do not address overlooking of community assets such as Middleton Beach.
- 7) In the absence of State policies and town planning scheme provisions, this policy seeks to establish maximum height standards for developers wishing to develop near Middleton Beach.

**Scope**

- 8) This policy is not intended to circumvent the zoning and development provisions of the City of Albany (CoA) Town Planning Schemes 1A or 3. The Policy seeks to provide additional information for Council, developers and the

Adoption Date: 07.04.1998  
Adoption Reference: OCM Item 6.1.1  
Review Date: 30.06.2009  
Maintained By: Executive Director Development Services  
Document Reference: NP06660 V2

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

public to consider when dealing with development applications on land zone for .....other .....purposes.

**Definitions**

oA	City of Albany
Bathing area	that part of the beach which comprises the sand and water located between the permanent vegetation line at the date the policy was introduced and a line located 100 metres seaward of the high water mark along Middleton Beach.
Development	shall have the meaning assigned by Section 2 of the Town Planning and Development Act, 1928 (as amended).
Height	the vertical measurement taken between the mean point of the natural ground level within the area occupied by the structure prior to site-work and the highest point of the roof vertically above that point on the ground, excluding minor vertical projections such as chimneys and vent pipes.
Overlooking	the ability to view the bathing area from a window of a habitable room, stairwell window, balcony or other elevated outdoor living or pedestrian area. In determining whether the bathing area is overlooked, Council will assume a 45° angle of view measured horizontally and vertically from the extremities of the window. Windows with a minimum sill height of 1650mm above the floor level do not permit overlooking. In the case of a balcony or other elevated outdoor area, a 60° angle of view will be assumed.
Policy Area	that portion of the Town of Albany bounded by Cunningham Street, Boongarrie Street, Mermaid Avenue, Emu Point Drive, Golf Links Road, Middleton Road and its projection eastward to the eastern boundary of the bathing area and then north west to the starting point.

**Policy Statement**

**General**

Adoption Date: 07.04.1998  
Adoption Reference: OCM Item 6.1.1  
Review Date: 30.06.2009  
Maintained By: Executive Director Development Services  
Document Reference: NP06660 V2

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- 9) Within the Policy Area, no development shall be approved which results in overlooking of the bathing area by a landowner.
- 10) The policy area's distinctive visual elements should be protected and enhanced. Development should harmonise with the landscape elements in siting and design, particularly in regard to colours, scale, height and materials.
- 11) With the exception of the proposed hotel site on Lot 1379 Barry Court, no development in the policy area shall exceed a height of 7.5 metres. Where a development at the prescribed height may result in overlooking of the bathing area, the provisions of Clause 1 shall prevail.
- 12) Alterations to natural landforms (eg. cutting, filling, grading, excavating or other vegetation removal) shall be minimised during development and the site restored to its former appearance or as near as reasonably practical.
- 13) This policy may preclude the construction of a building to the maximum height otherwise allowed under the operative Town Planning Scheme or another policy of Council. The landowner, for the benefit of the community, may need to relocate or extend an upper storey or delete it in order to comply with the express provisions of this policy.

**Application Requirements**

- 14) In relation to overlooking, to enable Council to properly assess the effect that a proposed development would have on the bathing area; the following information is required to be submitted in addition to the usual information submitted with an application for Planning Consent or a Building License as detailed in Clause 7.4 of the Scheme:
  - a) Plans, elevations and cross sections of the proposed development, showing all windows or balconies from which the bathing area could be subjected to overlooking;
  - b) Site plan with full details of existing and proposed floor and ground levels, and identification of elevated outdoor living or pedestrian areas from which the bathing area could be subjected to overlooking.
  - c) Level at bathing areas and dune systems, the height of vegetation on dune systems and the relative distances between bathing areas, dune systems and the proposed development.

**Legislative and Strategic Context**

- 15) The City of Albany is committed to . . . providing sound governance.

**Review Position and Date**

- 16) Manager Planning and Rangers to review on or before 30.06.2009

**Associated Documents**

- Town Planning Scheme No 1A.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- Policy No. DC6 1 Country Coastal Planning (June 1989) – WA Planning Commission.
- Town Planning and Development Act, 1928.



Item 11.1.2 continued

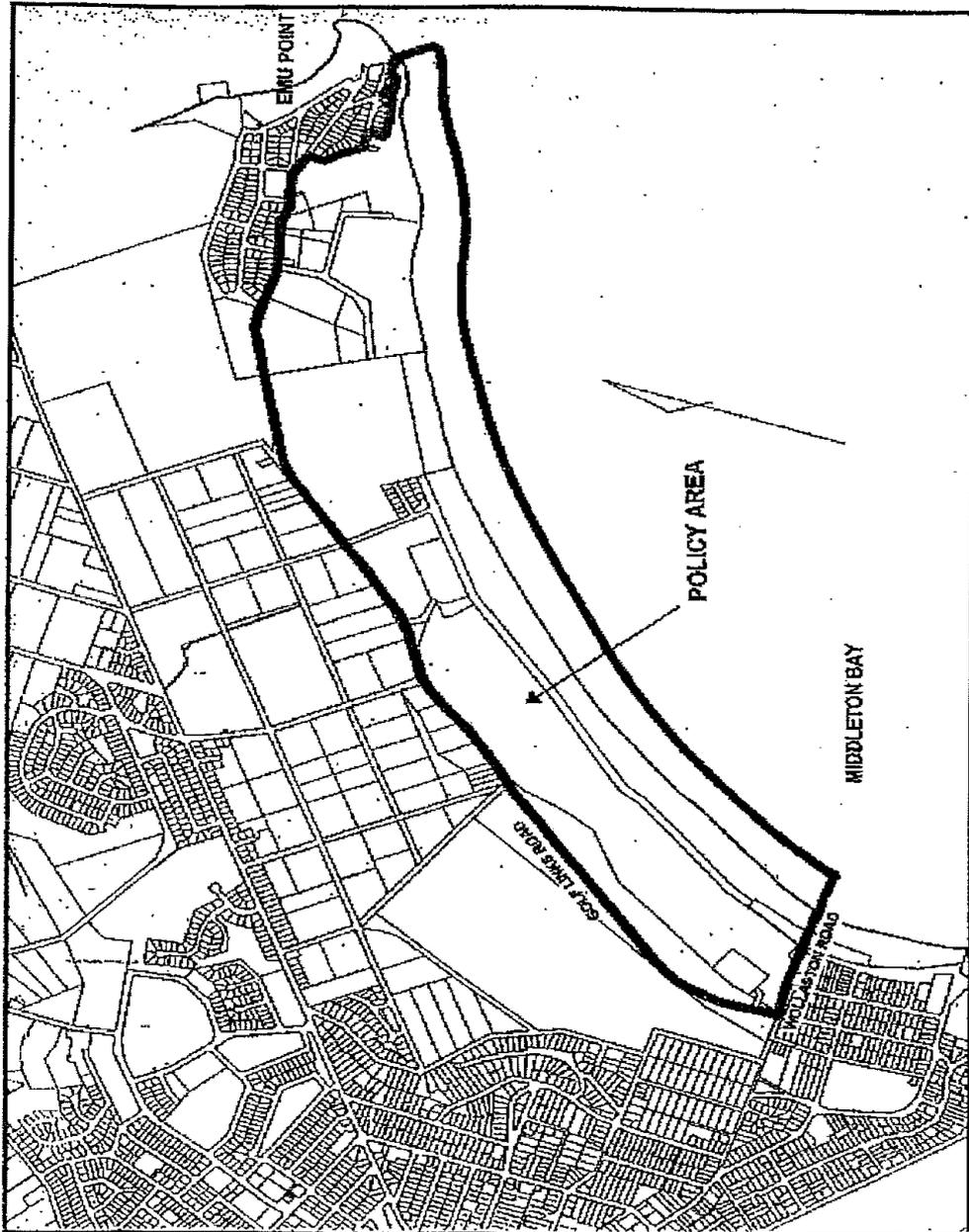


Figure 2

CEO Authorisation: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Adoption Date: 07.04.1998  
Adoption Reference: OCM Item 6.1.1  
Review Date: 30.06.2009  
Maintained By: Executive Director Development Services  
Document Reference: NP06660 V2

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**Critique by Councillor Paver of the way City of Albany staff have dealt with Item 11.1.5 of the Agenda of the Ordinary Council Meeting of 19th September 2006.**

The Barry Court coastal development application was reported by staff to the Albany City Council in the agenda of the Ordinary Council Meeting of 19/09/06. This report reflects a failure by staff to comply with their duty to place fully and objectively before Councillors all matters material to their decision. But for this breach Council might not have endorsed the officer recommendation to support the application. When the deficiencies of the report are properly considered, it is difficult to escape the conclusion that staff have been grossly negligent at best and wilfully deceitful at worst.

This multiple dwelling application was not capable of being dealt with by the Executive Director Development Services, Mr Fenn, under delegated authority. Since Council had to decide the matter, staff were under a duty to include in their report to Council a statement of relevant state and local policies, an assessment of whether, and to what extent, the application complied with those policies, and an officer recommendation that followed rationally from this assessment. As has been said staff failed to fulfill their duty in this regard.

1) Although the staff report mentions State Planning Policy 2.6 nowhere does it describe the requirements of this policy or contain an assessment of whether and to what extent these requirements have been addressed by the proponents. When I raised this matter by email with Mr Fenn before the meeting he said : “ Policy 6.2 (sic) was not addressed in the report because the site is fully compliant with that policy, based upon previous work for Middleton Beach undertaken by Mick Rogers and Associates”. This response invites three comments.

a) Firstly, Mr Fenn should know that it is not the site that has to comply with the policy but the proposed development on the site.

b) Secondly, since Councillors are charged with deciding this matter responsibly, they need to be satisfied that the application complies with the policy. Whether or not Mr Fenn is satisfied is irrelevant unless his conclusion is expressed in the report. His conclusion however is not expressed in the report.

c) Thirdly, Councillor Paver informed the CEO, Mr Hammond, a day before the meeting that the Department of Planning and Infrastructure was of the view that the application did not address SPP 2.6. Mr Hammond phoned the DPI the same day. It is inconceivable therefore that staff were not aware of the DPI's view at the time of the meeting. Yet staff made no mention of this and did not seek to amend their recommendation to Council to support the application. On 25/09/06, under the signature of Barbara Pedersen, the Manager, Coastal Planning, the DPI in a letter to the City of Albany confirmed its view that the application had not addressed the requirements of SPP 2.6. How is it that Mr Fenn came to and maintained a totally different view?

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

It is clear that Mr Fenn and the planning staff did not give careful attention to this matter. And since they did not, neither did Council. The staff recommendation that Council support the application “upon receipt of approval from the Western Australian Planning Commission” does not save the day for staff. The only “approval” staff sought related to the height of the development.

2) Although the staff report mentions the City of Albany “Coastal Development - Building Height Restrictions” Policy it does so ambiguously creating the impression that when it was adopted (no date for this was given) the City regarded the DC 6.1 height restriction of 12 metres as too low. In fact the contrary was true. Nowhere in the report did the staff inform Councillors that in 1998 when this policy was adopted following the recommendations of Peter Newman, it restricted development in the policy area to 7.5 metres - 7 metres less than the height proposed by the application. Nor did the staff include the policy in the Member’s Bulletin. Given the absence of any mention in the report of the requirements of either SPP 2.6 or the City’s Coastal Development Policy, this omission appears deliberate.

3) In paragraph 18 the staff mention in their report that under WAPC Policy DC 6.1 they sought the approval of the WA Planning Commission for the height of 14.5 metres proposed by the applicant. (The policy requires this whenever an application is for a development within a 500 metre setback from the coast that exceeds 12 metres.) There are three observations that can be made about this.

a) Staff should not have sought this “approval” knowing as they did the height restriction imposed by the City’s own Coastal Development Policy. Staff do not have delegated authority to seek to overturn or ignore the City’s policies in this way. The matter should have been brought first to Council.

b) The staff’s irregular request for the “approval” of the WA Planning Commission is the more heinous because staff never disclosed to Councillors the content of the City’s Coastal Development Policy.

c) In paragraph 18 staff said that they had sought the WA Planning Commission’s “approval” but that a reply had not been forthcoming at the time the agenda was prepared. Now staff sent their letter to the WA Planning Commission on 4th September and prepared the agenda item on or around the 7th September. Given these dates it would seem that the staff comment about not having received a reply was gratuitously inappropriate. But there is more. In their letter to the WA Planning Commission they asked for a reply by the 25th September, 6 days after the Ordinary Council meeting at which the staff recommendation to approve the application was to be decided. At no time did staff reveal this fact to the Councillors. They continued to recommend that Council approve the application subject to the “approval” of the WA Planning Commission.

4) The staff recommendation that Council support the application subject to the “approval” of the WA Planning Commission was quite simply duplicitous. Staff knew that the WA Planning Commission did not have the statutory power to approve or reject the application, that their role was strictly advisory. But they never explained this to Councillors. They led Councillors to believe that the WA Planning

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

Commission would make the final decision on the application. This encouraged them to support the staff recommendation not only to approve the application subject to the WA Planning Commission's "approval" but also to delegate to Mr Fenn the issue of the consent to the developers subject to the WA Planning Commission's "approval". Thus the staff deceived Councillors into giving Mr Fenn the final say on an application in favour whereof he was totally biased as demonstrated by the facts already alluded to above.

5) In the last paragraph of the report staff said: "The multiple dwelling is fully compliant with the policy other than the complex is not a resort". This is ambiguous and deceptive. What policy is being referred to here? It cannot be either State Policy DC 6.1 or SPP 2.6. Is it the Barry Court Guidelines? If so, the guidelines clearly envisage a resort hotel, not a multiple dwelling. Assuming then that staff meant that the application did not accord with the Barry Court Guidelines, one would have expected that staff would then apply the City's Coastal Development Policy to the application. This policy set a height limit in the policy area of 7.5 metres exempting only the resort hotel envisaged by the Barry Court Guidelines. Since the application was not for a resort hotel but for a multiple dwelling, it did not fall within the exemption to the Coastal Development Policy. Staff should therefore have recommended rejection of the application consistently with this policy. But they did not.

The recommendation adopted by the majority of Council was irrational. It is my opinion that the report was compiled in such a way as to produce a favourable result for the applicants without the irrationality of the recommendation being evident on the face of the record. I have complained for a long time about the way staff present matters to Council. The Barry Court matter is the latest in a series of matters that demonstrate that staff are failing in their duty to place relevant considerations fully, clearly, objectively and rationally before Council. Mr Hammond has said in relation to both the Earl Street and Barry Court matters that he is satisfied that Councillors were properly appraised of all relevant considerations. But this is insufficient. It must be evident on the face of the record that all material matters have been placed before Council. When one looks at the record of both matters it is seriously deficient in this regard.

I believe that the presentation of the Barry Court matter is so deficient in material particulars as to raise serious questions of impropriety. It will not do for Mr Fenn to take refuge behind the fact that the report on this matter appeared under the name of Ms Brown. He should have seen to it that the deficiencies of the report were addressed. I believe that the staff have an obligation to admit that they have misled Council. They need to bring the matter back to Council with a recommendation that Council's previous decision be rescinded and that the application be reconsidered after Urbanizma has completed its review of the Coastal Development Policy. This is the only responsible way forward. The State government will soon be lodging applications for the development of land to the north of Barry Court. Sweeping this matter under the carpet will only serve to highlight the arbitrariness of Council decisions on planning matters.

**DEVELOPMENT SERVICES REPORTS**

**11.1.3 Development Application - Change of Use of Residence and Caretakers Dwelling to Holiday Accommodation - Lot 116 Eden Road, Nullaki**

**File/Ward** : A165369 (West Ward)

**Proposal/Issue** : Change of Use of Residence and “Caretakers Dwelling” to “Holiday Accommodation”

**Subject Land/Locality** : Lot 116 Eden Road, Nullaki

**Proponent** : David Cielak

**Owner** : David Cielak

**Reporting Officer(s)** : Planning Officer (I Humphrey)

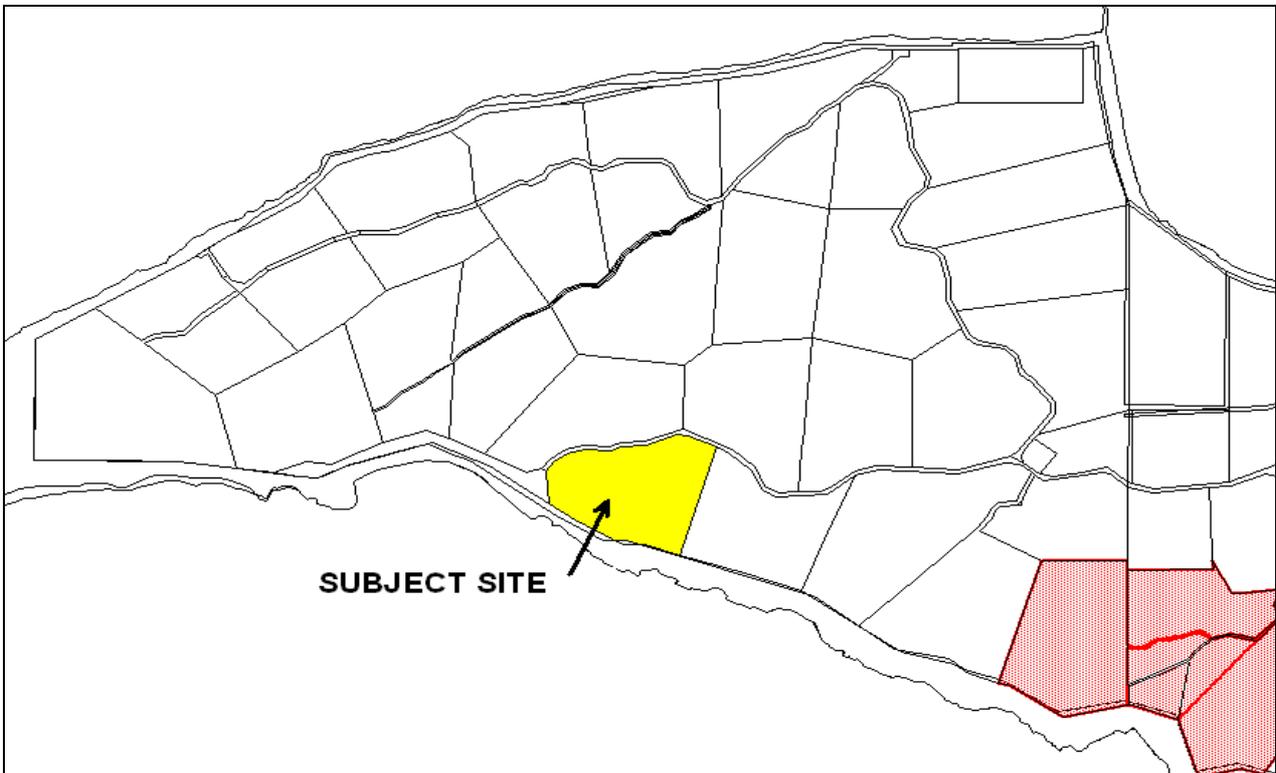
**Disclosure of Interest** : Nil

**Previous Reference** : Nil

**Summary Recommendation** : Refuse the change of use for the caretakers dwelling and support the change of use for the residence

**Bulletin Attachment** : Submissions on application - refer to pages 8 to 24 of Elected Member’s Report/Information Bulletin 21 November 2006

**Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

**BACKGROUND**

1. At its meeting dated 21 November 2006 the above item was considered by Council. At this meeting staff's recommendation was not moved and the motion lapsed. Given no decision was made, it is unclear from a legal perspective whether the application should be refused.
2. On the request of the proponent the report has been brought back to Council for consideration. The report as previously submitted remains unchanged.
3. An application has been received for a change of use of the existing dwelling and the caretaker's accommodation upon Lot 116 Eden Road, Nullaki to "Holiday Accommodation". The existing buildings (and development envelopes) were approved under planning application P245185, with the completion date on the Building licenses being October 2005 for the dwelling, and January 2006 for the caretaker accommodation.
4. The 32.7ha lot is zoned "Conservation" under Town Planning Scheme 3, with the applicant proposing no additional alterations or extensions to the existing buildings. The applicant has submitted additional information as justification for the proposal, and this can be summarised as:
  - *Our caretaker does not live on site and the necessity of this has not proved to be required or practical. In fact, there is only one residence that we know of on the Nullaki that has a caretaker, that being of the original developer. Security for our site has not proved necessary, nor is it an issue and the maintenance requirement is minimal because the buildings are new.*
  - *Regular surveillance of our property and the public use areas, which is located near Anvil Beach, would actually be enhanced by the use of our caretaker's cottage and main house for short-term accommodation. This is because our caretaker and cleaner would actually be on site significantly more often than at present. We currently use the main house about 6 - 8 times per year and the caretaker's cottage has not been used at all.*
  - *Having the caretaker on site more often, especially during the summer months, would aid in risk management in regards to fire suppression. That is, in the event of fire they would be able to turn on the dampening and sprinkler system.*

**STATUTORY REQUIREMENTS**

5. The purpose of the Conservation Zone is to provide for limited subdivision and development where it can be demonstrated that such development will be compatible with the protection of, and where appropriate rehabilitation of, the flora, fauna and landscape qualities of the zone.
6. The application has been accepted as a "Use not listed" as the criteria set out for the site under Conservation Zone 1, clause 3 (land use) of the scheme does not specifically permit the use Holiday Accommodation. However, it does permit, "subject to the special Approval of Council, other incidental or non defined activities considered appropriate by Council which are consistent with the objectives of the zone".

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

7. “Caretakers Accommodation” is a permitted land use under Conservation Zone 1 section 3 (land use), and is defined as:

- *“Caretakers Accommodation” (maximum floor area 150 m<sup>2</sup>) limited to six within Conservation Zone Area No. 1, located subject to specific application and approval. In assessing applications for caretakers accommodation, Council will aim to provide the greatest security and management benefit and shall have regard to relevant issues including the need to ensure caretakers accommodation is strategically located throughout the Peninsula in order to maximise surveillance and security of house sites, public use nodes and environmentally sensitive areas such as Anvil Beach and the sand blowouts.*

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

10. 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...*

- *Restoration, and protection, of areas of high biodiversity within land, river and sea ecosystems.*

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

- *Providing a complete tourism experience.*

***Mission Statement:***

*The City of Albany is committed to...*

- *Providing sound governance.*

***Priority Projects:***

*Nil”*

**COMMENT/DISCUSSION**

11. 16 letters were received regarding this application (copies included in Elected Members Report/Information Bulletin) following the advertising period, 11 in objection and 5 in support. A summary of the comments follows:

Objections:

- Does not comply with general thrust of wilderness zoning for the area and is contrary to the current restrictions. Purchasers were made aware of restrictions at time of purchase.
- Will affect the quiet enjoyment of owners of property on the Nullaki by the increased use by holidaymakers that are unfamiliar and insensitive to the unique habitat.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

- Use could set an unwanted precedent.
- Holidaymakers could, due to their lack of local knowledge and bush fire dangers, create fire hazards and damage natural vegetation.
- Local roads are dangerous and their use by infrequent visitors to the area could result in dangerous road conditions.
- The constant visitors to the area will lead to an increase in the potential for dishonest behaviour.

Support:

- More visitors to the site would increase surveillance.
  - Sufficient space exists between houses to ensure little or no impact on others.
  - An empty house is more vulnerable to intruders and visitors would be a diversion from the usual traffic.
  - Visitors benefit local communities and economy.
  - There is a lack of holiday accommodation on the Nullaki.
  - The type of holiday accommodation proposed is likely to attract families and a conservative clientele.
12. The application does raise two specific issues, the first the use of the “Caretakers Accommodation” for “Holiday Accommodation”, and the second being the change of use of the dwelling to “Holiday Accommodation”.
  13. The previous approval (P245185) did not specifically state that the occupiers of the “Caretakers Accommodation” must solely be for a caretaker. However, the term has a common meaning, the Macquarie Dictionary describing a caretaker as *“a person who takes care of a thing or place, one whose job it is to maintain and protect a building or group of buildings”*.
  14. Conservation Zone 1, section 3 (landuse), does specify in detail, the use and location of “Caretakers Accommodation” and the importance of their role within the Nullaki Conservation Zone. The applicant has stated that, by allowing a holiday use within the “Caretakers Accommodation’ building, more people would visit the site. However, for the surveillance and security elements to be properly addressed, the temporary occupants would need to be aware of previous environmental conditions and the activities of neighbouring landowners. Also, with regard to risk management and fire suppression, it is unlikely that visitors would be sufficiently trained in the operation and servicing of the damping and sprinkler system. If this system is not operated as required, it could result in an increased risk to their safety.
  15. The applicant’s decision not to have a full time caretaker occupy the “Caretakers Accommodation” building (constructed less than 1 year ago) is a personal choice, based on their own risk assessment.
  16. The objectives of the “Conservation” zone clearly imply that an increased use of the land, which will impact on the environment, should not be supported. It could be argued that the use of the residence for part time occupation would have little additional impact over a full time resident. Therefore, as this part of the proposal is not inconsistent with the objectives of the scheme, the change of use of the residence could be supported.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

17. The change of use of the “Caretakers Accommodation” to “Holiday Accommodation” cannot be supported as the proposed occupiers would not be performing a caretaker’s role. Council would be effectively approving a second dwelling on the lot which would be contrary to Conservation Zone 1 provisions and the objectives of the zone.

**RECOMMENDATION**

THAT Council;

- a) resolves to issue a Planning Scheme Consent for the change of use of the dwelling to “Holiday Accommodation” at Lot 116 Eden Road, Nullaki.
- b) resolves to issue a Notice of Planning Scheme Consent Refusal for the application to change of use of the “Caretakers Accommodation” to “Holiday Accommodation” at Lot 116, Eden Road, Nullaki as the proposed change of use is inconsistent with the objectives and principles of the Conservation Zone in Town Planning Scheme 3.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR JAMIESON**

**THAT Council resolves to issue a Notice of Planning Scheme Consent Refusal for the application to change of use of the “Caretakers Accommodation” and the “Dwelling” to “Holiday Accommodation” at Lot 116, Eden Road, Nullaki as the proposed change of use is inconsistent with the objectives and principles of the Conservation Zone in Town Planning Scheme 3.**

**CARRIED 13-0**

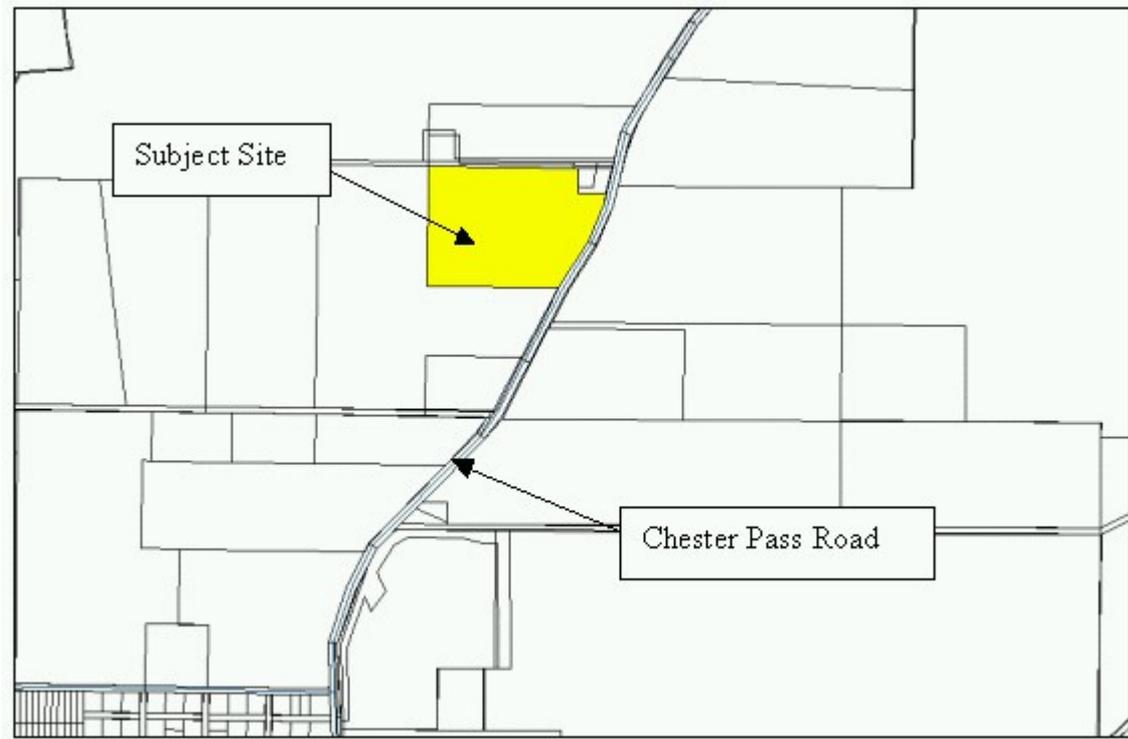
Reason:

- The officer’s report highlights issues associated with fire management in the locality. Also, concerns have been raised by adjoining residents over the introduction of holiday accommodation within buildings that were originally constructed for private residential purposes to manage the land for conservation purposes.

**DEVELOPMENT SERVICES REPORTS**

**11.1.4 Development Application - Grouped Dwelling on Rural Zoned Land - 429 Chester Pass Road, Warrenup**

<b>File/Ward</b>	:	A043270 (Kalgan Ward)
<b>Proposal/Issue</b>	:	Grouped Dwelling (x2)
<b>Subject Land/Locality</b>	:	429 Chester Pass Road, Warrenup
<b>Proponent</b>	:	M Smillie
<b>Owner</b>	:	J Smillie
<b>Reporting Officer(s)</b>	:	Planning Officer (J Ashton)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	Issue Notice of Planning Scheme Consent
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

**BACKGROUND**

1. An application has been received for a grouped dwelling (second dwelling) at 429 Chester Pass Road, Warrenup. A site plan and front elevation are attached to the end of this report.
2. The proposal has been referred to Council for consideration, as the proposal is against Policy.

**STATUTORY REQUIREMENTS**

3. The land is zoned “Rural” within Town Planning Scheme No 3, whereby a grouped dwelling is a use that is not permitted unless approval is granted by Council.

**POLICY IMPLICATIONS**

4. The proposal is contrary to the City’s Policy “Grouped Dwellings on Rural Zoned Land (2<sup>nd</sup> Dwelling)” which states:

*“A Group Dwelling comprising a maximum of two houses will only be approved on a Rural Zoned lot where the following requirements are met:*

- *the lot size is greater than 20 hectares;*
- *the dwellings are required for farm management and landowner/worker housing;*
- *the proposed development will not affect the rural character, landscape, agriculture, groundwater resources or future urban development.”*

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

6. The subject land is located in the future urban area to the north of the existing urban area. The land will be structure planned and further subdivided for residential purposes at some time in the future.

**COMMENT/DISCUSSION**

7. The second dwelling will be used solely for residential purposes and is required to allow relatives to assist the elderly owner who is struggling to maintain the property on her own.
8. The subject site is 19.5852 hectares, which is 2% under the 20 hectare threshold set by policy. It meets the Policy requirements in other respects and will not affect the rural character, landscape, agriculture, groundwater resources or future urban development.
9. The site is located close to town and is designated “Long Term Residential” in the Albany Local Planning Strategy consultation draft.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

RECOMMENDATION

THAT Council resolves to issue a Notice of Planning Scheme Consent for the development of a second dwelling at 429 Chester Pass Road, Warrenup, subject to, but not limited to, the following conditions:

- a) Use of the Dwelling is to be for farm management or private residential purposes.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WELLINGTON**

**THAT Council resolves to issue a Notice of Planning Scheme Consent for the development of a second dwelling at 429 Chester Pass Road, Warrenup, subject to, but not limited to, the following conditions:**

- a) Use of the Dwelling is to be for farm management or private residential purposes.**

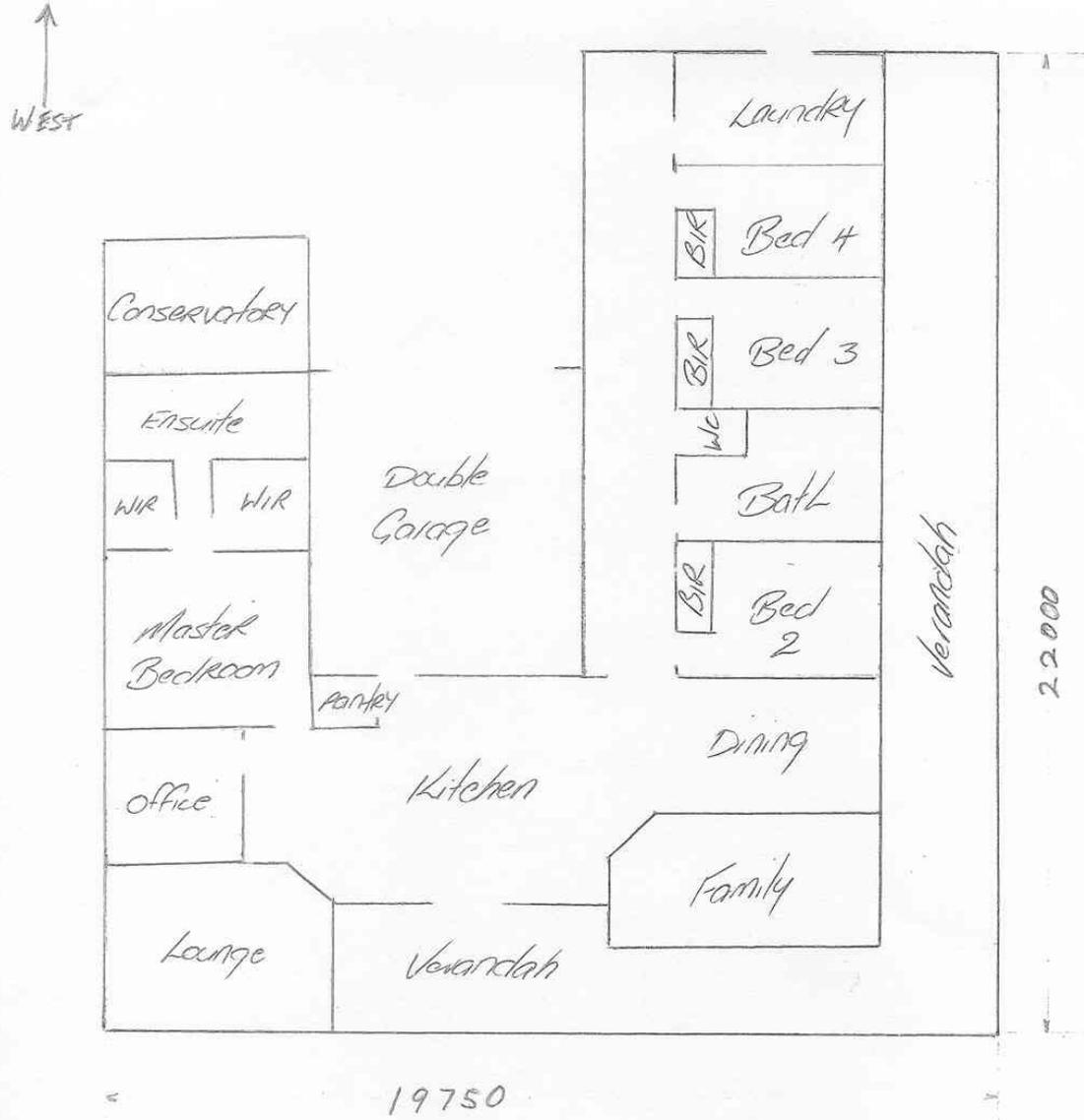
**CARRIED 13-0**

ORDINARY COUNCIL MEETING MINUTES – 19/12/06  
\*\* REFER DISCLAIMER \*\*  
**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued



Item 11.1.4 continued



Front Elevation



**DEVELOPMENT SERVICES REPORTS**

Councillor Wellington declared a financial interest and left the meeting at 8.53pm.  
The nature of Councillor Wellington’s interest is that he owns a portion of the adjoining property.

**11.1.5 Development Application – Multiple Dwellings – Lots 9 & 12 Earl Street, Albany**

<b>File/Ward</b>	:	A140658 (Frederickstown Ward)
<b>Proposal/Issue</b>	:	Development Application for 40 Unit Multiple Storey Apartment Block.
<b>Subject Land/Locality</b>	:	Lots 9 & 12 Earl Street, Albany
<b>Proponent</b>	:	Lou Marchesani
<b>Owner</b>	:	Ridgecity Holding
<b>Reporting Officer(s)</b>	:	Senior Planning Officer (J Devereux) and Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 20/09/05 Item 11.1.1 OCM 17/01/06 Item 11.1.1 SCM 31/01/06 Item 6
<b>Summary Recommendation</b>	:	Issue Notice of Planning Scheme Consent
<b>Bulletin Attachment</b>	:	Report Accompanying Development Application
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**BACKGROUND**

1. An application has been lodged for the construction of 40 multiple dwelling units at Lots 9 & 12 Earl Street, Albany. The development incorporates 14 three bedroom apartments and 26 two bedroom apartments. Plans and elevations of the proposed development are included in the Elected Members Report / Information Bulletin.
2. An application for multiple dwellings has previously been considered on this property, which was refused by Council, on a number of grounds. A review of this decision was conducted by the State Administrative Tribunal (SAT) in June this year. SAT advised that it was required to dismiss the application for review on the grounds that it did not conform to the Residential Design Codes of WA (Codes). The Tribunal further advised, that if it had discretion, it would have refused the application on grounds of impact to the townscape of Albany.
3. During the advertising period, a notification was placed in the local newspaper and the development proposal was referred to both adjoining landowners and to people that had made a comment on the previous application (approximately 550 advice notices were distributed). At the end of the advertising period a total of 28 submissions were received. Copies of the submissions have been supplied to Councillors and they will be tabled at the meeting.
4. The adjoining landowners to the east and west have both been consulted, and have no objections to this proposal.
5. Within the documentation attached to the application, the proponent has provided a comprehensive report of the building's compliance with the planning scheme and policies. A copy has been included in the Elected Members Report / Information Bulletin.

**STATUTORY REQUIREMENTS**

6. The two lots are zoned "Central Area" in the City of Albany Town Planning Scheme No.1A (Scheme). A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m<sup>2</sup> of land area. As the land area is 2928m<sup>2</sup>, the proposed 40 units meet this requirement.
7. Multiple dwellings are a use that is not permitted unless planning consent to it is granted by the Council in the Central Area zone. Although not required by the Scheme, the proposal was advertised for public comment for a period of 21 days.
8. The Scheme, at Clause 4.12 states, "*Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.*"
9. The proposed development is to be used exclusively for residential purposes and it is automatically required to comply with the "Multiple Dwelling" provisions of the Codes.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

10. In determining this application, Council is required to take into account the matters listed under Clause 7.8A of the Scheme. That clause outlines the “Matters to be Considered” by Council. Those “matters” are not reproduced here in full. They are highlighted and discussed in the Comments section, under the context in which they were raised by the public submissions. In summary, Clause 7.8A requires Council to give consideration to the:
- provisions of the Scheme;
  - Residential Design Codes of Western Australia and any other state government policies;
  - public comments received;
  - policies adopted by Council under the Scheme;
  - requirements for orderly and proper planning;
  - compatibility of the development with its setting;
  - amenity of the locality;
  - traffic impacts and servicing availability; and
  - any other planning consideration the Council considers relevant.

**POLICY IMPLICATIONS**

11. The subject land is affected by the City of Albany “Central Albany Urban Design Policy” (Policy). The Policy has been adopted by Council to provide clear direction for the future development of central Albany properties and to provide guidance on the assessment of projects under the Performance Standards of the Codes.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

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

- *Innovative development complementing Albany’s unique character, natural environment and heritage.*

***Mission Statement:***

*The City of Albany is committed to ...*

- *Providing sound governance*

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

14. Due to the complexity and scale of the proposed development, officer comments are grouped under the various policy and legislative mechanisms.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

Town Planning Scheme No.1A

15. The zoning and the density coding applied to the land, and its immediate environment, allows for a higher density of residential development than currently exists in the locality. Land to the west (existing cottage) and south (Frederick House) is included in the Central Area zone where the R160 Coding applies, whilst the land to the east (cottage) and north (Albany City Holden) is in the Residential zone with an R30 coding in place.
16. In regards to other Scheme matters, the project generally complies with the Scheme, other than for those matters that are discussed later in the report. Generally, the development;
  - is located within 300m of the harbour and does not exceed 12m in height;
  - does not impact upon any places identified in the City's Municipal Inventory or the Register of Places of State Heritage Importance;
  - is unlikely to generate any social issues that may affect the amenity of the locality;
  - is at a height and scale that will not adversely affect the amenity of adjoining properties or the locality;
  - provides for the safe movement of vehicles on and off the site;
  - is accessible by disabled persons; and
  - doesn't involve a loss of community benefit.

Residential Design Codes of Western Australia

17. The following headings are the ten design elements of the Codes, under which the relevant provisions will be discussed. The clauses that are not applicable have not been included.

**Element 1 - Housing Density**

18. A residential density coding of R160 is applicable to the subject land, which allows a maximum density of one multiple dwelling unit for every 62.5m<sup>2</sup> of land area. As the land area is 2928m<sup>2</sup>, the maximum theoretical yield from the site is 46 units. The proposed 40 units meet the acceptable requirement of the Codes.

**Element 2 - Streetscape**

19. Setbacks of Buildings Generally:- the acceptable standard under the Codes is for a setback of 4.0m from the front, which can be reduced down by 50%. In the report submitted by the proponent, justification is set out for the proposal to be assessed against the relevant performance criteria of the Codes. Staff support the planning argument outlined in the submission.
20. Minor Incursions into Street Setback:- refer to report for justification of the project's compliance with the performance criteria.
21. Setback of Garages and Carports / Surveillance of the Street:- the development meets the acceptable development criteria.
22. Street Walls and Fences:- generally complies with acceptable development criteria, besides a small section of wall, which has been justified in the report attached to the development application.
23. Sightlines at Vehicle Access Points and Street Corners:- the development meets the acceptable development criteria.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**Element 3 - Boundary Setbacks**

24. Buildings Set Back from the Boundary:- the development does not comply with the acceptable development provisions of the codes. Staff agree with the justification provided by the applicant for compliance with the performance criteria of the codes.
25. The adjoining landowners to the east and west of the site have advised in writing that they have no objections to the reduced boundary setbacks of “nil” to sections of the project.
26. The provisions within the scheme allow a “nil” side or rear boundary setbacks for the Central Area zone and it would be acceptable for a commercial development on this lot to be built up to the boundary. A residential development is required to comply with the codes and the adjoining landowners are required to be consulted where residential developments are built up to the boundary. Where the nil setback is proposed, it is for small lengths of wall and they are broken by the forecourts of units which will be landscaped as part of the development.
27. By reducing the required boundary setbacks, the physical space taken up by the development is proposed to be spread out over the site, as opposed to pushing the building upwards, increasing the capacity for overlooking of adjoining properties and reducing access to views of significance for surrounding properties.
28. Buildings on the Boundary:- refer to report for compliance with the performance criteria. Staff support the planning argument outlined in the submission.

**Element 4 - Open Space**

29. Open Space Provision:- the development does not comply with the acceptable development provisions. With the residential density allowable on the site, and the requirement to keep the height of the building down, it would be impossible for a development to comply with the acceptable criteria. The applicant has adequately addressed the relevant performance criteria of the codes in the provided report.
30. Balconies for Multiple Dwellings:- the development generally complies with the acceptable development criteria and the proponent has provided justification where balconies do not comply.
31. Communal Open Space:- the development meets the acceptable development criteria.
32. Landscaping Requirement:- the development generally complies with the acceptable development criteria. The developer will be required to submit a detailed landscape plan prior to issue of a building licence for this proposal.

**Element 5 - Access and Car Parking**

33. On Site Parking Provision:- the proposal complies with the minimum number of car parking required by the codes. The 74 bays are to be provided in the secured undercover parking areas. Eight (8) of the bays are to be set aside for the exclusive use of visitors, who will need to use an intercom device to communicate with the appropriate apartment before being able to access the secure car parking bays. There is a high probability that visitors would simply park on the street, to avoid the necessity of waiting to be allowed in; if that was to happen, it may place pressure on available on-street parking in Earl Street.

**DEVELOPMENT SERVICES REPORTS**

## Item 11.1.5 continued

34. Design of Parking Spaces / Vehicle Access:- the development generally complies with the acceptable development criteria and the proponent has provided justification, to show that the application meets the relevant performance criteria, were it does not comply. The applicant will be required to submit a detailed plan for the approval of car parking and access ways prior to construction.
35. Pedestrian Access:- Staff accept the rationale supplied by the Proponent in the report for compliance with the performance criteria.

**Element 6 - Site Works**

36. Excavation or Fill:- Refer to report for compliance with the performance criteria. The applicant will be required to provide surveyed drawings of the site, prior to the issue of a building licence, showing existing natural ground levels and proposed finished levels. A geotechnical report will be required to show existing ground conditions and the building licence will not be issued until the applicant supplies appropriate structural engineering reports.
37. Setback of Retaining Walls:- Staff accept the rationale supplied by the Proponent in the report for compliance with the performance criteria.

**Element 7 - Building Heights**

38. Building Height:- the development does not comply with the acceptable development criteria of the codes. The Proponent, in his report, has stated that the height of the building complies with the codes as it *“is in accordance with an adopted policy”*.
39. To determine the development’s compliance with performance criteria, the findings of the SAT (in its determination of the previous appeal) need to be considered as part of the decision-making process. In tendering evidence to the SAT, the professional witnesses had difficulty justifying that a multiple dwelling could be built in Albany’s CBD within the acceptable development provisions of the Codes. SAT ultimately described the desired height for buildings in the locality as follows:

*“... the desired height of buildings in the locality is up to three stories, or about 11 metres in the area to the south and west of the site, and up to two storeys in the area to the north and east of the site...”*

40. Reference is made to the interpretation of the Central Albany Urban Design Policy later in this report. The development proposal is for three storeys of development above the natural ground level (NGL) over the site. However, the average height of the building on the eastern boundary is less than 9.0m above NGL, (with a maximum height of 9.4m). On the western boundary, the building extends up to a 10.0m high parapet.
41. If a house was to be constructed on the property to the east of the subject land, it would be allowed to be constructed, “as of right” with a wall height of 6.0m (7.0m parapet wall) and a maximum roof ridge height up to 9.0m. The proposed building height will help to create a sympathetic transition between the “Central Area” zone and the “Residential Zone”. If Council gives consideration to the observation of the SAT, in its findings, the development would reasonably comply with the performance criteria of the codes.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**Element 8 - Privacy**

42. Visual Privacy:- reference is made to the report prepared by the Proponent for compliance with the performance criteria. There are six units which directly front onto adjoining properties and the affected adjoining landowners have commented on the proposal and have no objection in reference to visual privacy.

**Element 9 - Design for Climate**

43. Solar Access for Adjoining Sites:- the development complies with the acceptable development criteria. A diagram has been included with the applicant's report, illustrating its compliance.
44. Stormwater Disposal:- a detailed stormwater plan will need to be submitted to Council for approval, prior to the issue of a building licence for this development. There is potential for all roof water to be directed to Earl Street, however surface run-off will flow to the southern boundary of the land, where the new basement car parking level is approximately 800mm below the level of the car park on the adjoining property and the drainage outlets are also above the proposed car parking level.

**Element 10 - Incidental Development**

45. External Fixtures:- conditions to be imposed on the planning approval can ensure compliance with this clause of the Codes.
46. Essential Facilities:- the development generally complies with the acceptable criteria for storage spaces, waste facilities and clothes drying areas. With reference to clothes drying, the development complies with the performance criteria, as the units propose to include individual clothes dryers.

**Public Comment**

47. The plans were advertised to the public and a total of 28 letters, faxes and emails were received during the 21 day advertising period. The majority of the respondents supported the development application, with some suggesting a few changes be made. The two main being a change to a non-reflective roof colour and the walkway joining the two units being removed. The Proponent was asked to comment on the community feedback and has responded by agreeing to change the colour of the roof to "Shale Grey", Colorbond® colour, and to remove the walkway joining the two buildings at its second level.
48. The setback of the third storey and its compliance with the Central Albany Urban Design Policy has also been raised. That policy requires a 3.0m setback for the wall of the third storey (allowing balcony on the boundary), with the two storeys below being allowed to have a nil setback and a verandah over the footpath. The front wall of the third storey units in the proposed development is setback a minimum of 2.0m from the front boundary for the middle four units and then increases to 5.0m for the two outermost units. The balconies for those units are set back zero and three metres respectively from the front boundary. This change in setback along the front wall helps to break down the visual bulk of the building and gives it a residential character, not dissimilar to a group of row houses.
49. A number of comments were also received calling for the development to be refused on the grounds of height, bulk and design. These comments are contrary to the findings of the SAT, the requirements of the Residential Design Codes and the broad principles espoused in the City's Central Albany Urban Design Policy.

**DEVELOPMENT SERVICES REPORTS**

## Item 11.1.5 continued

Central Albany Urban Design Policy

50. The first matter to be considered in reference to the policy is which precinct the development should be considered against. The subject site is located within the “Residential Precinct” of the Policy and has a zoning under the scheme as “Central Area” with a density coding of “R160”. SAT members were concerned that the policy’s application to this site was in conflict with the scheme, notwithstanding that they understood the rationale for the variation. The allowable density of the site provided in the Scheme (R160) would normally allow for a building of a much larger scale than would generally be found in a “residential area” and the higher density designation is more consistent with a commercial precinct. SAT did not make a clear statement in its determination at the review as to which precinct (central business or residential) the development should be considered against. SAT however does acknowledge the site as being in a transitional location, being on the interface of the Central Area and Residential zones. When assessing the development in relation to the policy, SAT members noted that the policy does not adequately address Multiple Dwellings and there was the contradiction between the boundaries identified in the policy and the Scheme’s zoning boundary.
51. It needs to be emphasised that the proposed development does not comply with the development standards specified in either precinct of the policy. Council must determine if the policy provisions should be enforced or the policy used as a guide in the decision-making process; clause 7.21.4 states that a policy shall not bind the Council, but Council shall take into consideration the provisions and objectives of the policy.
52. As discussed earlier in this report, the land slopes from the east of the site to the west across its frontage. The height of the eastern side of the development at the boundary is 10.0m. This height is less than the allowable 11.0m in the Central Business Precinct. On the western side, the development’s average height is around 9.0m, with the maximum height being 9.4m over a small section. The acceptable development provisions of the Codes allow a building on the adjoining property with a roof pitch up to 9.0m. The proposed development is a residential building and it generally exceeds the residential standards in the policy by 3.0m or one storey. The policy does allow on larger lots, for 40% of the development to be extended to three (3) storeys; all of the development is at three (3) storeys. However, the development is located on land zoned for commercial purposes and under the same policy the landowner could develop a mixed use (commercial at street level with office and/or residential development above) building at three storeys or 11.0m in height (maximum of 14.0m to roof pitch).
53. The front setback of the building is inconsistent with both the residential and the central business precinct provisions of the policy. The third floor does not comply with the residential provisions of the policy as has been discussed previously in the report.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

54. The site is located within the residential precinct of the policy, however the land use for “Multiple Dwellings” was not considered during the preparation of the policy. The building style (apartments) that would normally be consistent with a multiple dwelling proposal is acceptable in the Residential area under the Scheme but not covered by the provisions of the residential precinct of the policy. The built form of apartments are likely to be more consistent with the central business precinct provisions of the policy. The proposed development does not comfortably fit within either precinct of the policy, however the proposed development does reconcile the policy anomaly and it provides a positive transition between both the two precincts in the policy and the different zonings that apply to the lots on its western and eastern boundaries.

General

55. Council is required under Section 7.8A of the Scheme to give consideration to a number of matters in its decision making process. The greater weight in the decision making process is given to the Scheme and then to the policies that are adopted under that scheme. Council can give legitimate consideration to any other planning consideration the Council considers relevant and the SAT has provided some clear guidelines to Council on what it considers are valid considerations. The development is three (3) storeys at the Earl Street frontage and it then continues to remain at three (3) storeys by reducing the built form as the land slopes to the south.
56. Notwithstanding that the proposed development fails to completely comply with Council’s policy framework, staff recommend the application be given a conditional Planning Scheme Consent. The Proponent has responded to the concerns of residents over the roof colour of the proposed building and suggested conditions of approval are outlined in the following Officer’s Recommendation.

**RECOMMENDATION**

THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the application lodged by Ridgcity Holding to construct 40 Multiple Dwelling Units at 9 & 12 Earl Street, Albany subject to the following conditions: -

- a) Lots 9 and 12 Earl Street are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.
- b) Prior to a Building Licence being issued by the City of Albany (City) for the approved development, the Applicant is to provide a copy of a Certificate of Title for the subject land which demonstrates that lots 9 and 12 have been amalgamated and that a drainage easement has been provided on the title to Lot 10 (certificate of title 2101 / 297) in favour of the amalgamated land holding.
- c) An acoustic report is to be prepared by a suitably qualified acoustic consultant and submitted concurrently with the application for a building licence, demonstrating that the noise to be emitted from all air conditioning units, lift motors, pumps and other electrical equipment will comply with the Environmental Protection (Noise) Regulations 1997.
- d) Accessways to all units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 – 2001.
- e) Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a detailed schedule of building and surface finishes for approval.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

- f) The proposal is to comply with the following amendments:-
  - i) The roof colour is to be “Shale Grey”, Colorbond® Colour.
  - ii) Remove the walkway joining the two buildings at its second level.
- g) At no cost to the City, a sealed drainage system, which has been certified by a practising Civil Engineer, shall be provided to drain surface stormwater from the lowest portion of the re-contoured site into Council's drainage system.
- h) The new driveway crossovers are to be constructed by the developer to Council’s specification, levels and satisfaction.
- i) The developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.
- j) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, and appropriately lit during the hours of darkness.
- k) The driveway entering the site from the rear, across the neighbouring land, shall be clearly marked and signposted to carry traffic in a one way direction.
- l) The applicant is to provide to the City a detailed plan of the proposed bin storage area, prior to the issue of a building licence, to verify that the allocated space is sufficient to house the required number of bins and the bins are capable of being accessed by patrons.
- m) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.
- n) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 – 1993.
- o) Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.
- p) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.
- q) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.
- r) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.
- s) All common access ways above ground level shall be totally protected from the weather in accordance with the requirements of clause 3.5.5 (A5.5) of the Residential Design Codes.
- t) All plumbing fittings on external walls shall be concealed from external view.
- u) A clothes dryer shall be provided within the laundry of each unit.
- v) External clothes drying facilities shall be screened from view.
- w) The height of the building shall not exceed the heights set out on the approved plan.
- x) All letterboxes are to be incorporated into the building fabric or into a fence along the front boundary in accordance with the City of Albany’s Local Laws Relating to Fencing 2001.
- y) No signs are to be erected on the lot without the City’s approval, in accordance with the City Of Albany’s Sign Bylaws.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

- z) The designated visitor parking bays shall be clearly identified on site by means of a sign bearing the words “Visitors’ Parking Only”.
- aa) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of grant of planning consent.
- bb) No materials are to be stored within the Earl Street road reservation and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.
- cc) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;
  - i) the delivery of materials and equipment to the site;
  - ii) the storage of equipment and materials for the approved development;
  - iii) the parking arrangements for the contractor and subcontractors; and
  - iv) other matters likely to impact on the surrounding properties.

*Voting Requirement Simple Majority*

.....  
**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR EVANS**

**THAT Council resolve to grant Planning Scheme Consent, pursuant to Section 7.9 of the City of Albany Town Planning Scheme 1A, for the application lodged by Ridgcity Holding to construct 40 Multiple Dwelling Units at 9 & 12 Earl Street, Albany subject to the following conditions: -**

- a) **Lots 9 and 12 Earl Street are to be amalgamated into a single title to ensure no part of the proposed development crosses a property boundary.**
- b) **Prior to a Building Licence being issued by the City of Albany (City) for the approved development, the Applicant is to provide a copy of a Certificate of Title for the subject land which demonstrates that lots 9 and 12 have been amalgamated and that a drainage easement has been provided on the title to Lot 10 (certificate of title 2101 / 297) in favour of the amalgamated land holding.**
- c) **An acoustic report is to be prepared by a suitably qualified acoustic consultant and submitted concurrently with the application for a building licence, demonstrating that the noise to be emitted from all air conditioning units, lift motors, pumps and other electrical equipment will comply with the Environmental Protection (Noise) Regulations 1997.**
- d) **Accessways to all units are to be accessible by persons with disabilities in accordance with Australian Standard ASA 1428.1 – 2001.**
- e) **Prior to a Building Licence being issued by the City for the approved development, the Applicant is to provide a detailed schedule of building and surface finishes for approval.**
- f) **The proposal is to comply with the following amendments:-**
  - i) **The roof colour is to be “Shale Grey”, Colorbond® Colour.**
  - ii) **Remove the walkway joining the two buildings at its second level.**

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

- g) The new driveway crossovers are to be constructed by the developer to Council's specification, levels and satisfaction.**
- h) The developer shall rehabilitate the footpath, kerb and roadside drainage, to a standard consistent with the existing surfaces and alignments, where the existing cross over(s) is to be removed.**
- i) The driveways and the vehicle parking, manoeuvring and circulation areas indicated on the approved plan are to be constructed to a sealed standard, line marked, and appropriately lit during the hours of darkness.**
- j) The driveway entering the site from the rear, across the neighbouring land, shall be clearly marked and signposted to carry traffic in a one way direction.**
- k) The applicant is to provide to the City a detailed plan of the proposed bin storage area, prior to the issue of a building licence, to verify that the allocated space is sufficient to house the required number of bins and the bins are capable of being accessed by patrons.**
- l) A minimum height clearance of 2.3m is to be maintained to all undercover car parking areas and access ways, inclusive of light fittings, service ducts, reinforcing beams and plumbing and electrical conduits.**
- m) Vehicle manoeuvring areas and car parking bays are to conform to Australian Standard AS2890.1 – 1993.**
- n) Landscaping plans, showing size, species, location and reticulation of planted vegetation is to be submitted to the City prior to the issue of a building licence.**
- o) All lighting devices are to be positioned and shielded so as to not cause any direct, reflected or incidental light to encroach beyond the property boundary.**
- p) All mechanical services fitted to, and processes carried out on the site are to be positioned and operated in such a manner so that they do not cause a detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash dust or grit.**
- q) No satellite dishes, aerials, masts or mechanical plant shall be placed upon the roof unless screened from vantage points beyond the property by existing built features.**
- r) All common access ways above ground level shall be totally protected from the weather in accordance with the requirements of clause 3.5.5 (A5.5) of the Residential Design Codes.**
- s) All plumbing fittings on external walls shall be concealed from external view.**
- t) A clothes dryer shall be provided within the laundry of each unit.**
- u) External clothes drying facilities shall be screened from view.**
- v) The height of the building shall not exceed the heights set out on the approved plan.**
- w) All letterboxes are to be incorporated into the building fabric or into a fence along the front boundary in accordance with the City of Albany's Local Laws Relating to Fencing 2001.**
- x) No signs are to be erected on the lot without the City's approval, in accordance with the City Of Albany's Sign Bylaws.**
- y) The designated visitor parking bays shall be clearly identified on site by means of a sign bearing the words "Visitors' Parking Only".**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

- |  |
|--|
| <p><b>z) The designated visitor parking bays shall be clearly identified on site by means of a sign bearing the words “Visitors’ Parking Only”.</b></p> <p><b>aa) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of grant of planning consent.</b></p> <p><b>bb) No materials are to be stored within the Earl Street road reservation and pedestrian access along the street is to be maintained during the construction phase, unless the City has granted a separate and specific approval.</b></p> <p><b>cc) Prior to the issue of a building licence a construction management plan is to be submitted to and approved by the City detailing how the developer proposes to manage;</b></p> <ul style="list-style-type: none"><li><b>i) the delivery of materials and equipment to the site;</b></li><li><b>ii) the storage of equipment and materials for the approved development;</b></li><li><b>iii) the parking arrangements for the contractor and subcontractors; and</b></li><li><b>iv) other matters likely to impact on the surrounding properties.</b></li></ul> <p style="text-align: right;"><b>CARRIED 10-2</b></p> |
|--|

**RECORD OF VOTE:**

For the motion: Mayor Goode, Councillors Bojcun, Emery, Waterman, Williams, Evans, Jamieson, Wolfe, West and Waterman

Against the motion: Councillors Marshall and Paver

Councillor Wellington returned to the meeting at 9.08pm after consideration of Item 11.1.5

**DEVELOPMENT SERVICES REPORTS**

**11.1.6 Planning Compliance - Lot 3 (27-29) Golf Links Road, Middleton Beach**

<b>File/Ward</b>	:	A86292 (Fredrickstown Ward)
<b>Proposal/Issue</b>	:	Illegal Land Use
<b>Subject Land/Locality</b>	:	Lot 3 Golf Links Road, Middleton Beach
<b>Proponent</b>	:	P Jordan & K Mead
<b>Owner(s)</b>	:	S & A Amato L Amato, M Amato G & L Marchesi C & S Morrison
<b>Reporting Officer</b>	:	Planning Officer (L Brown)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	Refuse Application Commence prosecution proceedings for breach of Scheme
<b>Bulletin Attachment</b>	:	Petition of Signatures
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.6 continued

**BACKGROUND**

1. Greenacres Floral Studio has occupied the premises at Lot 3 (27-29) Golf Links Road, Middleton Beach without seeking Planning Scheme Consent.
2. At the request of Council planning staff, the current lessee of the building at Lot 3 (27-29) Golf Links Rd, Middleton Beach has lodged an application for Planning Scheme Consent on 23 November 2006 for a shop (Greenacres Floral Studio). A copy of the application is attached at the rear of this report.
3. The existing building on Lot 3 has not been used for a service station purpose for more than 12 months. The adjoining building was previously used as an office by a local firm however Council has no record of ever approving this use and it also would have been considered to be a PROHIBITED land activity.
4. The land is zoned “Special Site”, with a base zoning of “Residential” and an additional use right of “Display and Sale of Art and Craft Goods”. A “shop” use is a prohibited land use within this zone.
5. The proponent has defined the activities occurring at the site as “Display and Sale of Art and Craft Goods” however the information supplied within the application indicates that the majority of the products sold on the site include garden products, plants and floral arrangements. Whilst the Town Planning Scheme does not contain a specific definition for the “Display of Arts and Craft Goods”, the retailing of flowers/plants does not constitute an art or craft product.
6. City of Albany staff determined the use occurring at the site conforms more closely with the definition of “shop”.

**STATUTORY REQUIREMENTS**

7. A “shop” is described in Town Planning Scheme No. 1A as:  
*“means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including hairdresser or beauty therapist) but does not include a showroom, bulky goods outlet, warehouse sales outlet or fast food outlet.”*
8. The use “shop” is a prohibited (“X”) land use within both the Special Site zoning and the “Residential” zoning applicable to the subject land. There is no legal basis for Council to relax this scheme requirement and issue Planning Scheme Consent.
9. The landowners have made application to rezone the subject land to “Tourist Residential” whereby the use “shop” is an “SA” use. An “SA” use is defined in the Scheme as a use that:  
*“is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 7.5”.*

The shop use can be considered by Council under the proposed new zoning however the amendment is not expected to be finalised for approximately 12 months.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.6 continued

10. Where a breach of Town Planning Scheme No. 1A occurs the following Scheme clause applies:

*“7.14 Twenty eight days' written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act before the Council exercises the powers conferred by that Section:*

- *to remove, pull down or alter any building or other work in the Scheme Area, which has been commenced or continued after the gazettal date and which is such as to contravene the Scheme, or in the erection or carrying out of which any provision of the Scheme has not been complied with;*
- *to execute any work which it is the duty of any person to execute under the Scheme, in any case where it appears to the Council that delay in the execution of the work would prejudice the efficient operation of the Scheme;*

*and any expenses incurred by the Council under that section may be recovered from the person in default in a court of competent jurisdiction.”*

11. Section 10 of the Town Planning & Development Act (TPD) Act as referred to in Clause 7.14 of the Scheme is no longer applicable, as the TPD Act was repealed in 2005. The replacement Act, the Planning and Development Act 2005, includes similar enforcement provisions under Section 214.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

13. If Council issues a Section 214 Notice under the Planning and Development Act 2005, and the owner does not comply with that notice, legal costs to enforce the notice would be incurred.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*Nil*

***Mission Statement:***

*The City of Albany is committed to ...*

- *Providing sound governance.*

***Priority Projects:***

*Nil.”*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.6 continued

**COMMENT/DISCUSSION**

15. The owner was notified of the breach of the Town Planning Scheme in late August 2006 and was requested to cease the illegal and unapproved activities taking place on the site. The current occupier of the building has since lodged an application for planning approval, which focuses on support from the community rather than planning merits of the land use involved. A petition of 143 signatures is included in the Elected Members Report / Information Bulletin.
16. There is no legal capacity to approve the application for planning scheme consent lodged by the applicant. Council must now decide whether it wishes to serve a notice on the owner, under Section 214 of the Planning and Development Act, for breaching the Scheme.
17. Staff are concerned that allowing an illegal land use could set a precedent within the City of Albany in respect to further breaches. Additionally, the continuation of the unapproved and illegal use undermines the Town Planning Scheme and provides an unfair market advantage.
18. It is recommended that Council refuse the application and delegate to staff the authority to enforce the breach of the Scheme.

**RECOMMENDATIONS**

1. THAT Council Issue a Notice of Planning Scheme Consent Refusal for the application for a “shop” use at Lot 3 Golf Links Rd, Middleton Beach as the application is a prohibited use on the subject land.

*Voting Requirement Simple Majority*

.....

2. THAT Council delegate authority to the Chief Executive Officer, with the power to sub-delegate, to enforce the breach of the Scheme and require the shop use to be vacated from Lot 3 Golf Links Rd, Middleton Beach.

*Voting Requirement Absolute Majority*

.....

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.6 continued

**MOVED COUNCILLOR WILLIAMS  
SECONDED COUNCILLOR WELLINGTON**

- 1. THAT Council Issue a Notice of Planning Scheme Consent Refusal for the application for a “shop” use at Lot 3 Golf Links Rd, Middleton Beach as the application is a prohibited use on the subject land.**
- 2. THAT Council take no further action to enforce the breach of the Scheme or require the shop use to be vacated from Lot 3 Golf Links Rd, Middleton Beach.**

**CARRIED 12-1**

Reason:

**Council has agreed to commence the process of amending the scheme to zone the land “Tourist Residential” and once that action is completed, the shop will become a discretionary land use. It makes little sense to prosecute someone for doing something in the past that could be approved in the near future.**

**RECORD OF VOTE:**

**For the motion: Mayor Goode, Councillors Marshall, Bojcun, Emery, Wellington, Waterman, Williams, Evans, Jamieson, Wolfe, West and Waterman.**

**Against the motion: Councillor Paver**

**DEVELOPMENT SERVICES REPORTS**

**11.2 HEALTH, BUILDING & RANGERS**

Nil.

**DEVELOPMENT SERVICES REPORTS**

**11.3 DEVELOPMENT POLICY**

**11.3.1 Advertisement of Subdivision Guide Plan for Amendment 179 - Lots 50 & 51, Link Road, Marbellup**

- File/Ward** : 5258A (West Ward)
- Proposal/Issue** : Request to advertise the revised Subdivision Guide Plan for Amendment 179
- Subject Land/Locality** : Lots 50 & 51, Link Road, Marbellup
- Proponent** : Ayton Taylor Burrell
- Owner** : EA Harley & MA & CA Stephenson
- Reporting Officer(s)** : Strategic Planning Officer (A Nicoll)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 12/03/98 Item 13.3.1  
OCM 19/07/05 Item 11.3.4  
OCM 18/4/06 Item 11.3.7
- Summary Recommendation** : Support the request to advertise
- Bulletin Attachment** : Existing and revised subdivision guide plans  
Plan Illustrating building envelopes
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

**BACKGROUND**

1. Council previously granted final approval (18 April 2006) to rezone lots 50 and 51 from “Rural” to “Special Rural” with provisions and a subdivision guide plan adopted to control development.
2. Following the final approval by Council, the documents were referred to the Department for Planning and Infrastructure (DPI) for approval of the Minister. The proponent then intervened, requesting that Council support the adoption of a revised subdivision guide plan. The City subsequently sent a letter to the DPI requesting that the application to the Minister be withdrawn until further notice. The DPI advised the City that in order to consider the request, the revised plan would need to be advertised and adopted by the Council.

**STATUTORY REQUIREMENTS**

3. Council is required under section 75 of the Planning and Development Act to consider submissions lodged on a scheme amendment and resolve to progress the amendment without change, to progress the amendment subject to the modifications or recommend that the amendment not proceed. The final decision on the scheme amendment rests with the Minister for Planning and Infrastructure.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

7. Proposal  
The existing subdivision plan includes 32 lots, ranging in size from 1.5 to 3.8 hectares and with an internal access road. The objective on the new plan is to provide a more efficient use of the land by providing 46 lots (14 additional lots), ranging in size from 1.1 to 1.8 hectares and with internal access roads. The revised plan complies with the minimum lot size of 1 hectare as required by the proposed scheme provisions for the area. The revised plan is in-line with the “Preferred Long-Term Development Option” (Plan 04-67-16.ATB), which has been adopted by the Council and approved by the Main Roads Department Western Australia.
8. Ring Road Alignment  
The indicative ring road alignment and a 50 metre acoustic setback area, as illustrated on the guide plan (refer to bulletin), places restrictions on the size and location of building envelopes in the area. The proponent has provided an additional plan to prove that there is enough area left for buildings after taking into account the ring road and the acoustic setback requirement. For example, Lots 26 and 27 are the most constrained but still have a building envelope of approximately 1400m<sup>2</sup> (20.0m by 70.0m), which is large enough to accommodate buildings.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

9. The proponent has made the comment that the Main Roads Department is considering moving the ring road alignment to the east, which may provide the potential for larger building envelopes.

Conclusion

10. The difference between the original and the proposed plan is the increase in the number of lots, the decrease in the size of the lots and an alternative arrangement of road alignment. These variations:
- comply with the provisions adopted for the area;
  - comply with the “Preferred Long-Term Development Option”;
  - make allowance for the ring road when considering building envelopes;
  - provides for a more efficient use of land; and
  - provides for lot sizes more in-line with the current demand (manageable).
11. Staff therefore recommend that the Council supports the draft application and advertises the application.

RECOMMENDATION

THAT, Council, supports the revised plan for the development of Lots 50 and 51 Link Road, Marbellup and resolves to advertise the revised subdivision guide plan for a period of 42 days.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR EVANS**

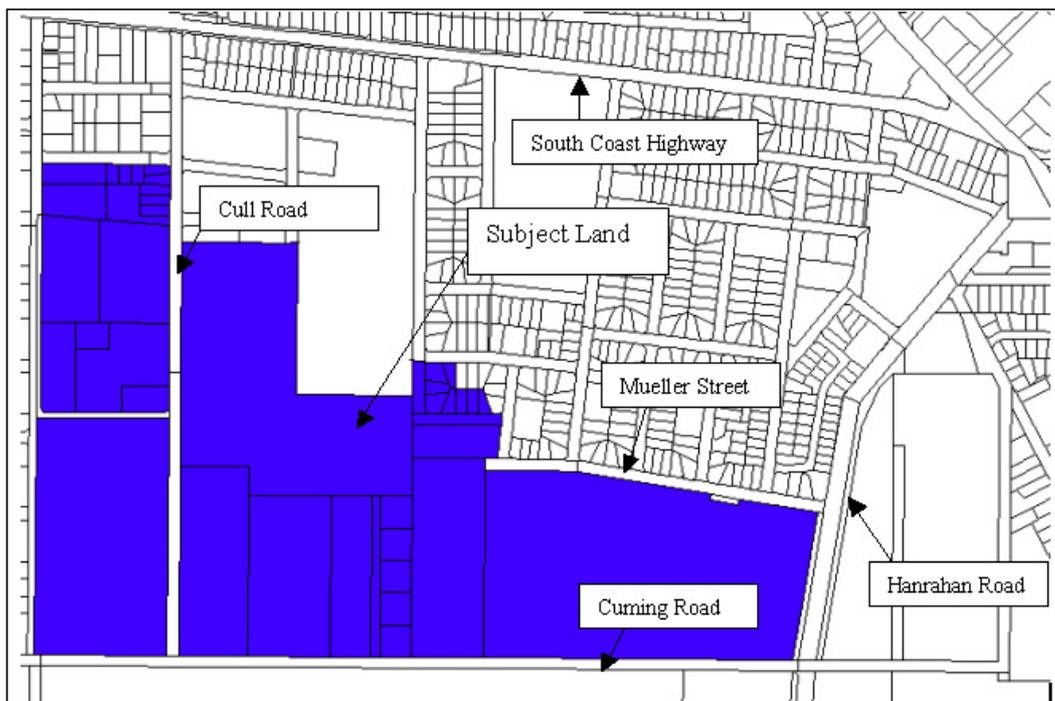
**THAT, Council, supports the revised plan for the development of Lots 50 and 51 Link Road, Marbellup and resolves to advertise the revised subdivision guide plan for a period of 42 days.**

**CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.3.2 Final Scheme Policy - Lockyer Residential Development Zone and Future Urban Zone - Conceptual Structure Plan**

- File/Ward** : STR 131 (Vancouver & West Wards)
- Proposal/Issue** : Provide Subdivisional Opportunities for Lots Zoned Residential Development and Future Urban in South Lockyer.
- Subject Land/Locality** : Various Lots
- Proponent** : City of Albany
- Owner** : Various
- Reporting Officer(s)** : Strategic Planner (R Hensel)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 20/06/06 - Item 18.1
- Summary Recommendation** : Adopt Policy
- Bulletin Attachment** : Conceptual Structure Plan
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**BACKGROUND**

1. At its meeting on 20 June 2006 Council resolved as follows:  
  
*“THAT Council, pursuant to clause 6.9 of the City of Albany Town Planning Scheme 3, and Clause 7.21 of the City of Albany Town Planning Scheme 1A resolves to adopt for the purposes of advertising the draft policy entitled “South Lockyer Conceptual Structure Plan”.*”
2. The policy was advertised for 21 days in accordance with Town Planning Schemes No. 3 and 1A.
3. At the close of public submission period seven (7) submissions were received on the policy.

**STATUTORY REQUIREMENTS**

4. Scheme 3 states at clause 5.2 that;  
  
*“5.2.1 Before granting approval for any of the uses permitted within the Development Zones subject to Council approval under Table No. 1 or endorsing an application for subdivision the Council will require the submission to, and approval by, the Western Australian Planning Commission of an Outline Development Plan for such areas as are the subject of an application to develop or subdivide being not less than the area shown within the outer edge of the green border on the part of the scheme map containing the subject land, together with other areas determined by the Council having regard to:*
  - (a) the major road systems under the Scheme;*
  - (b) topographic conditions;*
  - (c) land holdings adjacent to or in the vicinity of the subject land;*
  - (d) the necessity of providing civic and public facilities;*
  - (e) preservation of the environment.”*

Scheme 1A states at clause 4.3

- “4.3.5 Land included in the Future Development Zone is recognised by Council as being suitable for urban purpose in the future. Council shall initiate zoning changes to allow for development and promote subdivision proposals where the subdivision and / or development proposal put forward in accordance, or will not conflict, with a Local Structure Plan approved by Council and submitted in a form consistent with Commission Guidelines for approval of the Western Australian Planning Commission.”*

**POLICY IMPLICATIONS**

5. The City of Albany Town Planning Scheme 3 states that the broad objective for the Residential Development zone is *“to facilitate the orderly and equitable development for residential purposes of areas where the existing subdivisional pattern, multiple ownership, or other factors make this objective unobtainable by the normal methods of subdivision and development.”*

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**FINANCIAL IMPLICATIONS**

6. The in-house preparation of the South Lockyer Conceptual Structure Plan has been undertaken as a high priority action to progress the construction of the Mueller Street extension and respond to land owner subdivision proposals, including the 12.3 ha being developed by the City of Albany.

**STRATEGIC IMPLICATIONS**

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

**“Community Vision:**

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

- *Excellent community infrastructure and services; and*
- *Innovative development complementing Albany’s unique character, natural environment and heritage.*

**Mission Statement:**

*The City of Albany is committed to ...*

- *Providing sound governance; and*
- *Promoting our Community’s vision for the future.*

**Priority Projects:**

*Nil.”*

8. The draft City of Albany’s Local Planning Strategy has identified the subject land for ‘Residential Development’ within the next 20 years.

**COMMENT/DISCUSSION**

9. Of the seven (7) submissions received four (4) were from the public and three (3) from government agencies. There were no submissions against the overall proposal.
10. A schedule of submissions, detailing the comments received and staff’s recommendations in relation to each comment is attached to the rear of this report.
11. A copy of the amended policy (in light of the submissions received) and related structure plan is included in the Elected Members Report/Information Bulletin.
12. It is recommended that the amended policy be finally adopted in order to allow subdivision and development to proceed to enable needed housing lots to be provided to meet market demand.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

RECOMMENDATION

THAT Council, pursuant to clause 6.9 of the City of Albany Town Planning Scheme 3, and Clause 7.21 of the City of Albany Town Planning Scheme 1A resolves to finally adopt the policy entitled “South Lockyer Conceptual Structure Plan.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR MARSHALL**

**THAT Council, pursuant to clause 6.9 of the City of Albany Town Planning Scheme 3, and Clause 7.21 of the City of Albany Town Planning Scheme 1A resolves to finally adopt the policy entitled “South Lockyer Conceptual Structure Plan.**

**CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**Scheme Policy :Draft South Lockyer Conceptual structure Plan  
Town Planning Scheme No. 1A and No. 3  
Schedule of Submissions**

No.	Submitter	Submission	Officer Comment	Council Recommendation
1.	Department of Water 5 Bevan Street Albany	<p>a) Where ever native vegetation is located consideration be given to these areas forming part of the open space network</p> <p>b) Some sites within the Study area may involve potential contaminated sites.</p> <p>c) Ensure that predevelopment drainage flows remain the same as post development.</p> <p>d) Detailed assessment of areas identified as having potential acid sulphate soils to be undertaken at the subdivision stage.</p> <p>e) Better quality mapping should be prepared for the final policy document.</p>	<p>a) The draft structure plan and report currently shows these areas part of the open space network.</p> <p>b) The City of Albany's study of contaminated sites thus far, indicates that land in the study area does not contain contaminated sites. The DEC has also indicated it is not aware of any contaminated sites in the study area.</p> <p>c) The Water Management Section does outline the principles of stormwater management and is based on retaining stormwater within the catchment.</p> <p>d) Include more information on acid sulphate in Map3.</p> <p>e) The details in Map3 to be improved along with the final maps.</p>	<p>a) Noted.</p> <p>b) Noted.</p> <p>c) Noted.</p> <p>d) Supported.</p> <p>e) Supported.</p>
2.	Main Roads WA	<p>a) Concern for the configuration of the intersection of South Coast Highway and Albany Highway.</p> <p>b) The completion of the Albany Ring Road will reduce the function of South Coast Highway to a distributor and filtering traffic to Hanrahan Road via Mueller Street requiring a fully channelised intersection.</p> <p>c) Concern over proximity of Le Grand Avenue and Cull Road intersections on South Coast Highway and therefore use Cull Road as the major access to the development.</p>	<p>a) This is a separate issue to the SLCSP to be discussed with MRDWA and the CoA.</p> <p>b) The SLCSP be modified to indicate the need to accommodate a fully channelised intersection for Mueller Street and Hanrahan Road.</p> <p>c) Cull Road is not the only access to the Study Area. Admiral Street, and Humphries Street (via Clifton Road) currently provide access from South Coast Highway. It is also planned that Townsend Street connect to the extended Mueller Street. These existing and additional access points to the Study area will mitigate Main Road WA concerns.</p>	<p>a) Noted.</p> <p>b) Supported.</p> <p>c) Noted.</p>

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

No.	Submitter	Submission	Officer Comment	Council Recommendation
3.	Water Corporation	<ul style="list-style-type: none"> <li>a) Has no objection to the proposal in principle.</li> <li>b) Developers need to discuss the provision of water and wastewater services with the Water Corporation.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) Noted</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) Noted</li> </ul>
4.	JG Kelly YW Atwell Loc 260 Cull Road, Lockyer	<ul style="list-style-type: none"> <li>a) Support the conceptual structure plan.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted</li> </ul>
5.	WA & WL Wood Lot 75 Cull Road, Lockyer	<ul style="list-style-type: none"> <li>a) No objections to overall draft structure plan.</li> <li>b) Concerned about access to Cull Road.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) The revised structure plan will ensure access to Lot 75 from Cull Road.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) Noted.</li> </ul>
6.	Z&D Dimovski Lot 51 Cull Road, Gledhow	<ul style="list-style-type: none"> <li>a) Support the conceptual structure plan.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> </ul>
7.	B&H Coulson Lot 47 Cull Road, Gledhow	<ul style="list-style-type: none"> <li>a) Support the conceptual structure plan.</li> <li>b) Cull Road and Mueller Street need to be wide enough to provide for cyclists.</li> <li>c) Major concern is the proposed Road from Wolfe Road between and connecting to Little Oxford Street and Cull Road as they understand land owners in this locality do not want to subdivide.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) The structure plan, Map 5B proposes that Cull Road and Mueller Street both have dual use paths to cater for cyclists.</li> <li>c) Other land owners in this locality (refer to submission no 6) have supported the plan. The structure plan only provides the option for land owners who wish to subdivide. Therefore, those who wish to enjoy their current life style on larger lots may continue to do so.</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted.</li> <li>b) Noted</li> <li>c) Noted.</li> </ul>

..... CHIEF EXECUTIVE OFFICER

..... DATE

**DEVELOPMENT SERVICES REPORTS**

**11.3.3 Initiate Scheme Amendment - Loc 6511, 304 Two Peoples Bay Road, Kalgan**

**File/Ward** : AMD258 (Kalgan Ward)

**Proposal/Issue** : Formal request to rezone portion of Loc 6511 (Number 304) from the “Rural” zone to the “Special Use” zone

**Subject Land/Locality** : Loc 6511, 304 Two Peoples Bay Road, Kalgan

**Proponent** : Harley Survey Group

**Owner** : K Rost and S Watson

**Reporting Officer(s)** : Strategic Planning Officer (A Nicoll)

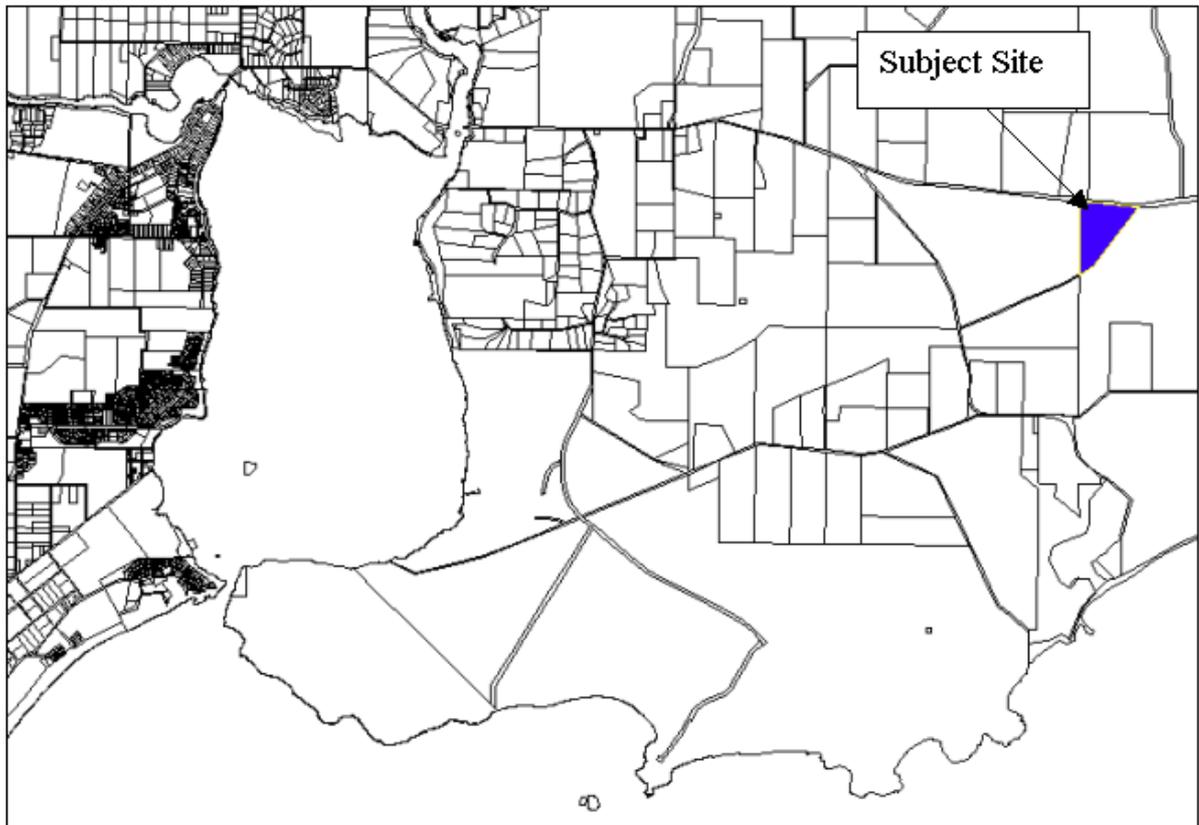
**Disclosure of Interest** : Nil

**Previous Reference** : OCM 20/6/06 Item – 11.3.3

**Summary Recommendation** : Initiate the amendment

**Bulletin Attachment** : Development Guide Plan

**Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

**BACKGROUND**

1. At its ordinary meeting dated 20 June 2006 Council considered a scheme amendment request to rezone Loc 6511, 304 Two Peoples Bay Road, Kalgan from the “Rural” zone to the “Special Use” zone. The purpose being to accommodate additional uses (restaurant, chalets and other) over and above what are currently permitted in the Town Planning Scheme and the Local Rural Strategy and to put in place conditions for development. The following was resolved at the meeting and has since been addressed in the amendment documentation:

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

- *Define all intended uses;*
- *Fire management to the adjacent tree farms;*
- *Appropriate setbacks to the surrounding tree farms;*
- *Impact from the extractive industry;*
- *Approval for the marron farming;*
- *Environmental assessment for the potential impact on the ground water; and*
- *Apply standards for development.*

*Council advises that it is prepared to entertain the submission of a formal application for rezoning this land from the “Rural” zone to the “Special Use” zone.”*

2. The Department of Planning and Infrastructure, the Department of Environment, the Water Corporation and the Health Department all commented on the application with no outstanding issues or objections.

**STATUTORY REQUIREMENTS**

3. A restaurant, is classified in the Town Planning Scheme 3, use class table as a “use that cannot be permitted” on a “Rural” zoning. A rezoning is therefore required in order to accommodate such a use.
4. Council’s resolution under Section 75 of the Planning and Development Act 2005 is required to amend the Scheme.
5. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
6. Advertising of an amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.
7. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

**POLICY IMPLICATIONS**

8. Part of the intent of the amendment is to enable the subdivision of the subject land into two lots. “General Policy 33” (Local Rural Strategy) *“supports the subdivision of rural land for tourist...related development where...the development is an existing, approved development which has been rezoned.”* The subject land has an approved, developed and operational “Country Kitchen and Shop” and Council has supported the rezoning of the site in principle to a “Special Use” zoning.
9. More than three chalets are not permitted in the “Rural” zone as defined in the Local Rural Strategy policy document adopted under the scheme. A rezoning will therefore be required in order to accommodate the 12 chalets the subject of the application.
10. Applicable State Planning Policies are the “SPP1” (State Planning Framework Policy) and “SPP2” (Environment and Natural Resources Policy). The primary aim of SPP1 is *“to provide for the sustainable use and development of land”*. The primary aim of SPP2 is *“to protect and conserve the natural environment”*. Local Government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

12. The property is identified in the draft Albany Local Planning Strategy (ALPS) as being suitable for “General Agriculture”. To incorporate tourism uses in the “General Agriculture” area, the ALPS document requires:
  - Protection of existing agriculture land from incompatible land use, developments and land management practices; and
  - Sustainable rural tourism uses and developments in locations that are compatible with existing land uses, especially agriculture activities.
13. The agriculture land (tree plantations, grazing and aquaculture) is not expected to be impacted upon by the small scale tourist use proposed by this application. The chalets, restaurant and other incidental uses are expected to compliment the already existing country kitchen and marron ponds.

**COMMENT/DISCUSSION**

14. Proposal/Additional Uses  
This amendment proposes to rezone a portion of the site to “Special Use”, the purpose being to enable the development of a restaurant (expanded version of the existing), holiday accommodation (12 Chalets), caretakers dwelling, recreational fishing, a zoo (small animals...rabbits), equestrian uses, golf facilities and the excision of the proposed tourist uses from the balance farming lot.
15. The additional uses consolidate the growing focus of tourism within the locality and help the long-term growth and economy of Albany. The excision segregates the tourist uses from the rural use (aquaculture), therefore improving the opportunity to concentrate and intensify.

**DEVELOPMENT SERVICES REPORTS**

## Item 11.3.3 continued

Development Guide Plan and Provisions

16. A “Development Guide Plan” and “Provisions” are to be incorporated into the Scheme to control the subdivision, access, parking, drainage, water supply, landscaping, fire management, effluent disposal and building location, design and construction. The following standards provide a summary to describe the nature of the proposal:
- Subdivision into no more than two lots;
  - Suitable car-parking for the restaurant and chalets;
  - Only two crossovers onto Two Peoples Bay Road;
  - Potable water and effluent disposal systems to be provided to the satisfaction of the Council;
  - Landscaping to be provided in accordance with a landscape plan to be implemented at the time of development or subdivision (whichever is the first);
  - Minimum 20.0m setback of buildings to Two Peoples Bay Road;
  - Minimum 15.0m setback to “extreme” fire hazards;
  - Strategic firebreaks to be constructed;
  - A maximum of 70 seats for the café/restaurant;
  - A maximum of 140m<sup>2</sup> habitable floor area for the chalets; and
  - A maximum building height of 7.5m.

Fire Management

17. Tree plantations and remnant vegetation within close vicinity of the tourist site, pose a hazard from a fire perspective. In order to make an assessment of the hazard the City needs to determine the:
- 1) type and class of vegetation;
  - 2) average slope of the ground;
  - 3) building setback (existing or proposed); and then
- overlay these three factors and refer to Table 4 of the West Australian Planning Commission and FESA document, “*Planning for Bushfire Protection 2001*” to determine the level (extreme, high, medium and low) of hazard.
18. The two chalets on the eastern boundary, are located as per the “development guide plan” 30.0m from the neighbouring tree plantation. In referring to the *Planning for Bushfire* manual (Table 4), a “high” fire hazard exists, meaning a 20.0m building protection zone is to be incorporated around the chalets and the chalets would need to be built in accordance with the “*Australian Standard 3959 ‘Construction of buildings in bushfire-prone areas’*”. The Australian Standard 3959 makes restrictions to help stop buildings catching on fire and save lives. Restrictions include the use of fire retardant materials and the design of the buildings to stop embers entering windows/doors and depositing in eaves and other areas where they keep burning and eventually cause the building to catch alight.
19. The “Development Guide Plan” and the provisions have been written to accommodate the requirements for building in accordance with the West Australian Planning Commission and FESA document, “*Planning for Bushfire Protection 2001*” and the “*Australian Standard 3959 ‘Construction of buildings in bushfire-prone areas’*”.

Conclusion

20. The proposal to rezone the land from “Rural” to “Special Use” complies with the City policy (Local Rural Strategy) and strategic (Albany Local Planning Strategy) objectives for the area.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

21. The additional uses are not expected to impact on the existing and surrounding land uses of the area. The excision segregates the tourist uses from the rural use (aquaculture), therefore improving the opportunity to concentrate and intensify.
22. Suitable provisions have been put in place to maintain the character of the area, to improve amenity and to keep safety standards for the occupants and tourists at a premium.

**RECOMMENDATION**

THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:

- i) Rezoning portion of Lot 6511 Two Peoples Bay Road, Kalgan from the “Rural” zone to the “Special Use” zone;
- ii) Amending the Scheme Maps accordingly; and
- iii) Inserting Land Particulars, Permitted Uses and Special Conditions into Schedule 3 of the Scheme.

*Voting Requirement Simple Majority*

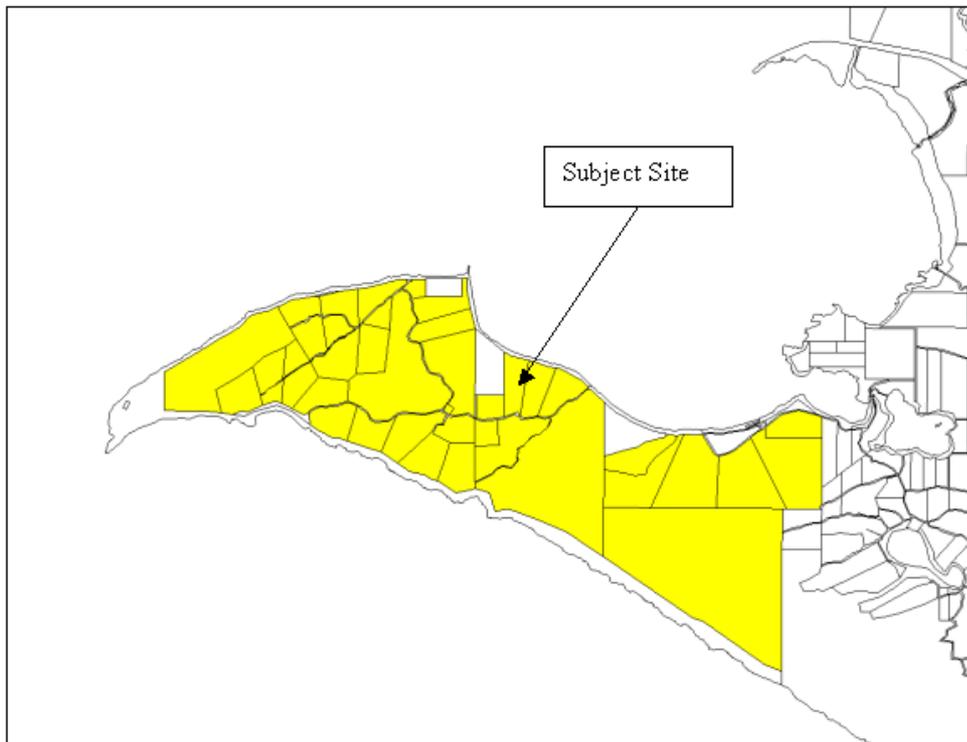
.....

<p><b>MOVED COUNCILLOR BOJCUN SECONDED COUNCILLOR EMERY</b></p> <p><b>THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:</b></p> <ol style="list-style-type: none"><li><b>i) Rezoning portion of Lot 6511 Two Peoples Bay Road, Kalgan from the “Rural” zone to the “Special Use” zone;</b></li><li><b>ii) Amending the Scheme Maps accordingly; and</b></li><li><b>iii) Inserting Land Particulars, Permitted Uses and Special Conditions into Schedule 3 of the Scheme.</b></li></ol> <p style="text-align: right;"><b>CARRIED 13-0</b></p>
--

**DEVELOPMENT SERVICES REPORTS**

**11.3.4 Initiate Scheme Amendment - Conservation Zone - Nullaki Pensinsula**

- File/Ward** : AMD259 (West Ward)
- Proposal/Issue** : Request to modify the Subdivision Guide Plan and introduce new scheme provisions for Conservation Zone Area No. 1
- Subject Land/Locality** : Conservation Zone (Area No. 1) - Nullaki Peninsula
- Proponent** : Ayton, Taylor & Burrell
- Owner** : G J Robertson & S Dzwonnik  
(main landowners) and various landowners
- Reporting Officer(s)** : Strategic Planning Officer (A Nicoll)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/12/04 - Item 11.3.2  
OCM 19/7/05 - Item 11.3.6
- Summary Recommendation** : Initiate the amendment
- Bulletin Attachment** : Textual changes and revised subdivision guide plan
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

**BACKGROUND**

1. At its ordinary meeting dated 19 July 2005 Council considered an amendment request to modify the subdivision guide plan and scheme provisions associated with the Nullaki Estate, and resolved:

*“to amend the City of Albany’s Town Planning Scheme No. 3 by amending the Subdivision Guide Plan and various provisions associated with Development Exclusion Areas, Caretakers Dwellings, Development Approval and road alignments.”*

2. Subsequently, the Environmental Protection Authority (EPA) and the Minister for Planning and Infrastructure considered the proposal and decided that the amendment was incapable of being made environmentally acceptable.
3. The reason given was that the new provision allowing a “Caretaker’s Dwelling” on every single lot (48 Lots) did not reflect the objectives of the zone and would have detrimental impacts on the flora, fauna, surface water and groundwater of the area. The existing provisions allow for six caretakers dwellings in total for the whole of the peninsula.
4. The proponent has now prepared a new amending document (AMD259), which omits the provision allowing for a “Caretaker’s Dwelling” on all the lots and is seeking Council’s support to initiate the amendment:

*“to amend the Subdivision Guide Plan and various Special Provisions associated with development exclusion areas, development approval and road alignments within Conservation Zone Area No.1.”*

**STATUTORY REQUIREMENTS**

5. Council’s resolution under Section 75 of the Planning and Development Act 2005 is required to amend the Scheme.
6. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
7. Advertising of an amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.
8. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**POLICY IMPLICATIONS**

9. The Local Rural Strategy (1996) and the Statement of Planning Policy (SPP) No. 2.6 (State Coastal Planning Policy) introduce a number of requirements for this area. The most applicable being:
  - *To provide for the protection of the landscape, flora and fauna;*
  - *To protect, conserve and enhance coastal values; and*
  - *To protect development from coastal processes.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

10. The amendments to the Conservation Zone being considered as part of this application are in keeping with these statements of planning policy.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

12. The draft Albany Local Planning Strategy (ALPS) identifies this area as an environmental protection area, the key element being to protect biodiversity, natural character and resources and to reduce the environmental impacts from land use and development.
13. The amendments to the Conservation Zone being considered as part of this application are in keeping with the key elements of the ALPS document.

**COMMENT/DISCUSSION**

14. Proposal  
The scheme amendment makes modifications to a number of provisions guiding development within the Nullaki Conservation Zone (Area No.1). The need for these modifications has come about following ongoing difficulties and inconsistencies in interpreting and applying some of the existing scheme controls. The modifications are also the result of the clarification and direction provided through the determination of an appeal before the Town Planning Appeal Tribunal (171 of 2002).
15. In summary, the modifications include:
  - Making the condition that Planning Consent and additional assessment criteria (visual analysis and aboriginal survey) are required for the siting of Development Areas;
  - Associating setback requirements with the State Planning Policy 2.6;
  - Introducing a provision to clarify that relocated dwellings, holiday accommodation and tourist accommodation are uses that are not permitted;
  - Updating the subdivision guide plan;
  - Introduce stronger controls for fire management; and
  - Other minor incidental changes.

Included within the Elected Members Report / Information Bulletin is a copy of the textual changes to the provisions and the modification to the subdivision guide plan. The complete amendment document has not been included as it replicates the copy supplied to Councillors in July 2005.

16. The amendment does not propose any more clearing, further intensification by subdivision, a reduction in the width of coastal or foreshore reserves, a compromising of the unique landscape or a weakening of the protection provided to public use nodes.

17. Development Approval  
The existing scheme provisions are unclear as to whether or not planning approval is required in order to define a building envelope. New provisions have been introduced, making development areas the subject of an application with additional justification for visual, environmental and archaeological management.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

Development Exclusion Areas

- 18. Unlike the old subdivision guide plan, the new plan does not illustrate “Development Exclusion Areas” near the coast, instead the provisions of the scheme have been changed to augment the State Planning Policy 2.6 and the Department of Environment and Conservation’s Guidelines, which make generous requirements for setbacks to coastal and foreshore areas.

Relocated dwellings, holiday accommodation and tourist accommodation

- 19. The land uses “relocated dwelling” and “holiday accommodation” are not listed within the provisions for the area as being “permitted” uses. Therefore it seems there is uncertainty amongst proponents and potential purchasers as to whether or not these uses may be permitted. A provision is being introduced which confirms that these uses are “not permitted” within the zone. The uses detract from the objectives of the area, which are to limit development and uses in order to protect the wilderness of the area.

Subdivision Guide Plan

- 20. The subdivision guide plan has been modified to reflect minor changes to the road alignment, setback requirements and lot boundaries. The lot boundaries have been modified to fall in line with the topographic layout of the land and to reduce the need for clearing and earthworks. No new lot entitlements are being created.

Fire Management

- 21. Fire management for the peninsula is to be in accordance with the “*Australian Standards 3959*”. Provisions have been included to spell out what is already required for the safe management of fire. For example, when building a water tank, a condition specifically states that 30,000 litres of water is to be made available for firefighting purposes.

Conclusion

- 22. The revised provisions better meet the administrative and development control requirements of the Council and the landowners. This is achieved by clearly spelling out what is required for development and therefore reducing uncertainty, providing greater uniformity in decision making and providing a more transparent approval process based on up to date information and environmental policy.

**RECOMMENDATION**

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

*Voting Requirement Simple Majority*

.....

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR WOLFE**

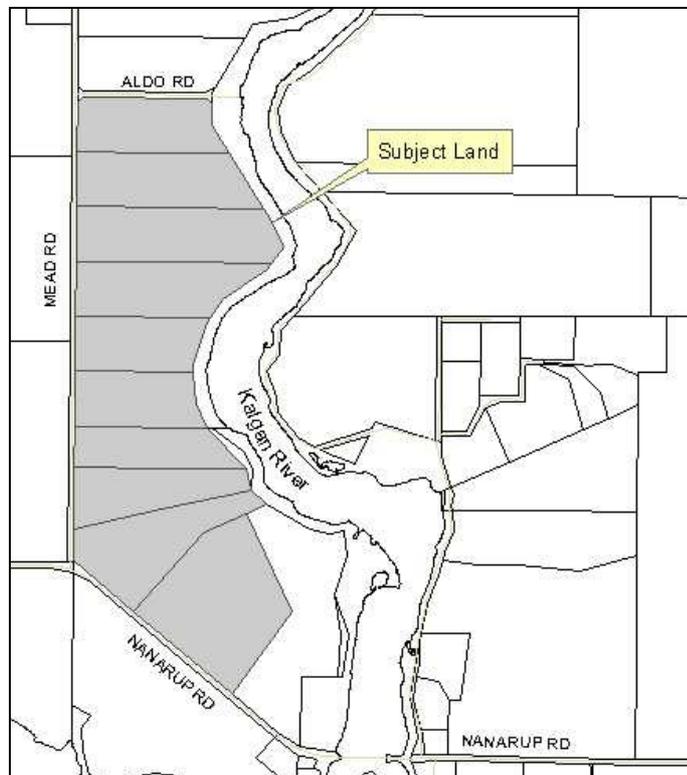
**THAT Council, in pursuance of Section 75 of the Planning and Development Act 2005 resolves to amend the City of Albany's Town Planning Scheme No. 3 by amending the Subdivision Guide Plan and various provisions associated with Development Exclusion Areas, Development Approval and road alignments within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

**CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.3.5 Initiate Scheme Amendment - Lots 17, 18, 19, 20, 21, 22, 27, 28 and 29 Mead Road and Lot 30 Nanarup Road, Kalgan**

- File/Ward** : A53619A (Kalgan Ward)
- Proposal/Issue** : Request to amend the Special Rural scheme provisions applicable to land within Special Rural Area No 4A
- Subject Land/Locality** : Lots 17, 18, 19, 20, 21, 22, 27, 28, 29 & 30 Mead Road and Lot 30 Nanarup Road, Kalgan
- Proponent** : Harley Survey Group
- Owner** : Various
- Reporting Officer(s)** : Planning Officer (L Brown)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 18/10/05 - Item 11.3.3
- Summary Recommendation** : Initiate Scheme Amendment
- Bulletin Attachment** : Amendment Documentation
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.5 continued

**BACKGROUND**

1. At it's meeting dated 18 October 2005 it was resolved:

*“THAT Council advise Harley Survey Group that it would be prepared to receive amending documents for Location 21 and Lots 17, 18, 19, 20, 21, 22, 27, 28, 29 & 30 Mead Road, Kalgan to modify the development potential within Special Rural Area No. 4A, and the amendment documents would need to address:*

- i) additional dwellings and effluent disposal systems being confined to the ‘Ds’ land capability unit as delineated on the Land Capability Map (Map 4), except where a more detailed land capability assessment, to be carried out at the subdivision stage, identifies further opportunities for development outside of this area;*
  - ii) flood prone areas, areas with a perched water table and erosion risk areas being mapped and shown on the Subdivision Guide Plan as development exclusion areas;*
  - iii) the quantum of land to be set aside for Foreshore Reserve being identified;*
  - iv) fire safety zones and the requirements of the Planning for Bushfire Protection policy being adhered to;*
  - v) the capacity to preserve all significant stands of vegetation on the subject site, as determined through a detailed vegetation assessment at the subdivision stage, without the need for clearing of building sites, lot boundaries, firebreaks and low fuel zones;*
  - vi) a broad visual impact analysis being prepared which seeks to protect the landscape qualities of the existing land; and*
  - vii) identification and protection measure for wetlands.”*
2. The proponent has now lodged amendment documentation requesting Council initiate the amendment.
  3. A copy of the amendment documents is contained in the Elected Members Report / Information Bulletin.

**STATUTORY REQUIREMENTS**

4. Council's resolution under the Planning & Development Act 2005 and the Town Planning Regulations 1967 is required to amend the scheme.
5. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
6. Advertising of an amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.
7. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.5 continued

**POLICY IMPLICATIONS**

8. There are various policies and strategies that have relevance to this proposal. They include:
- Statement of Planning Policy No. 1 - State Planning Framework Policy (Variation No. 2) (SPP 1);
  - The Draft Lower Great Southern Strategy (2005);
  - The Draft Albany Local Planning Strategy (2005); and
  - The Local Rural Strategy (1996).
9. The purpose of SPP 1 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local Government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

11. The current subdivision guide plan for this area prevents the creation of lots below 8.0 hectares. Under the Local Rural Strategy a minimum lot size of 1 hectare applies, however the lot density is typically based on land capability.
12. The subject site is identified within Council's draft Albany Local Planning Strategy (ALPS) as being most suitable for "rural-residential development" which the WAPC SPP No. 11 determines to be lots ranging in area from 1.0 hectare to 4.0 hectares.
13. ALPS also recommends the following strategy in relation to existing Special Rural zones:
- "Review existing rural living areas to maximize opportunity to achieve higher sustainable lot yields based on land capability/suitability, service provision and local constraints to be the second priority to meet future demands."*
14. The amendment will align the lots sizes with those recommended by ALPS, therefore there are no strategic implications relating to this item.

**COMMENT/DISCUSSION**

- Development Potential
15. Council advised the proponent at its meeting in October 2005 that it supported the proposal in principle, subject to several issues being addressed within the amendment documentation to determine the land's subdivisional potential. The proponent has addressed these factors in the amendment documentation and each of the issues is summarised below.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.5 continued

Land Capability

16. Based on the identification of the soil types over the site, the height and slope of the land, and the presence of ground water close to the surface, the modified subdivision guide plan indicates those areas that have been deemed to be incapable of supporting effluent disposal systems. This information is provided on the constraint's map, which will serve as an informal development exclusion zone. Council's support for further subdivision and dwelling construction in the event that the amendment reaches finalisation, is subject to the type and positioning of effluent disposal systems proposed.

Flood Prone Areas

17. Inspections, discussions and research in respect to the Kalgan River flood plain have provided no evidence that the Kalgan River has breached its banks except over the low-lying portion of Lot 30, which contains little or no development potential.

Foreshore Reserve

18. A large portion of foreshore reserve was ceded to the Crown when the Special Rural Area was created in 1981. The reserve area was enlarged again when further subdivision of Lots 27-29 occurred in 1984.
19. Current WAPC Policy DC 2.3 discusses adequate foreshore reserve widths and setbacks, which in relation to rivers is 50m from the high water mark. The existing foreshore reserve meets and exceeds this requirement. Additionally, the modified subdivision guide plan implements a 100m setback requirement from the Kalgan River for all development.

Fire Safety and Management

20. A fire management assessment has been by Fire Management Consultants, OPUS, and a report has been provided with the amendment documentation.
21. The fire management plan ensures that all new development will comply with the current standards outlined by the WAPC document "Planning for Bushfire Protection 2001" and these requirements are incorporated into the modified scheme provisions.
22. The modified subdivision guide plan indicates the 'High Risk Areas' where dwellings will be required to comply with Australian Standard 3959. Buildings will not be permitted in the 'fire setback area' (development exclusion zone) identified on the subdivision guide plan.

Vegetation Preservation

23. The remnant vegetation has been identified on the modified subdivision guide plan. It is not anticipated that any significant clearing will be required on the majority of lots in order to accommodate building sites, lot boundaries, firebreaks or low fuel buffers.
24. The proponent has shown a "possible house site" on the subdivision guide plan in respect to Lot 20. Staff are not supportive of this proposed site due to the clearing of remnant vegetation that will be required in order to comply with the requirements of current policies. It is recommended that the house site be removed from the subdivision guide plan.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.5 continued

Visual Impact and Amenity

- 25. Nanarup Road has been identified as an important tourist route in the Local Rural Strategy via the application of a “Visual Management Area A” classification. The proponent has acknowledged that the low lying portion of Lot 30 Nanarup Road is predominately cleared of vegetation and in a state of degradation with little visual amenity. It is of vital importance that any further development of this prominent corner lot will be conditional upon the improvement of this land with substantial additional planting of local species of vegetation.
- 26. The remainder of the site is less prominent from Nanarup Road. All lots are well screened from the Kalgan River, due to the vegetation located within the foreshore reserve. Several lots have been recognized as being in need of additional planting along the frontage to Mead Road and this is reflected in the subdivision guide plan.

Wetland Identification and Preservation

- 27. It is acknowledged that there is a large portion of Lot 30 Nanarup Road that is low lying and hence the water table is high. However there has been no formal identification of wetlands within the subject site. If a future development or subdivision application was received over this land, further analysis of the environmental impacts of the site would need to be undertaken.

Summary

- 28. All of the above mentioned issues have been adequately catered for on the subdivision guide plan in the format of a “Constraints and Opportunities” map. Lots 18 to 21 and 29 Mead Road and Lot 30 Nanarup Road appear to have limited subdivision potential, given the range of constraints present, however the amendment has clearly established the ground rules in considering subdivision and/or development within these areas.
- 29. The request to amend the provisions of Special Rural Area No. 4A and the subdivision guide plan is supported by staff, as the modifications are reflective of the changes to current legislations, strategies and policies. The subdivision guide plan has been modified to recognize the land constraints of individual land parcels within the area and staff are satisfied that all future development can be accurately assessed against the subdivision guide plan - constraints and opportunities map.

**RECOMMENDATION**

THAT Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above town planning scheme in pursuance of Section 7 of the Town Planning & Development Act 1928 (as amended) resolves to amend the above Town Planning Scheme by:

- i) Amending “Schedule 1 - Special Rural Zones” by changing the scheme provisions relating to Special Rural 4A.

*Voting Requirement Simple Majority*

.....

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.5 continued

**AMENDED RECOMMENDATION**

1. THAT, before staff action the following recommendation, the amending documents be altered to remove the possible house site shown on the subdivision guide plan upon Lot 20.
2. THAT Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above town planning scheme in pursuance of Section 7 of the Town Planning & Development Act 1928 (as amended) resolves to amend the above Town Planning Scheme by:
  - i) Amending “Schedule 1 - Special Rural Zones” by changing the scheme provisions relating to Special Rural 4A.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR BOJCUN**

1. **THAT, before staff action the following recommendation, the amending documents be altered to remove the possible house site shown on the subdivision guide plan upon Lot 20.**
2. **THAT Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above town planning scheme in pursuance of Section 7 of the Town Planning & Development Act 1928 (as amended) resolves to amend the above Town Planning Scheme by:**
  - i) **Amending “Schedule 1 - Special Rural Zones” by changing the scheme provisions relating to Special Rural 4A.**

**CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.4 RESERVES PLANNING**

Nil

**11.5 DEVELOPMENT SERVICE COMMITTEES**

Nil

# **Corporate & Community Services**

## **REPORTS**

## - R E P O R T S -

The meeting was adjourned at 9.26pm and resumed at 9.34pm.

### 12.1 FINANCE

#### 12.1.1 List of Accounts for Payment

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

#### COMMENTS / DISCUSSION

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

Municipal Fund			
Cheques		Totalling	\$168,481.27
Electronic Fund transfer		Totalling	\$1,581,169.72
Credit Cards		Totalling	\$9,291.27
Payroll		totalling	\$775,222.60
<b>Total</b>			<b><u>\$2,534,164.86</u></b>

- As at 5<sup>th</sup> December 2006, the total outstanding creditors, stands at \$1,241,324.76.

#### RECOMMENDATION

THAT the following City of Albany accounts be passed for payment:-  
Municipal Fund Totalling \$2,534,164.86

*Voting Requirement Simple Majority*

.....

ORDINARY COUNCIL MEETING MINUTES – 19/12/06  
\*\* REFER DISCLAIMER \*\*  
**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.1 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR EVANS**

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

**Municipal Fund Totalling \$2,534,164.86**

**CARRIED 13-0**

**CORPORATE & COMMUNITY SERVICES REPORTS****12.1.2 Financial Activity Statement**

<b>File/Ward</b>	:	FIN 040 (All Wards)
<b>Proposal/Issue</b>	:	N/A
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Senior Accounting Officer (M Brenton)
<b>Disclosure of Interest</b>	:	Nil.
<b>Previous Reference</b>	:	N/A
<b>Summary Recommendation</b>	:	Note Financial Activity Statement
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	N/A

**COMMENT/DISCUSSION**

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

**STATUTORY REQUIREMENTS**

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

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

4. There are no financial implications relating to this item. The Financial Activity Statement is a report only.

**STRATEGIC IMPLICATIONS**

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

Item 12.1.2 continued

**COMMENT/DISCUSSION**

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

**RECOMMENDATION**

THAT Council note the attached Financial Activity Statement.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WILLIAMS  
SECONDED COUNCILLOR JAMIESON**

**THAT Council note the attached Financial Activity Statement.**

**CARRIED 13-0**

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

## FINANCIAL ACTIVITY STATEMENT – NOV 06

	Actual Year to Date 30-Nov-06	Current Budget Year to Date 30-Nov-06	Budget Variance
<b>OPERATING INCOME</b>			
Rates	16,589,066.29	16,467,661	121,405
Grants & Subsidies	1,823,592.26	1,834,406	(10,814)
Contributions. Reimb & Donations	119,872.82	116,607	3,266
Fees & Charges	4,449,116.52	4,185,576	263,541
Interest Earned	398,999.21	411,686	(12,687)
Other Revenue / Income	405,393.84	403,960	1,434
Net Controlled Trust Revenue	(27,445.73)	(27,446)	
	<b>23,758,595.21</b>	<b>23,392,450</b>	<b>366,145</b>
<b>OPERATING EXPENDITURE (excluding depreciation)</b>			
Employee Costs	(4,634,293.29)	(4,577,359)	(56,934)
Utilities	(254,771.90)	(268,109)	13,337
Interest Expenses	(123,141.85)	(118,182)	(4,960)
Contracts & materials	(3,579,804.90)	(3,376,041)	(203,764)
Insurance expenses	(422,573.80)	(395,714)	(26,860)
Other Expenses	(626,629.84)	(593,618)	(33,012)
	<b>(9,641,215.58)</b>	<b>(9,329,023)</b>	<b>(312,193)</b>
<b>CAPITAL INCOME</b>			
Grants & Subsidies	1,297,287.82	1,280,627	16,661
Contributions. Reimb & Donations, Other	44,445.45	44,445	0
Proceeds from sale of assets	1,529,924.94	1,540,000	(10,075)
	<b>2,871,658.21</b>	<b>2,865,072</b>	<b>6,586</b>
<b>CAPITAL EXPENDITURE</b>			
Asset Masterplans	(1,238,413.71)	(1,168,682)	(69,732)
ALAC Redevelopment	(320,105.82)	(320,000)	(106)
Plant Replacement	(1,144,936.05)	(1,145,000)	64
Developers Subdivisions	0.00	0	-
Other Capital	(305,221.45)	(297,977)	(7,244)
	<b>(3,008,677.03)</b>	<b>(2,931,659)</b>	<b>(77,018)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Loan Principal Repayment	(152,382.57)	(153,200)	817
Proceeds from Self Supporting Loans	12,850.51	12,965	(114)
Proceeds from new loans	0.00	0	-
	<b>(139,532.06)</b>	<b>(140,235)</b>	<b>703</b>
<b>OTHER BALANCE SHEET ITEMS</b>			
Change in stock position	325,998.36		
Change in Debtors	(2,200,288.90)		
Change in Creditors	(690,594.23)		
	<b>(2,564,884.77)</b>		
<b>NET CASH FLOW</b>	<b>11,275,943.98</b>		
Opening Cash balance	15,968,783.53		
<b>NET CASH AT BALANCE DATE</b>	<b>27,244,727.51</b>		
<b>Cash Summary</b>			
Municipal Account	15,809,098.65		
Reserve Account	8,543,678.10		
Trust Account	2,891,950.76		
Total Bank / Investments	27,244,727.51		

Item 12.1.2 continued

**Explanation of Variances on Financial Activity Statement – November YTD 2006**

Nil variances of 10% or greater for the month.

**12.1.3 Demographic Survey / Forecast**

<b>File/Ward</b>	: FIN066 (All Wards)
<b>Proposal/Issue</b>	: Proposed demographic survey
<b>Subject Land/Locality</b>	: N/A
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Executive Director Corporate and Community Services (WP Madigan)
<b>Disclosure of Interest</b>	: N/A
<b>Previous Reference</b>	: Item 12.7.4 OCM 21/11/06
<b>Summary Recommendation</b>	: That the proposed demographic survey be deferred for consideration in conjunction with the 2007/08 budget.
<b>Bulletin Attachment</b>	: N/A
<b>Locality Plan</b>	: N/A

**BACKGROUND**

1. At the recent Sea Change Conference in Albany, representatives from the City of Mandurah noted that their municipality had commissioned a demographic survey (of population and age distribution), and had found the results to be invaluable. The City of Mandurah model is available on the internet at [www.id.com.au/mandurah/forecastid](http://www.id.com.au/mandurah/forecastid)
2. The City of Albany Strategic Finance Advisory Committee recommended at its October 2006 meeting that the City consider the commissioning of a detailed demographic survey and forecast for the future.
3. At the OCM of 21 September 2006, Council resolved -

*“THAT Officers investigate the possible scope and cost of a demographic survey of the City and surrounding regional area, and proceed if the project can be completed under existing allocations.”*

**STATUTORY REQUIREMENTS**

4. The Local Government Act, Section 6.8 (1) (a) sets out that a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution (absolute majority required).

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.3 continued

5. Part 4 of the Local Government Act (Functions and General) Regulations Section 11 (1) requires that any project over \$50,000 be put to tender.

**POLICY IMPLICATIONS**

6. Nil

**FINANCIAL IMPLICATIONS**

7. There is no specific budget allocation to undertake a demographic survey.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*A thriving City, Albany's community will enjoy economic growth and outstanding opportunities for our youth through...*

- *excellent community infrastructure and services.*

***Mission Statement:***

*The City of Albany is committed to....*

- *Sustainably Managing Albany's municipal assets,*
- *Delivering excellent community services,*
- *Actively keep abreast of best practice;*
- *Respect the Communities Aspirations and resources.*

***Priority Projects:***

*Nil”*

**COMMENT/DISCUSSION**

9. The Sydney based firm, Informed Decision (ID) undertook the demographic survey on behalf of the City of Mandurah, and has undertaken forecasting work for other high growth local authorities such as Wanneroo and Swan.

10. An indicative quotation for a similar study on behalf of the City and proposed methodology has been obtained from ID as follows:

- Step 1: Profile the area (approx \$25,000)  
Split the area into logical groups (say 10 for Albany) including regional context  
Review census data for 1991, 1996, 2002 and 2006 if available  
Interview key people in City and community
- Step 2: Develop a forecast for 20 years (approx \$30,000)  
Create the forecasts by group  
Assist in reviewing (& disputing if necessary) DPI assumptions
- Step 3: Annual Review (approx \$5,000 per year)

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.3 continued

11. ID Consultants estimate that a forecast could be delivered in ten (10) weeks. The availability to commence work depends on their current workload. At present there would be a 2 - 3 month delay.

**RECOMMENDATION**

THAT the proposed demographic survey be deferred for consideration in conjunction with the City's 2007/08 budget.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR WATERMAN**

**THAT the proposed demographic survey be deferred for consideration in conjunction with the City's 2007/08 budget.**

**CARRIED 13-0**

**12.1.4 Funding – Albany Cemetery Board**

<b>File/Ward</b>	:	<b>REL141 (All Wards)</b>
<b>Proposal/Issue</b>	:	Proposed funding for Allambie Park Cemetery & Crematorium and Albany Memorial Park Cemetery
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Executive Director Corporate and Community Services (WP Madigan).
<b>Disclosure of Interest</b>	:	N/A
<b>Previous Reference</b>	:	<b>Nil</b>
<b>Summary Recommendation</b>	:	That Council support the establishment of a Reserve Account for the purpose of funding future Capital Works.
<b>Bulletin Attachment</b>	:	N/A
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. The Albany Cemetery Board has submitted a request to Council for ongoing funding assistance to meet forward, strategic capital requirements as set out in its Business Plan.
2. In the Albany Cemetery Board submission, The Chairman of the Board has stated that;

*“An immediate need for up to \$200,00 has been identified to upgrade the funeral chapel and surrounding area; undertake essential grounds maintenance; upgrade plant and equipment including the need for a grave digging machine and refractories for the Cremator every 600 to 700 cremations.”*

3. He adds that;

*“Further injections of funds are required over the next years, to undertake essential building work to meet the ever increasing public demand for modern service facilities and improved road works.”*

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.4 continued

4. The following areas have been identified as requiring immediate upgrade:
  - Cemetery Chapel upgrade
  - Chapel Air Conditioning
  - Replacement Aged Mower
  - Purchase Mechanical Grave Digger
  - Replacement aged Chapel seating
  - Chapel Audiovisual
  - Covered Mourners' meeting area
5. Some of these requirements have been satisfied from cash flow surpluses over the past 18 months and the Chairman has stated that the Board suffers from a tight cash flow, is under capitalised and needs to engage in capital funding to meet essential infrastructure and plant upgrades.
6. The Board has indicated it has exhausted all funding avenues from within normal Government channels.

**STATUTORY REQUIREMENTS**

7. The Cemeteries Act, 1986, provides that;

*“Where an order is made or is deemed to have been made under section 5 vesting the care, control and management of a cemetery in a local government, the local government shall, subject to this Act and to any necessary modifications, perform and be subject to the duties imposed on Boards under this Act and may exercise the powers conferred on Boards under this Act; and references in this Act to a Board or Boards shall be construed accordingly in relation to such a local government as the case may require. (Section 6).”*
8. Section 4 of the Albany Public Cemeteries Subsidies Act 1952 sets out that;
  - (1) For the purposes of this Act the local governments are each hereby authorised to make, levy and impose a special **rate to be known as a “Cemetery Rate”** upon all rateable land within their respective districts or upon all rateable land within a prescribed portion of their respective districts.
  - (2) Such **rate** may be levied upon either the unimproved capital value or the annual value and shall not exceed, in any one year, five twenty-fourths of a cent in the dollar on the unimproved capital value or five-sixths of a cent in the dollar on the annual value.
  - (3) Such **rate shall be in addition to any rate** imposed under the *Local Government Act 1995* and shall not affect any rating limit imposed by that Act.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

10. No specific allocation has been included in the 2006/2007 budget for this purpose.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.4 continued

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

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

***Mission Statement:***

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

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

12. It is acknowledged that The Albany Cemetery Board provides a much needed community service through the operation of the Allambie Park Cemetery and Crematorium, and the Albany Memorial Park Cemetery.
13. It is also acknowledged that if the volunteer support of the Board wanes in the years to come, it is important that the Council is not left in a position of having to take over the organization and its assets in a poor state of repair.
14. It is therefore proposed that Council create a Reserve Account for future capital works for the Allambie Park Cemetery and Crematorium, and the Albany Memorial Park Cemetery for future capital works as identified in the Business Plan.
15. It is proposed that Council allocate an amount of \$25,000 to this Reserve Account towards immediate works and thereafter allocates an amount of \$50,000 per annum indexed in perpetuity that is available upon written request from the Board to fund only major capital works whether this be new assets or upgrades as identified in the Business Plan.
16. In relation to the proposed mechanical grave digging machine, it is proposed to withhold the Council back hoe which is due to be traded in August 2007 and which would be more than adequate to meet the needs of the Albany Cemetery Board and place this at the disposal of the Albany Cemetery Board. This machine would then be changed over with each subsequent trade-in (approximately 5 years). The Albany Cemetery Board would be responsible for the maintenance, with the City undertaking this function and the City would provide initial training on the operation of the machine.
17. It is proposed that the City also enter into a Memorandum of Understanding with the Albany Cemetery Boards that it is responsible for all operational aspects of the facility, with revenues being maximised through appropriate fees and charges

**CORPORATE & COMMUNITY SERVICES REPORTS**

**Item 12.1.4 continued**

RECOMMENDATION

THAT Council

- i) establish a Reserve Account entitled "Cemetery Capital Works Reserve Account";
- ii) the purpose of such Reserve Account be for undertaking future capital works at the Allambie Park Cemetery and Crematorium, and the Albany Memorial Park Cemetery as identified in the Business Plan;
- iii) an initial amount of \$25,000 be allocated to this Reserve for immediate necessary capital works;
- iv) an amount of \$50,000 per annum, indexed to CPI in perpetuity, be allocated to the Reserve Account, to be available upon written request from the Board to fund only major capital works whether this be new assets or upgrades as identified in the Business Plan;
- v) agree to withhold the Council back-hoe which is due to be traded in August 2007, and place this at the disposal of the Albany Cemetery Board, with such machine being changed over with each subsequent trade in (approximately 5 years); and
- vi) enter into a Memorandum of Understanding with the Albany Cemetery Board that it is responsible for all operational aspects of the facility, with revenue being maximised through appropriate fees and charges

*Voting Requirement Absolute Majority*

.....

Item 12.1.4 continued

**MOVED COUNCILLOR MARSHALL  
SECONDED COUNCILLOR PAVER**

**THAT Council**

- i) establish a Reserve Account entitled “Cemetery Capital Works Reserve Account”;**
- ii) the purpose of such Reserve Account be for undertaking future capital works at the Allambie Park Cemetery and Crematorium, and the Albany Memorial Park Cemetery as identified in the Business Plan;**
- iii) an initial amount of \$25,000 be allocated to this Reserve for immediate necessary capital works;**
- iv) an amount of \$50,000 per annum, indexed to CPI in perpetuity, be allocated to the Reserve Account, to be available upon written request from the Board to fund only major capital works whether this be new assets or upgrades as identified in the Business Plan;**
- v) agree to withhold the Council back-hoe which is due to be traded in August 2007, and place this at the disposal of the Albany Cemetery Board, with such machine being changed over with each subsequent trade in (approximately 5 years); and**
- vi) enter into a Memorandum of Understanding with the Albany Cemetery Board that it is responsible for all operational aspects of the facility, with revenue being maximised through appropriate fees and charges**

**CARRIED 13-0  
ABSOLUTE MAJORITY**

**12.2 ADMINISTRATION**

Nil

**12.3 LIBRARY SERVICES**

Nil

**12.4 DAY CARE CENTRE**

Nil

**12.5 TOWN HALL**

Nil

**CORPORATE & COMMUNITY SERVICES REPORTS****12.6 RECREATION SERVICES****12.6.1 Albany Leisure and Aquatic Centre Upgrade – Construction**

<b>File/Ward</b>	: CO6028 & MAN 167 (All Wards)
<b>Proposal/Issue</b>	: Albany Leisure and Aquatic Centre (ALAC) Upgrade
<b>Subject Land/Locality</b>	: Albany Leisure and Aquatic Centre (Barker Rd.)
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Executive Director Corporate and Community Services (WP. Madigan) Project Liaison Officer (W. Bergsma)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 17/06/03 - Item 12.2 OCM 07/08/03 - Item 12.2 OCM 12/12/03 - Item 12.2 OCM 15/06/04 - Item 12.6 OCM 15/02/05 - Item 12.6 OCM 19/04/05 - Item 12.6 OCM 16/08/05 - Item 12.6 OCM 20/12/05 - Item 12.6 OCM 20/06/06 - Item 12.6 OCM 17/10/06 - Item 12.6
<b>Summary Recommendation</b>	: That Council approve the appointment of the recommended Tenderer for construction of the Albany Leisure and Aquatic Centre upgrade
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	: N/A

**BACKGROUND**

1. At the OCM 20<sup>th</sup> December 2005 Council awarded the contract for Supervising Architectural Services for the upgrade of the Albany Leisure and Aquatic Centre in Barker Road. This Contract was awarded to Donovan Payne Architects.
2. The Architects prepared a complete set of detailed Design Drawings based on the initial Design Brief, utilising extensive public feedback from consultation to date, and following extensive consultation with ALAC Management & Staff, the City of Albany Staff and all of the specialist sub-consultants engaged with the project.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

3. At the OCM 17<sup>th</sup> October 2006 Council adopted the Design Drawings submitted by Donovan Payne Architects for the upgrade of the Albany Leisure and Aquatic Centre, to be used as the basis for inviting tenders for construction of the project.

**STATUTORY REQUIREMENTS**

4. Part 4 of the Local Government Act (Functions and General) Regulations Section 11 (1) requires that any project over \$50,000 be put to tender.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

6. At the OCM 15<sup>th</sup> August 2006 Council approved the funding proposal for the ALAC upgrade of \$14,267,000.
7. As per Local Government (Functions and General) Regulations 1996 acceptance of tender is subject to council determination.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

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

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

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

- *Excellent community infrastructure and services.*

***Mission Statement***

*The City of Albany is committed to...*

- *Sustainably Managing Albany's municipal assets,*
- *Delivering excellent community services.*
- *Actively keep abreast of best practice;*
- *Respect the Communities aspirations and resources.*

***Priority Projects***

*City Facilities Project 3 - Albany Leisure and Aquatic Centre.”*

**COMMENT/DISCUSSION**

9. Tenders were issued for the Construction of the Albany Leisure and Aquatic Centre Upgrade.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

10. The invitation was advertised in the West Australian on Wednesday the 8<sup>th</sup> November 2006 and Saturday the 11<sup>th</sup> November 2006 and in the Albany Advertiser on Thursday 9<sup>th</sup> November 2006 with the tender period closing on 13<sup>th</sup> December 2006.
11. Tenders for Contract C06028 are to be evaluated by a panel consisting of the City of Albany Executive Director for Corporate and Community Services Peter Madigan, Kim Donovan of Donovan Payne Architects, and Trevor Sanders of Ralph Beattie Bosworth Quantity Surveyors, and a subsequent report and recommendation on the appointment of the successful tenderer will be circulated following the evaluation process.
12. Tenders received will be evaluated according to the following criteria:

**Qualitative Criteria**

<b>Description of Qualitative Criteria</b>		<b>Weighting</b>
(a)	Demonstrated competence and experience in completing similar projects.	<b>20%</b>
(b)	Skills and Experience of the Designated Builder	<b>20%</b>
(c)	Tenderers Resources	<b>10%</b>
(d)	Proposed project administration	<b>10%</b>
(e)	Price	<b>40%</b>
<b>TOTAL</b>		<b>100%</b>

RECOMMENDATION

THAT the City of Albany accepts the tender of ( ) and enters into a formal contract for the specified services.

*Voting Requirement Simple Majority*

ADDENDUM

13. At the close of the tender period, only one tender was received, from Wauters Enterprises.
14. This tender was evaluated by a panel consisting of the City of Albany Executive Director for Corporate and Community Services Peter Madigan, Kim Donovan of Donovan Payne Architects, and Trevor Sanders of Ralph Beattie Bosworth Quantity Surveyors, utilising the following criteria:

**Qualitative Criteria**

<b>Description of Qualitative Criteria</b>		<b>Weighting</b>
(a)	Demonstrated competence and experience in completing similar projects.	<b>20%</b>
(b)	Skills and Experience of the Designated Builder	<b>20%</b>
(c)	Tenderers Resources	<b>10%</b>
(d)	Proposed project administration	<b>10%</b>
(e)	Price	<b>40%</b>
<b>TOTAL</b>		<b>100%</b>

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

15. The average weighted score for Wauters Enterprises was 660.1.
16. Wauters Enterprises tender included the following nominated major sub contractors for the development, all of whom are well experienced in their particular field:

J & S Castlehow Electrical Services, Mechanical Project Management, Lamac Commercial Plumbing and AVP Constructions (Pool installations and water filtration subcontractor).

17. The tender price for the building construction was \$14,087,370 (including GST). The net cost to Council (excluding GST) would be \$12,806,700. A contingency of \$400,000 (excluding GST) is included in the tender price.
18. The total projected cost for the redevelopment, based on the tendered price is:

Building Construction	\$12,806,700
<u>Provisional Sums</u>	
Furniture & Fittings	\$250,000
Car Park Additions	\$200,000
Landscaping	\$100,000
Public Art	\$110,000
Professional Fees	<u>\$800,000</u>
 Total Cost	 \$14,266,700

19. The total funding for the project, as adopted by Council in August 2006 was \$14,267,000.
20. Included in this total amount is the cost for the Health & Fitness Centre, comprising a gymnasium & aerobics/function room.
21. Should Council decide to delete this component from the development, the saving in capital costs would be \$910,000 (excluding GST).
22. By way of projected revenues from the inclusion of a Council operated Health & Fitness Centre, the Business Plan has included recurrent revenue and cost projections in 2006/07 dollars for the Health & Fitness Centre as:

	<b>Revenue</b>	<b>Expenditure</b>	<b>Net Surplus</b>
<b>First full year</b>	382,900	300,930	81,970
<b>Second year</b>	488,480	297,930	190,550
<b>Third year</b>	565,710	300,330	265,380

23. Including a debt servicing component of \$64,000 pa the estimated net surpluses would be \$17,970, \$126,550 & \$201,380 respectively. The reduction in anticipated net revenues would be reflected as increased operational costs for the Centre.
24. Should Council determine to build the Health & Fitness Centre at a later time, the estimated costs would be in the vicinity of \$1.5 million, as shown in the Business Plan, taking into account the reduced economics of scale which would be achieved by including it in the overall development.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

25. It is considered the Health & Fitness Centre should be included in the overall redevelopment for the following:
- All the components in the redevelopment have been the subject of extensive public consultation and agreement. In fact, one private gymnasium operator, Curves, actively supports its inclusion;
  - A gymnasium with 250 members is currently in place in the existing establishment;
  - A robust Business Plan for the Health & Fitness Centre has been prepared and indicates:
    - a) There is an ideal opportunity to “grow the market”, with current participation rates for Albany being 5.4% against a national average of 8% - 12%. Of the seven additional region areas surveyed, Albany ranked as the third lowest in participation rates, with the highest participation rate being 8.1%;
    - b) For the proposed Health & Fitness to reach break even membership at the end of year 1, with full debt servicing, a participation rate of 6.3% would need to be achieved;
    - c) The increase in participation rates would not be at the expense of existing private operations, where the Business Plan indicates membership for these Centres would continue to increase.
26. Council’s architect, Kim Donovan of Donovan Payne Architects has reported that over the last 8 years, the following aquatic centres have been constructed/upgraded, and all incorporate gymnasium/aerobic and function room facilities:
- Riverton Aquatic – Canning
  - Turry Tyzack Aquatic – Stirling
  - Melville Aquatic
  - Rockingham ‘Jetty’
  - Somerset – Victoria Park
  - Bayswater ‘Waves’
  - Belmont ‘Oasis’
  - Craigie Aquatic & Leisure
  - Esperance Aquatic
  - Leschenault – Harvey/Australind
  - Bunbury Aquatic & Sports
  - Joondalup ‘Arena’
27. Kim Donovan further reports that this list only includes projects in WA, and does not include the many centres completed elsewhere in Australia, which reflect the same philosophy.
28. By way of previous considerations on the inclusion of a Health & Fitness Centre within the redevelopment project, at the OCM 16/12/2003 Council unanimously resolved:

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

*“That in the event that an upgraded gymnasium is operated as a business unit of the Albany Leisure and Aquatic Centre, it complies fully with National Competition Policy to ensure that it does not compete unfairly with local business.”*

and again at the OCM 18/10/05 as follows:

*“THAT Council confirm the inclusion of the recommended Health and Fitness (Gym and Aerobics) component as per the ALAC Upgrade stage 1 concept plan and that the construction cost of \$646,000 be funded through a self supporting loan to be repaid by the business unit.” (Motion Carried 13/1)*

**AMENDED RECOMMENDATION**

THAT Council award the tender C06028 to Wauters Enterprises for the Redevelopment of the Albany Leisure and Aquatic Centre at a net cost to Council of \$14,087,370 (including GST).

*Voting Requirement Simple Majority*

.....

**ALTERNATE MOTION (Councillor Wellington)**

THAT Council award tender C06028 for the redevelopment of the Albany Leisure and Aquatic Centre to Wauters Enterprises subject to the health and fitness centre component of the centre being excluded with the net cost to Council being \$13,086,370 (including GST).

*Voting Requirement Simple Majority*

.....

Reason:

- The health and fitness centre proposal exposes Council to enormous commercial risk and notwithstanding national competition policy issues is grossly unfair on local health and fitness centre operators. The \$1 million saved could be much better used elsewhere in the City.

The Chief Executive Officer noted that the alternate motion was contrary to a decision of the Council made at Item 12.6.3 at its Ordinary Council meeting dated 18 October 2005 and it was therefore necessary for a rescission motion to rescind the decision at Item 12.6.3, dated 18 October 2005.

The Chief Executive Officer further noted that Councillor Wellington had provided a written motion with written support from five (5) elected members, inclusive of the mover, in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996, to rescind the decision at Item 12.6.3 dated 18 October 2005.

Councillors Wellington, Waterman, Emery, Williams and Bojcun provided written support to the rescission motion.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.6.1 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR EMERY**

THAT the decision at Item 12.6.3 Proposed Gym upgrade - Albany Leisure and Aquatic Centre – Upgrade Stage 1, made at the 18 October 2005 Ordinary Council meeting;

*‘THAT Council confirm the inclusion of the recommended Health and Fitness (Gym and Aerobics) component as per the ALAC Upgrade stage 1 Concept plan and that the construction cost of \$646,000 be funded through a self supporting loan to be repaid by the business unit.’*

be rescinded.

*Absolute Majority Vote Required*

**FORESHADOWED MOTION**

Councillor Paver foreshadowed the following motion:

THAT Item 12.6.1 Albany Leisure and Aquatic Centre Upgrade – Construction, lay on the table for one month to enable further consideration of the issues surrounding the inclusion, or otherwise, of a health and fitness centre within the re-development of the Albany Leisure and Aquatic Centre.

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR EMERY**

**THAT the decision at Item 12.6.3 Proposed Gym upgrade - Albany Leisure and Aquatic Centre – Upgrade Stage 1, made at the 18 October 2005 Ordinary Council meeting;**

*‘THAT Council confirm the inclusion of the recommended Health and Fitness (Gym and Aerobics) component as per the ALAC Upgrade stage 1 Concept plan and that the construction cost of \$646,000 be funded through a self supporting loan to be repaid by the business unit.’*

**be rescinded.**

**CARRIED 11-2  
ABSOLUTE MAJORITY**

Item 12.6.1 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR WILLIAMS**

**THAT Council award tender C06028 for the redevelopment of the Albany Leisure and Aquatic Centre to Wauters Enterprises subject to the health and fitness centre component of the centre being excluded with the net cost to Council being \$13,086,370 (including GST).**

**CARRIED 11-2**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.7 CORPORATE & COMMUNITY SERVICES COMMITTEE**

**12.7.1 Albany Senior Advisory Committee meeting minutes – 16<sup>th</sup> November 2006**

- File/Ward** : MAN 131 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Community Development Officer - Senior (S Richardson-Newton)
- Summary Recommendation** : That the Minutes of Albany Senior Advisory Committee held on 16th November 2006 be adopted.

RECOMMENDATION

THAT the minutes of Albany Senior Advisory Committee meeting of 16th November 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin), and the following representatives be formally appointed to the Committee, brought about by the resignations of Cyril Skinner and Kim Buttfield:

- National Seniors Association – Margaret James
- General Community Representative – Bree Forsyth

*Voting Requirement Absolute Majority*

**MOVED COUNCILLOR BOJCUN  
SECONDED COUNCILLOR EVANS**

**THAT the minutes of Albany Senior Advisory Committee meeting of 16th November 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin), and the following representatives be formally appointed to the Committee, brought about by the resignations of Cyril Skinner and Kim Buttfield:**

- **National Seniors Association – Margaret James**
- **General Community Representative – Bree Forsyth**

**CARRIED 13-0  
ABSOLUTE MAJORITY**

**12.7.2 Albany Arts Advisory Committee meeting minutes – 8th November 2006**

- File/Ward** : MAN 116 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Arts Advisory Committee held on 8th November 2006 be adopted.

RECOMMENDATION

THAT the minutes of Albany Arts Advisory Committee meeting of 8th November 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR JAMIESON**

**THAT the minutes of Albany Arts Advisory Committee meeting of 8th November 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin).**

**CARRIED 13-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.7.3 Internal Review Committee meeting minutes – 6<sup>th</sup> November 2006**

<b>File/Ward</b>	:	MAN 180 (All Wards)
<b>Proposal/Issue</b>	:	Internal Review Committee meeting minutes for Council consideration.
<b>Reporting Officer(s)</b>	:	Executive Director Corporate & Community Services (WP Madigan)
<b>Summary Recommendation</b>	:	That the Minutes of Internal Review Committee held on 6 <sup>th</sup> November 2006 be adopted.

Item 12.7.3 is a CONFIDENTIAL matter in accordance with Section 5.23 (2)(f) of the Local Government Act 1995 – impairment of investigation. The report and recommendation(s) were issued under separate, confidential cover and considered behind closed doors at Item 19.0.

Below is the decision of the Council only.

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WELLINGTON**

**THAT**

- i) The minutes of Internal Review Committee held on 6<sup>th</sup> November 2006 be received (copy attached) and the following recommendation adopted:-**
- ii) Following receipt of a report from an independent Acoustic Engineer on the noise levels alleged to affect the complainants enjoyment of their property, the City of Albany will take the appropriate steps to enforce compliance with the noise regulations in the event that the report establishes non-compliance.**

**CARRIED 13-0**

**12.8 COUNCIL REPRESENTATION**

Nil

# **Works & Services**

## **REPORTS**

**WORKS & SERVICES REPORTS**

**- R E P O R T S -**

**13.1 CITY ASSETS - ASSET MANAGEMENT**

Nil

**13.2 CITY SERVICES – WASTE MANAGEMENT**

Nil

**13.3 CITY SERVICES – AIRPORT MANAGEMENT**

Nil

**WORKS & SERVICES REPORTS****13.4 CITY SERVICES – CONTRACT MANAGEMENT****13.4.1 Contract C06041 Upgrade Emu Point Swimming Facility**

<b>File/Ward</b>	:	C06041 (Breaksea Ward)
<b>Proposal/Issue</b>	:	Refurbishment of Emu Point Swimming Facility
<b>Subject Land/Locality</b>	:	N/AI
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Executive Director of Works & Services (L Hewer)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council not award the tender for this project.
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	Nil

**BACKGROUND**

1. Tenders were called for the design and construction of Emu Point Swimming Facility for 2006/2007.
2. A request for tenders was published in the Western Australian newspaper on 11<sup>th</sup> October 2006, and in the Albany Advertiser on 12<sup>th</sup> & 13<sup>th</sup> October 2006.
3. The Tender documents included Tender Evaluation Criteria, using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall points score for each Tender. The criteria used for this Tender is documented below.

<b>Criteria</b>	<b>Weight</b>
Cost	40
Relevant Skills & Experience	20
Safety Management	15
Reliability of Tenderer	15
Other Considerations	10
<b>Total</b>	<b>100</b>

4. Tenderers were provided with Technical Specifications provided by Opus International Consultants extensively detailing the work required.
5. Tenderers were requested to supply a Lump Sum Tender Price, supported by a "Per Day" Schedule of Rates for the Assessment of Claims and Variations only.

**WORKS & SERVICES REPORTS**

Item 13.4.1 continued

**STATUTORY REQUIREMENTS**

- 6. Regulation 11 of the Local Government (Functions and General) Regulations 1996 state that tenders must be called if the consideration under the contract is, or is expected to be, more, or worth more, than \$50,000.
- 7. Regulation 18 of the Local Government (Functions and General) Regulations 1996 outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
- 8. Regulation 19 requires Council to advise each tenderer in writing the result of Council's decision.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

- 10. \$250,000 has been allocated within the 2006/2007 budget.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*A Healthy City: Albany’s community will enjoy healthy, fulfilling lifestyles and a flourishing natural environment through diverse and affordable cultural, recreational and sporting opportunities.*

***Mission Statement:***

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

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

- 12. A total of 5 specifications were issued, with one being received at Close of Tender, 2pm Wednesday 8<sup>th</sup> November 2006.
- 13. The following table summarises the submission received:

<b>Tenderer</b>	<b>Total Lump Sum Price For Works</b>
Engineered Water Systems	\$803,963

- 14. After evaluation of the tender submission received, it was concluded the Tender for Engineered Water Systems was above the budgeted value, it would be preferable not to accept the tender.
- 15. Council Staff are currently looking at alternatives to maintain the integrity of the existing facility within budget constraints.

**WORKS & SERVICES REPORTS**

Item 13.4.1 continued

RECOMMENDATION

THAT Council does not award a tender for the construction of the Emu Point Swimming Facility.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WELLINGTON**

**THAT Council does not award a tender for the construction of the Emu Point Swimming Facility.**

**CARRIED 13-0**

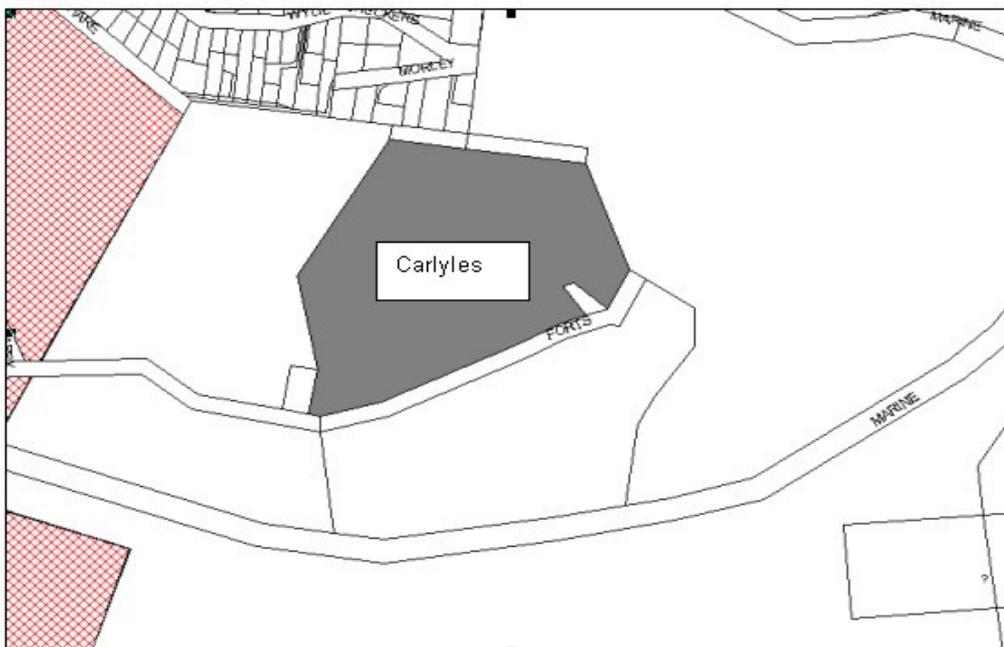
**WORKS & SERVICES REPORTS**

Councillor Williams declared a financial interest in Item 13.5.1 and left the meeting at 10.09pm. The nature of Councillor William’s interest is that she is a marriage celebrant and conducts wedding ceremonies at that venue.

**13.5 CITY SERVICES – PROPERTY MANAGEMENT**

**13.5.1 Building Extension - Carlyles Function Centre**

- File/Ward** : PRO310 (Frederickstown Ward)
- Proposal/Issue** : To allow for extensions to be built at Carlyles Function Centre, Mt Adelaide to cater for a dance floor
- Subject Land/Locality** : Lot 1347, ‘C’ Class Reserve 38226 on Plan 7800 Crown Land Title Volume 3121 Folio 583
- Proponent** : Proprietor – Lisa Scanlon
- Owner** : Crown Land with Management Order to City of Albany.
- Reporting Officer(s)** : Manager City Services (I Neil)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : To allow the Proponent to build onto the existing structure
- Bulletin Attachment** : Nil
- Locality Plan** :



**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**BACKGROUND**

1. On 18<sup>th</sup> April 2006 a meeting was held at Carlyles function centre between Mrs Lisa Scanlon, Proprietor of Carlyles, City of Albany’s Manager City Services, Ian Neil and City of Albany Property Officer Helen Tasker. At the meeting Mrs Scanlon outlined in concept, a plan for building onto the existing al fresco structure of Carlyles to cater for a dance floor. Mrs Scanlon advised that a large number of her bookings come from wedding parties and to date she has lost business due to the lack of space available for patrons to dance. Mrs Scanlon advised that the current floor plan became difficult to manage and dangerous to staff and guests if dancing was carried out in the same area where food was being served. Mrs Scanlon’s aim was to create an area specifically to house live musicians with an area set aside for dancing.
2. Carlyles function centre is located on Reserve 38226 part of the Historic Forts. The original building was a residence for Army staff based at the forts, and is of historic interest. The building was renovated many years ago and developed into a restaurant and function centre. At about that time, an al fresco area was added to the front of the building to allow for greater capacity and to capture the ambience of the location. The proposed extension will attach to the current al fresco area and not impact upon the original building.
3. In 2000 a lease of the building was developed between the City of Albany and Thomas Christopher and Sharon Elizabeth Bower with an initial term of 5 years from 1<sup>st</sup> July 2000 to 30<sup>th</sup> June 2005 and an option of a further 5-year term.
4. In October 2002, the lease was assigned to Mrs Scanlon, who chose to take up the further option when it fell due. This option remains in place until 30<sup>th</sup> June 2010 and Mrs Scanlon has indicated a keenness to continue her business from that location and negotiate a new lease at that time if possible. Under the current Management Order from the Department of Land Information, the City has the power to lease for a period up to 21 years.

**STATUTORY REQUIREMENTS**

5. The Local Government (Functions & General) Regulations 1996, Part 6 – Miscellaneous -  
  
*30. (2) A disposition of land is an exempt disposition if –*  
*(a) the land is disposed of to an owner of adjoining land (in this paragraph called “the transferee”) and –*  
  
*(i) its market value is less than \$5,000; and*  
  
*(ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
6. This exemption allows for an increase to the lease area without the necessity to advertise through the media as is normally required for disposal of property.

**POLICY IMPLICATIONS**

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

**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**FINANCIAL IMPLICATIONS**

8. Nil cost to Council. All costs involved with this project to be covered by the Proponent.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*Albany’s community will enjoy economic growth and outstanding opportunities for our youth through innovative development complementing Albany’s unique character, natural environment and heritage.*

***Mission Statement:***

*At all times we will respect the Community’s aspirations and resources.*

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

10. Mrs Scanlon has employed David Heaver, Architect of Howard & Heaver Architects to provide plans for the proposed extension (see plans attached). Mr Heaver has contacted WA Heritage Commission with regard to the historic nature of the location and they have responded with preliminary approval for this extension due to the fact that it will not impact on the original historic building.
11. The Proponent is aware that an increase to the leased area will attract a higher lease rental.
12. Current rent as per Market Valuation of 20<sup>th</sup> May 2004 provided by Albany Valuation Services stands at \$55.00 per square metre. Verbal enquiry from Albany Valuation Services indicated this value would change little over the next five years, consequently rental increase would reflect the increase in floor area.
13. It is felt the City should support such a proposal as it increases the functionality of the site whilst not affecting its heritage value.
14. It is suggested that on the completion of the building, a survey be carried out to determine the exact size of the leased area, a new valuation carried out and these details used to form a variation to the existing lease and the lease updated accordingly.

**WORKS & SERVICES REPORTS**

Item 13.5.1 continued

**RECOMMENDATION**

THAT Council allow the Proponent to seek building approval for the proposed extension according to the plans submitted, on the proviso that;

- i) all building approvals and regulations are met; and
- ii) Ministerial approval is granted; and
- iii) approval is given by the WA Heritage Commission; and
- iv) on completion of the building, a new survey and valuation be carried out and a variation to the lease be developed to reflect the new area and rental; and
- v) all fees, charges and costs, whether of a building, legal or any other nature are covered by the Proponent; and
- vi) the City of Albany's Common Seal be attached to any variation to the lease document.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR MARSHALL**

**THAT Council allow the Proponent to seek building approval for the proposed extension according to the plans submitted, on the proviso that;**

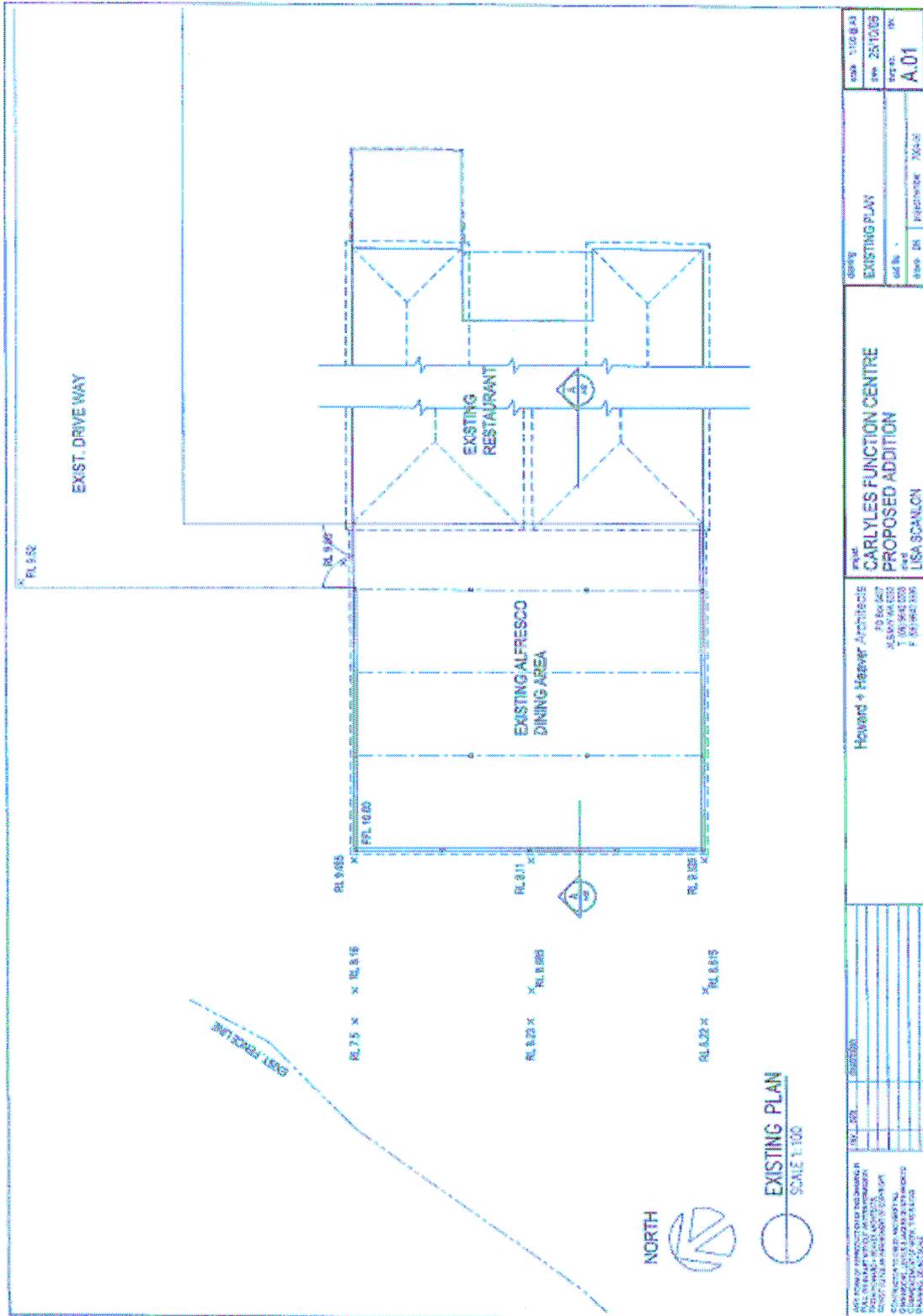
- i) all building approvals and regulations are met; and**
- ii) Ministerial approval is granted; and**
- iii) approval is given by the WA Heritage Commission; and**
- iv) on completion of the building, a new survey and valuation be carried out and a variation to the lease be developed to reflect the new area and rental; and**
- v) all fees, charges and costs, whether of a building, legal or any other nature are covered by the Proponent; and**
- vi) the City of Albany's Common Seal be attached to any variation to the lease document.**

**CARRIED 12-0**

Councillor Williams returned to the meeting at 10.10pm after consideration of Item 13.5.1

ORDINARY COUNCIL MEETING MINUTES –19/12/06  
 \*\* REFER DISCLAIMER \*\*  
**WORKS & SERVICES REPORTS**

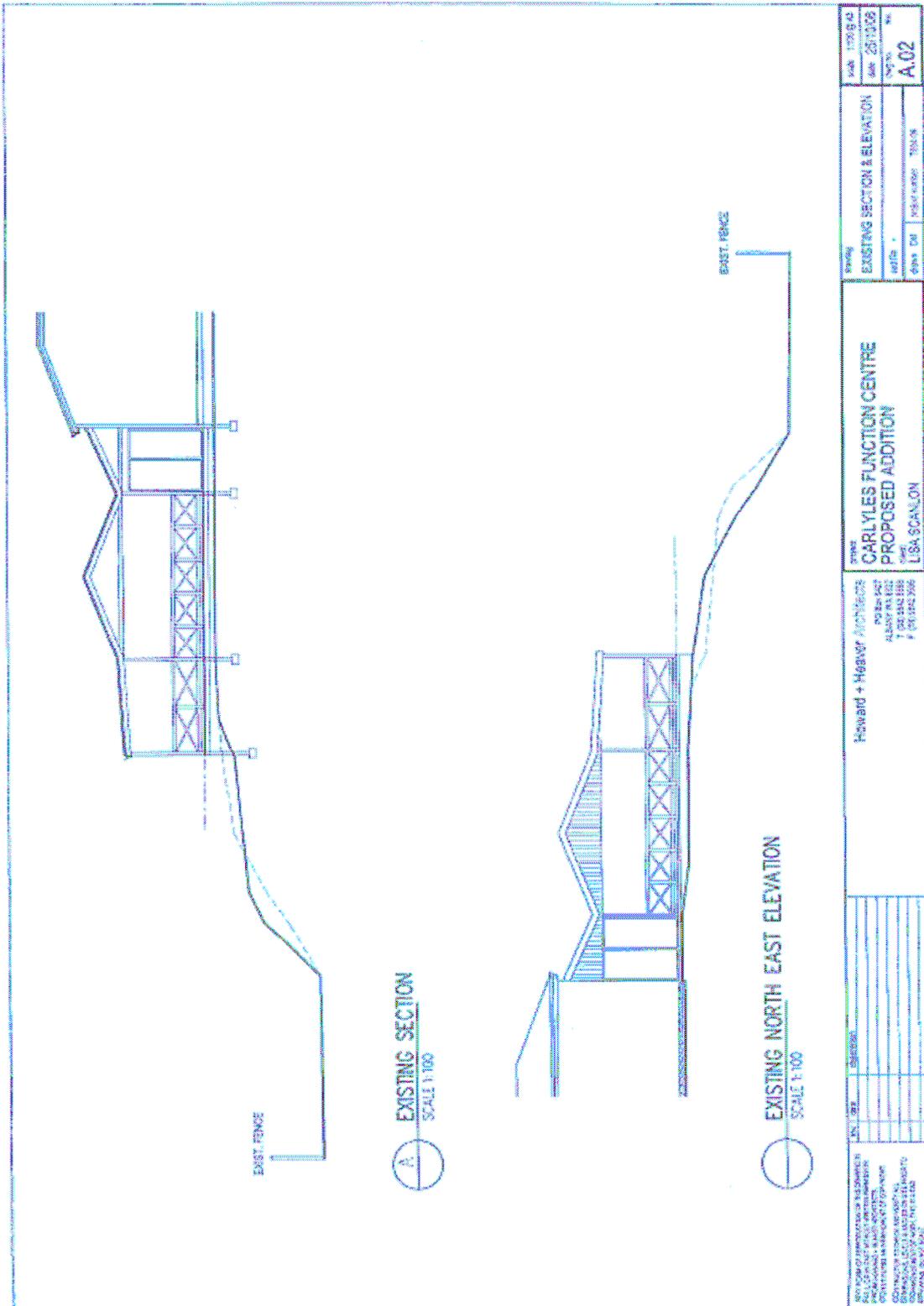
Item 13.5.1 continued



HOWARD + HEAVER ARCHITECTS ARCHITECTS 10 BAYLEY AUCKLAND T 09 540 500 F 09 540 500	PROJECT <b>CARLYLES FUNCTION CENTRE          PROPOSED ADDITION</b> ARCHITECT <b>LISA SCALON</b>	SHEET NO. 251205 DATE 25/12/05 SCALE A.01
---	--	---

ORDINARY COUNCIL MEETING MINUTES –19/12/06  
 \*\* REFER DISCLAIMER \*\*  
 WORKS & SERVICES REPORTS

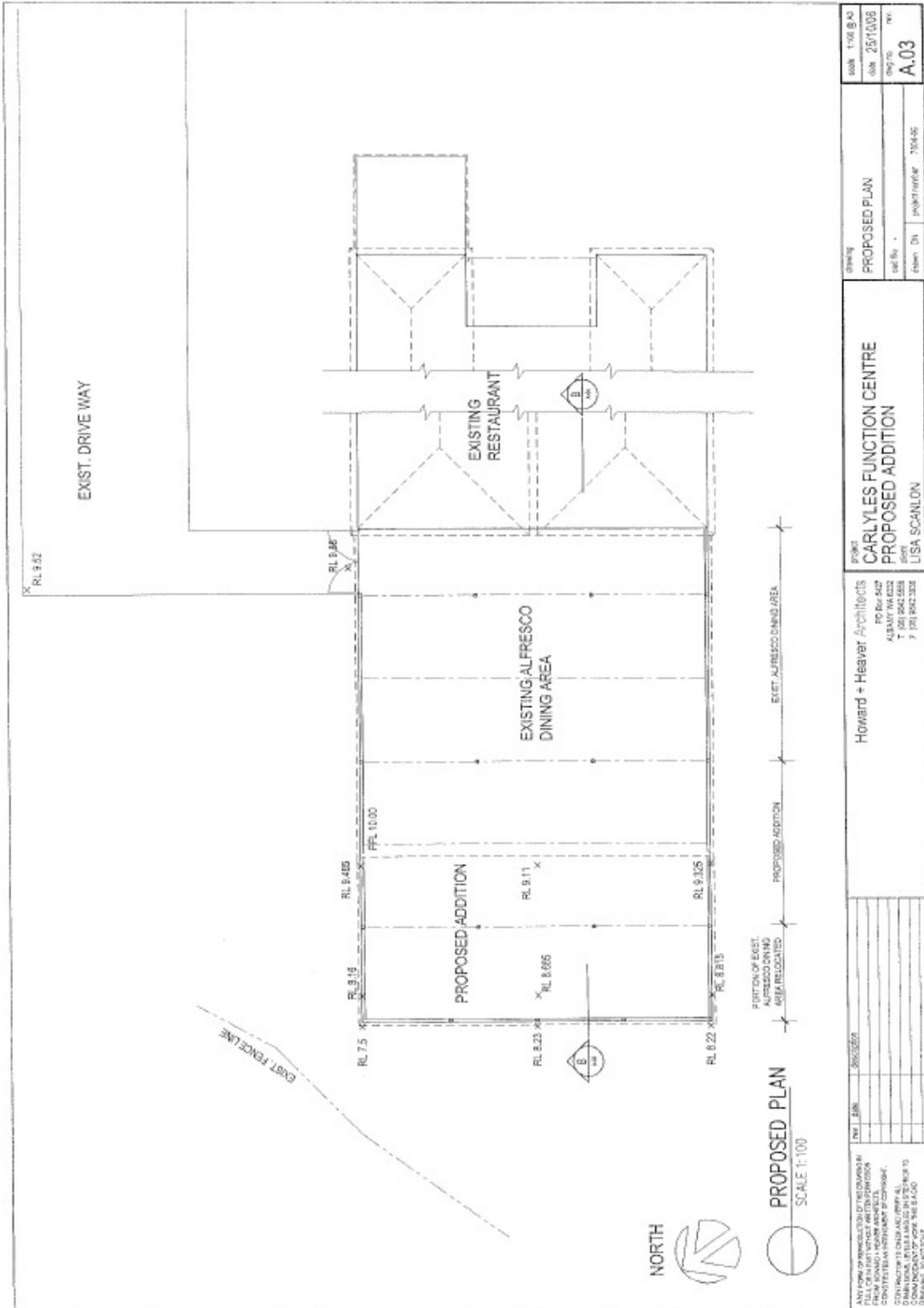
Item 13.5.1 continued



<small>ANY WORK OF IMPROVEMENT OR REPAIRS TO BE UNDERTAKEN SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE BUILDING ACT 1984 AND THE BUILDING REGULATIONS 1984.</small> <small>CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES PRIOR TO COMMENCEMENT OF WORK.</small> <small>DESIGNED BY: HAWARD + HAWARD ARCHITECTS</small> <small>DRAWN BY: J. SCANLON</small> <small>CHECKED BY: J. SCANLON</small> <small>DATE: 25/10/06</small>	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>
	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>	<small>DATE:</small> <small>SCALE:</small> <small>PROJECT:</small> <small>CLIENT:</small>

ORDINARY COUNCIL MEETING MINUTES –19/12/06  
 \*\* REFER DISCLAIMER \*\*  
 WORKS & SERVICES REPORTS

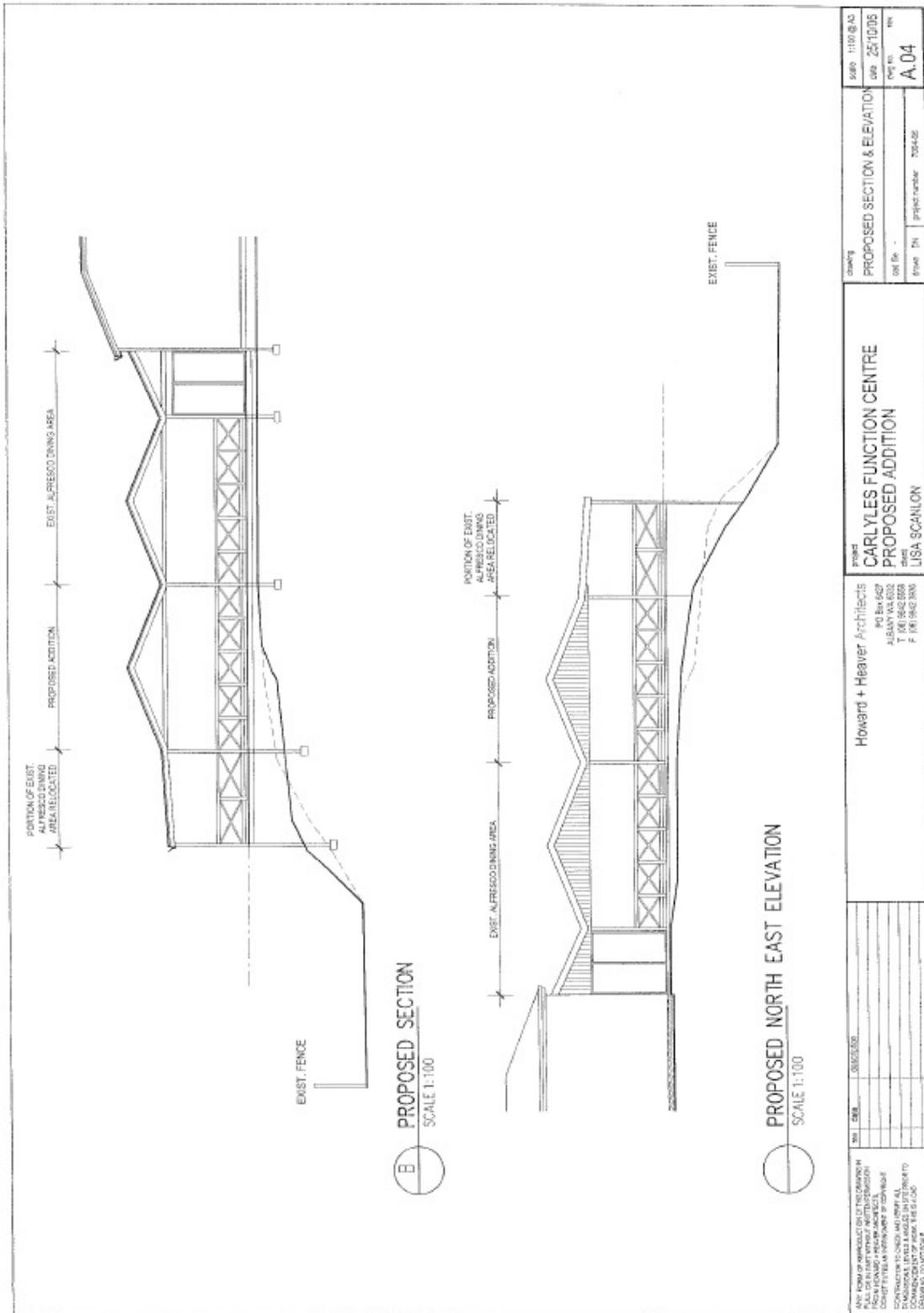
Item 13.5.1 continued



<p>ANY FORM OF REPRODUCTION OF THIS DRAWING IS PROHIBITED WITHOUT THE WRITTEN PERMISSION OF HOWARD + HEAVER ARCHITECTS. CONSULT WITH HOWARD + HEAVER ARCHITECTS FOR ANY REVISIONS TO THIS DRAWING. CONSULT WITH HOWARD + HEAVER ARCHITECTS FOR ANY REVISIONS TO THIS DRAWING. CONSULT WITH HOWARD + HEAVER ARCHITECTS FOR ANY REVISIONS TO THIS DRAWING.</p>	<p>NO. 1: 1000</p>	<p>DATE: 25/10/06</p>	<p>SCALE: 1:100</p>
<p>PROJECT: CARLYLES FUNCTION CENTRE PROPOSED ADDITION</p>	<p>CLIENT: LISA SCANLON</p>	<p>DATE: 25/10/06</p>	<p>SCALE: 1:100</p>
<p>HOWARD + HEAVER ARCHITECTS        100 RIVER STREET        ALBANY WA 6332        T: (08) 9421 5888        F: (08) 9421 3322</p>	<p>PROJECT: CARLYLES FUNCTION CENTRE PROPOSED ADDITION</p>	<p>DATE: 25/10/06</p>	<p>SCALE: 1:100</p>
<p>PROJECT: CARLYLES FUNCTION CENTRE PROPOSED ADDITION</p>	<p>CLIENT: LISA SCANLON</p>	<p>DATE: 25/10/06</p>	<p>SCALE: 1:100</p>

ORDINARY COUNCIL MEETING MINUTES –19/12/06  
 \*\* REFER DISCLAIMER \*\*  
 WORKS & SERVICES REPORTS

Item 13.5.1 continued



ANY FORM OF REPRODUCTION OF THIS DOCUMENT FROM ANY SOURCE IS STRICTLY PROHIBITED WITHOUT THE WRITTEN PERMISSION OF HOWARD + HEAVER ARCHITECTS. CONSULT WITH AN ARCHITECT FOR FURTHER INFORMATION.	NO. 0000 DATE 08/05/06	DRAWING PROPOSED SECTION & ELEVATION	SHEET NO. 1110 (B-A) DATE 25/10/06 SHEET NO. A.04
	PROJECT CARLYLES FUNCTION CENTRE PROPOSED ADDITION ARCHITECT LISA SCANLON		PROJECT NUMBER 7094-05
HOWARD + HEAVER Architects 400 BAY STREET AUBURN VIC 3025 T (03) 9432 8888 F (03) 9432 3800			

**WORKS & SERVICES REPORTS**

**13.5.2 New Leases – Lotteries House**

<b>File/Ward</b>	:	MAN071 (Frederickstown Ward)
<b>Proposal/Issue</b>	:	New Leases for Lotteries House
<b>Subject Land/Locality</b>	:	Lotteries House 211-217 North Road
<b>Proponent</b>	:	Lotteries House Management Committee
<b>Owner</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Manager City Services (I Neil)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council approve new leases for Lotteries House for a period of three years
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

**BACKGROUND**

1. In September 1996 a 'Deed of Trust' was entered into between the former Town of Albany and the Lotteries Commission for the management of Lotteries House, located on Albany Suburban Lots 304 & 305, North Road Albany. Clause 16 of the 'Deed of Trust' requested that a Management Committee be formed to oversee the management of the property.
2. Part 3 of the schedule contained within the 'Deed of Trust' requires the Trustee, being the City of Albany to make and keep available the property for organisations to use for benevolent or charitable purposes, through the administration of the Management Committee.
3. The lessees Albany Community Radio Inc, Albany Summer School Inc, Arthritis Foundation of WA, Association for the Blind Inc, Great Southern Family Violence Intervention Council Inc, Lower Great Southern Family Support Association Inc and Samaritan Befrienders Inc have previously held leases over a portion of Lotteries House that expired on 30 June 2006.
4. The Rainbow Coast Neighbourhood Centre Inc has previously held a lease over a portion of Lotteries House that expired on the 17 August 2006.
5. These lessees have requested new leases for a period of three years. The Lotteries House Management Committee has approved these leases.
6. Albany Halfway House Association Inc and The Neurological Council of WA are currently leasing a portion of Lotteries House.

**STATUTORY REQUIREMENTS**

7. Section 3.58 of the Local Government Act deals with the 'disposing of property' (includes leasing) and requires Council to either dispose of property at auction or by public tender to the person who, in the opinion of Council, makes the most acceptable tender.
8. Council is, however, able to dispose of property by other means, provided that it gives statewide public notice (2 weeks) of the disposition and invites submissions on the proposal.
9. Clause 30 of the Local Government (Functions & General) Regulations 96 provides an exemption to Council under Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not if the object of which is of a charitable, benevolent, cultural, educational, recreational, sporting or other like nature.
10. The lessees are considered to be either charitable or benevolent organisations and therefore the proposed disposition of land is exempt from the provisions of Section 3.58 of the Act.

**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

12. There are no financial implications as all rentals are paid to the Lotteries House Management Committee, for operating expenses. Lotteries House aims to be self-supporting.
13. Any costs associated with the leases are payable by the applicant.

**STRATEGIC IMPLICATIONS**

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

***Community Vision:***

*Albany's community will enjoy economic growth and outstanding opportunities for our youth through excellent community and infrastructure and services.*

***Mission Statement:***

*The City of Albany will always be renowned for our customer focus.*

***Priority Projects:***

Nil.”

**COMMENT/DISCUSSION**

15. The lessees have requested approval to continue tenancy at Lotteries House under the same terms and conditions as previous leases, for a further term of three years. The Lotteries House Management Committee has approved these requests.
17. The Lotteries House Management Committee determines the rents by projecting operating expenses required for the financial year. These expenses are levied to each lessee, per square metre of leased area. These rents are reviewed annually on 1 July.

**WORKS & SERVICES REPORTS**

Item 13.5.2 continued

RECOMMENDATION

THAT Council agrees:

- i) To enter into new leases with the Albany Community Radio Inc, Albany Summer School Inc, Arthritis Foundation of WA, Association for the Blind Inc, Great Southern Family Violence Intervention Council Inc, Lower Great Southern Family Support Association Inc and Samaritan Befrienders for a term of three years retrospectively on 1<sup>st</sup> July 2006.
- ii) To enter into a new lease with Rainbow Coast Neighbourhood Centre Inc for a term of three years retrospectively 18<sup>th</sup> August 2006.
- iii) Rental be set per square metre of area leased as determined by the Lotteries House Management Committee, subject to GST, with rent reviews being carried out by the Lotteries House Management Committee annually on 1 July;
- iv) That all costs associated with leases be payable by the applicant; and;
- v) The Common Seal of the City of Albany be attached to all relevant documentation.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR WOLFE**

**THAT Council agrees:**

- i) To enter into new leases with the Albany Community Radio Inc, Albany Summer School Inc, Arthritis Foundation of WA, Association for the Blind Inc, Great Southern Family Violence Intervention Council Inc, Lower Great Southern Family Support Association Inc and Samaritan Befrienders for a term of three years retrospectively on 1<sup>st</sup> July 2006.**
- ii) To enter into a new lease with Rainbow Coast Neighbourhood Centre Inc for a term of three years retrospectively 18<sup>th</sup> August 2006.**
- iii) Rental be set per square metre of area leased as determined by the Lotteries House Management Committee, subject to GST, with rent reviews being carried out by the Lotteries House Management Committee annually on 1 July;**
- iv) That all costs associated with leases be payable by the applicant; and;**
- v) The Common Seal of the City of Albany be attached to all relevant documentation.**

**CARRIED 13-0**

**13.6 CITY WORKS – CAPITAL WORKS**

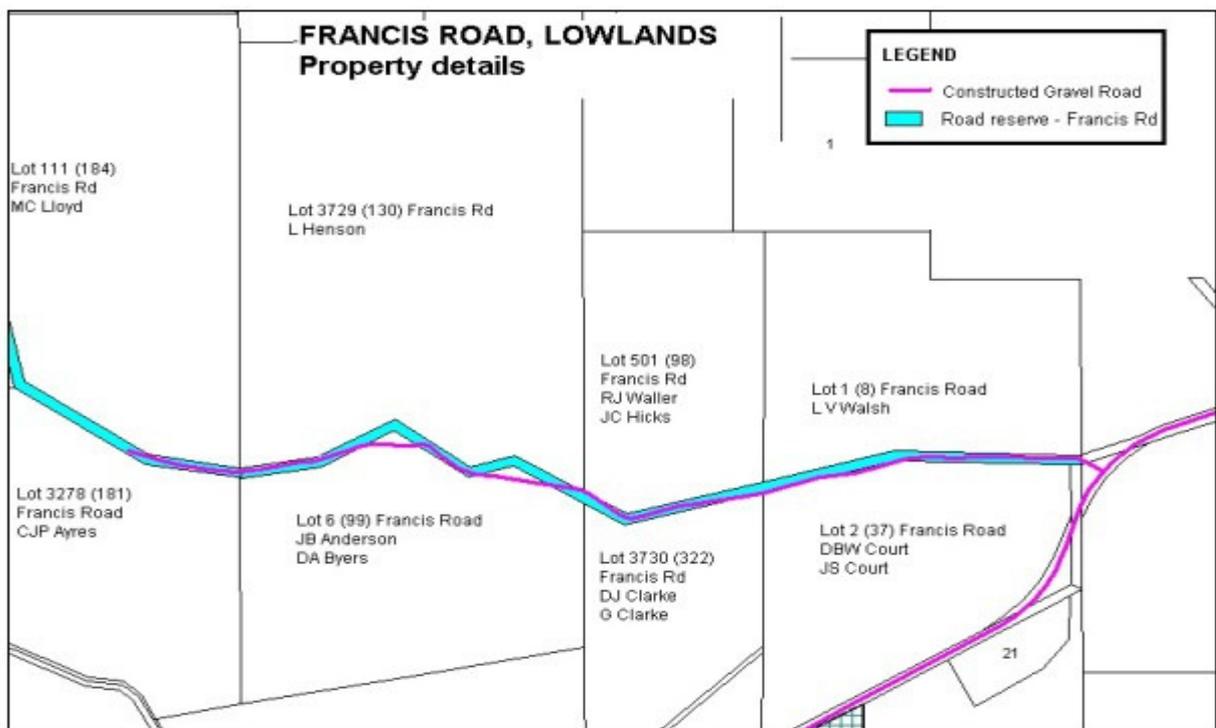
Nil

**13.7 CITY WORKS – RESERVES, PLANNING & MANAGEMENT**

**13.7.1 Realign Francis Road, Lowlands**

<b>File/Ward</b>	:	SER088 (West Ward)
<b>Proposal/Issue</b>	:	Realign Francis Road, Lowlands to the current road reserve alignment
<b>Subject Land/Locality</b>	:	Francis Road, Lowlands
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	Various
<b>Reporting Officer(s)</b>	:	Manager City Assets (D Morgan)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council proceed with realigning Francis Road Lowland to the correct alignment
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	

**BACKGROUND**



**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

1. Mr Byers and Ms Anderson applied to the City of Albany in February 2004 to erect an additional shed on their property at (Lot 6 Francis Road, Lowlands) and advised their concerns in regards to Francis Road, Lowlands intruding into the northern boundary of their property (Lot 6 Francis Road) and not along the allocated road reserve. (See attached plan).
2. Investigation revealed that Francis Road in several locations is out of the sectioned road reserve and runs through private land. The lots affected are 1, 2, 322, 501, 6, 3729, 3730 (See attached plan).
3. Concerns were raised regarding the issue of public liability if an accident occurs on a section of road, which is currently located on private land.
4. Officers previously sought comment from our insurance agency regarding insurance issues and also requested Denmark Survey & Mapping to investigate options to ensure the road is contained in the road reserve. This report was submitted to staff in November 2004 but unfortunately agreement for a solution could not be resolved.
5. Mr Byers & Ms Anderson approached the City again earlier this year requesting that this issue be resolved. City Assets arranged a meeting to be held with all residents of Francis Road to discuss a resolution to this issue.
6. At the meeting staff indicated support for leaving Francis Road on its current alignment. From the meeting the general consensus was that the residents are happy to leave the road along the current alignment and negotiate the required land resumptions and roads closures.
7. Mr Byers & Ms Anderson expressed reservations about keeping the road on the existing alignment and requested that the City explore an alternative solution adjacent to their property.
8. Denmark Survey and Mapping were commissioned to complete a proposal for the required land resumptions and road closures and also present an alternate solution adjacent to Mr Byers & Ms Anderson's property. (See attached surveys).
9. Mr Byers & Ms Anderson have advised they are seeking legal consultation in regards to the two proposals by Denmark Survey and Mapping.

**STATUTORY REQUIREMENTS**

10. Section 56 of the Land Administration Act 1997 sets out a process the Local Government must follow to dedicate a road.

(1) *If in the district of a local government –*

(a) *land is reserved or acquired for use by the public, or is used by the public, as a road under the 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 –*

**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

- (i) *the holder of the freehold in that land applies to the local government 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*

- (c) *land comprises a private road of which the public has had uninterrupted use for a period of 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.*

- (2) *If a local government resolves to make a request under subsection (1), it must –*
  - (a) *in accordance with the regulations prepare and deliver the request to the Minister; and*
  - (b) *provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*
- (3) *On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then –*
  - (a) *subject to subsection (5), by order grant the request;*
  - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in the direction; or*
  - (c) *refuse the request.*
- (4) *On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred the the Minister in considering and granting the request.*

**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

- (5) *To be dedicated under subsection (3)(a), land must immediately before the time of dedication be –*
- (a) *unallocated Crown land or, in the case of a private road, alienated land; and*
  - (b) *designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.*
- (6) *If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.*

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

12. The City of Albany would be required to accept all associated legal and land resumptions costs to correct an anomaly, which has been in place for many years.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

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

***Mission Statement:***

*The City of Albany is committed to sustainably managing Albany’s municipal assets.*

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

14. Residents of Francis Road have raised concerns with the issue of public liability in the case of an accident occurring on Francis Road where it runs through private land.
15. The majority of residents indicated that when they purchased their properties on Francis Road considered the fence line to be on the correct boundaries and on the correct alignment.

**WORKS & SERVICES REPORTS**

Item 13.7.1 continued

RECOMMENDATION

THAT Council in accordance with Section 56 of the Land Administration Act of 1997;

- i) Proceed with Francis Road, Lowlands becoming a dedicated public road with the associated land resumptions and road closures required.
- ii) Delegate authority to Damien Morgan to negotiate with the landowners of Francis Road, Lowlands to proceed with Francis Road dedication.
- iii) Reallocate funds for the associated legal costs required with the dedication of Francis Road, Lowlands at the quarterly budget review.

*Voting Requirement Absolute Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR WOLFE**

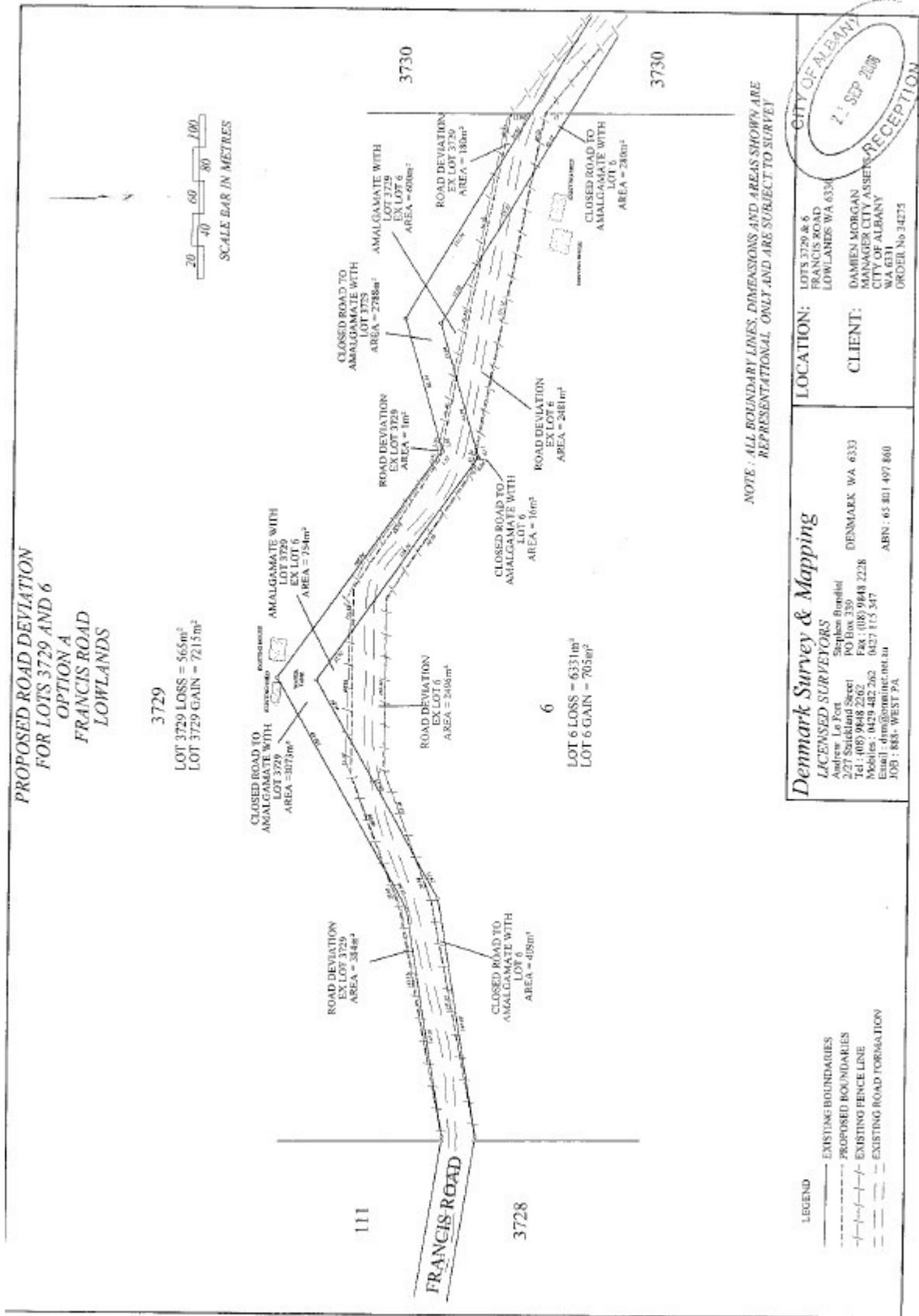
**THAT Council in accordance with Section 56 of the Land Administration Act of 1997;**

- i) Proceed with Francis Road, Lowlands becoming a dedicated public road with the associated land resumptions and road closures required.**
- ii) Delegate authority to Damien Morgan to negotiate with the landowners of Francis Road, Lowlands to proceed with Francis Road dedication.**
- iii) Reallocate funds for the associated legal costs required with the dedication of Francis Road, Lowlands at the quarterly budget review.**

**CARRIED 13-0  
ABSOLUTE MAJORITY**

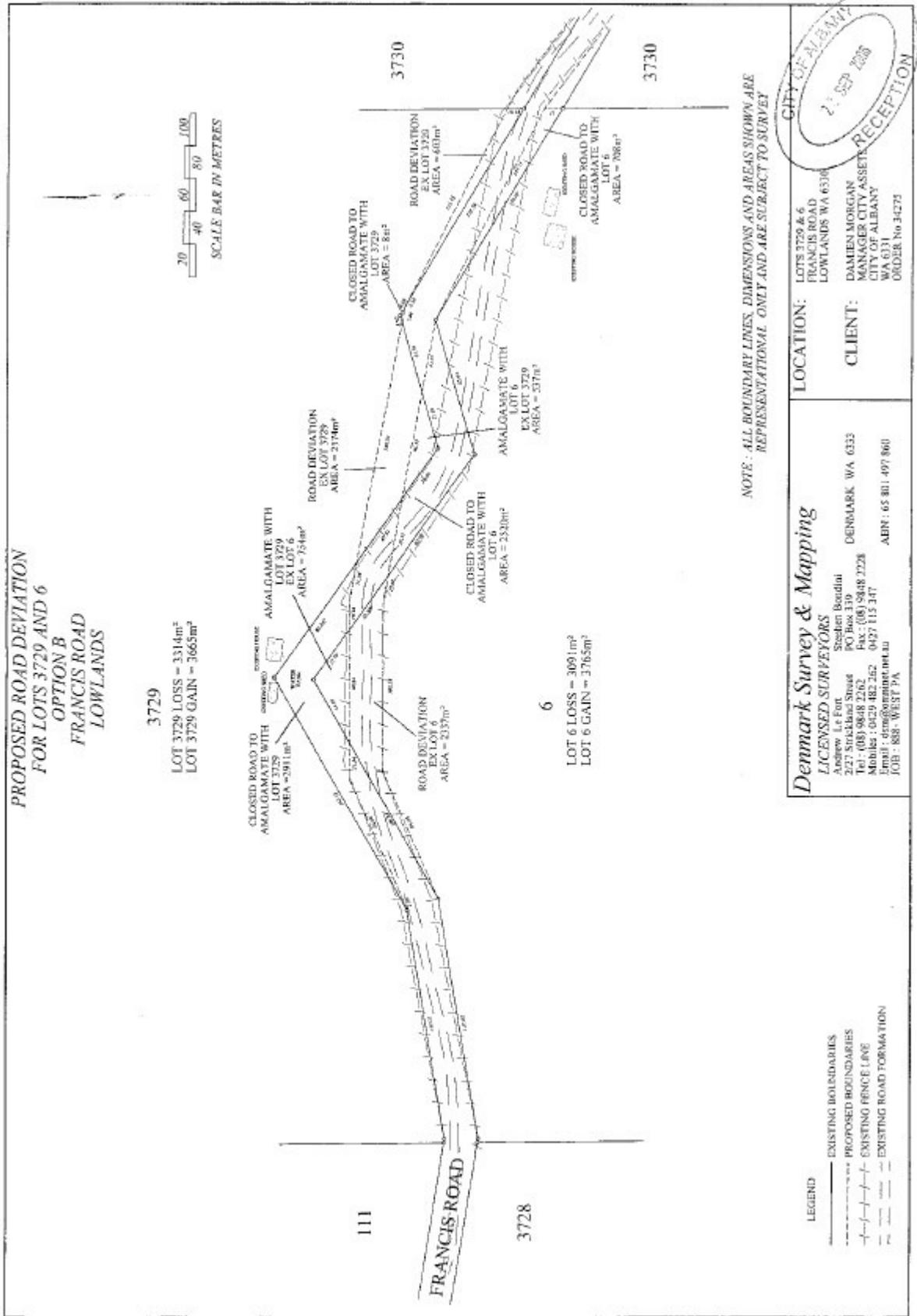
ORDINARY COUNCIL MEETING MINUTES -19/12/06  
 \*\* REFER DISCLAIMER \*\*  
 WORKS & SERVICES REPORTS

Item 13.7.1 continued

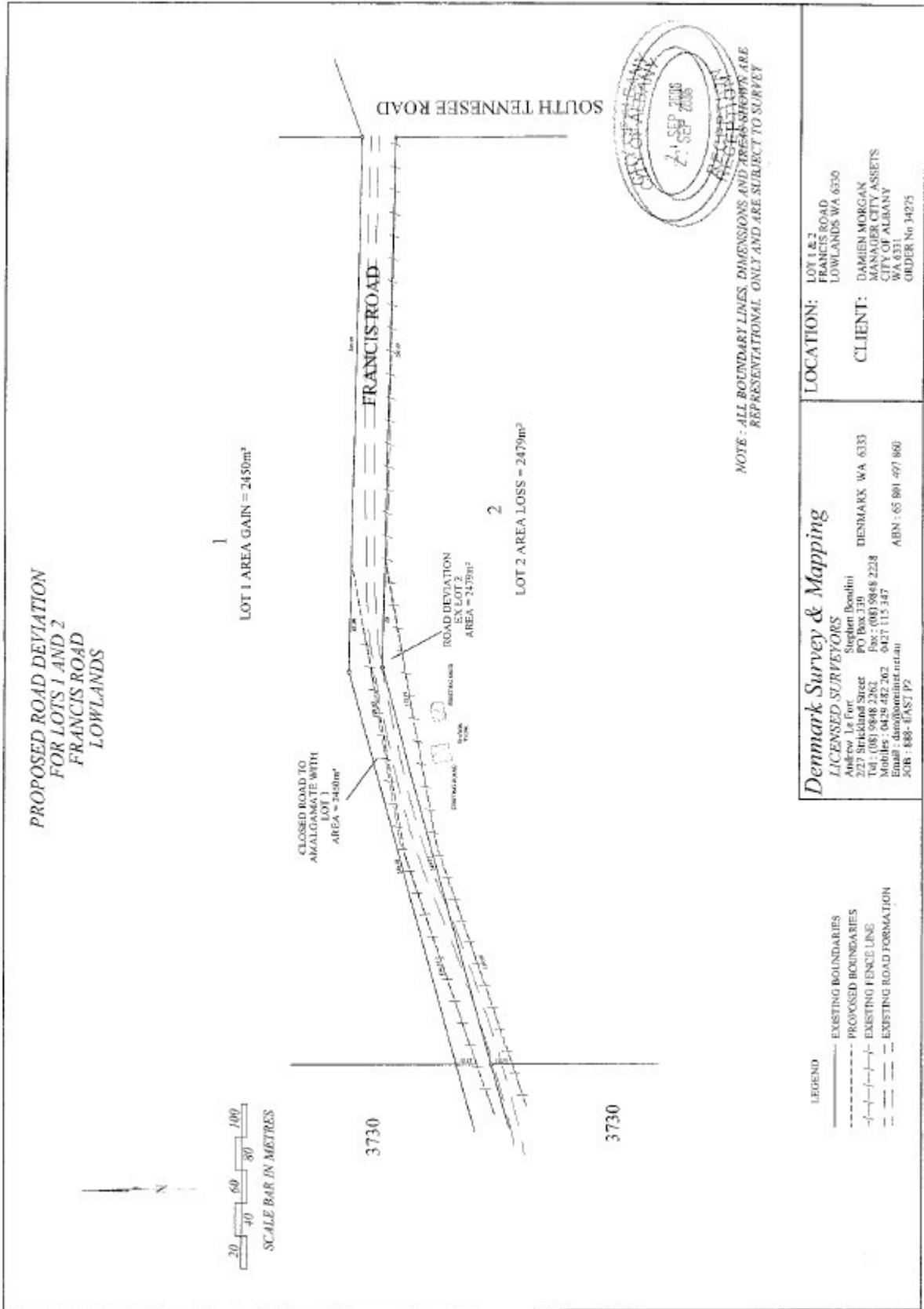


ORDINARY COUNCIL MEETING MINUTES –19/12/06  
**\*\* REFER DISCLAIMER \*\***  
**WORKS & SERVICES REPORTS**

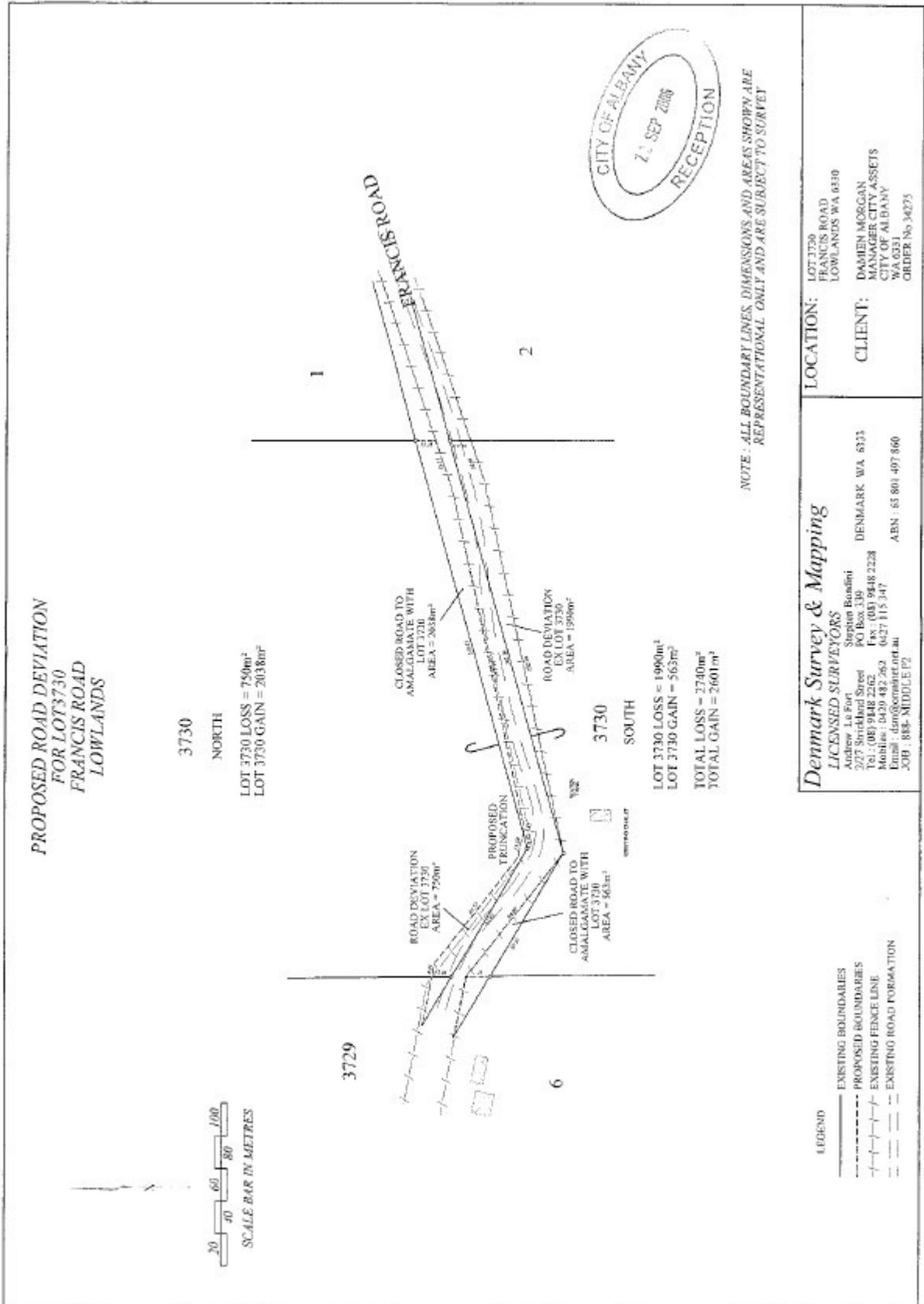
Item 13.7.1 continued



Item 13.7.1 continued



Item 13.7.1 continued



**WORKS & SERVICES REPORTS**

**13.7.2 Proposed Road Closure - William Street, Little Grove**

<b>File/Ward</b>	:	SER088 (Vancouver Ward)
<b>Proposal/Issue</b>	:	Request to temporarily close a section of road
<b>Subject Land/Locality</b>	:	Portion of William Street, Little Grove
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	Crown
<b>Reporting Officer(s)</b>	:	Executive Director Works & Services (L Hewer)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	Council support the temporary closure of the section of road
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

**BACKGROUND**

1. Concerns have been raised by local residents, that some traffic using William Street are causing a safety issue. There is a practice in place whereby 'hoons' are using this thoroughfare between Albert and George Streets, as a 'raceway'.
2. William Street is a short road with very little room for manoeuvrability, should other vehicles be speeding. Other users and pedestrians are forced to take evasive action, when these "hoons' are on the road.
3. After a site visit, staff have proposed the southern end of William Street which truncates on to Albert Street could be closed for a temporary period of four years, to curtail these unwelcome activities.

**STATUTORY REQUIREMENTS**

4. Section 3.50 of the Local Government Act 1995 provides for closing certain thoroughfares to vehicles, as follows:
  - (1) *A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.*
  - (1a) *A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.*
  - (2) *The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.*
  - [(3) *repealed*]
  - (4) *Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to*
    - (a) *give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;*
    - (b) *give written notice to each person who*
      - (i) *is prescribed for the purposes of this section; or*
      - (ii) *owns land that is prescribed for the purposes of this section;**and*
    - (c) *allow a reasonable time for submissions to be made and consider any submissions made.*
  - (5) *The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).*

**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

(6) *An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.*

[(7) *repealed*]

(8) *If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.*

5. The requirement in subsection (8) ceases to apply if the thoroughfare is reopened

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

7. The City of Albany would be required to accept costs associated with advertising the road closure.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*A Thriving City: Albany’s community will enjoy economic growth and outstanding opportunities for our youth through excellent community infrastructure and services; and innovative development complementing Albany’s unique character, natural environment and heritage.*

***Mission Statement:***

*The City of Albany is committed to providing sound governance and promoting our Community’s vision for the future.*

***Priority Projects***

*Nil.”*

**COMMENT/DISCUSSION**

9. Wilson Street is currently a formed road that links Albert Street and George Street in Little Grove.

10. It is considered that the installation of a rock barrier, would help reduce the concern of safety issues.

11. In accordance with the Local Government Act 1995, the most appropriate course of action is to invite submissions from the community and service authorities for the partial closure of William Street.

**WORKS & SERVICES REPORTS**

Item 13.7.2 continued

12. The rock barrier would be in place for a period of four years, which would act as an immediate deterrent for the 'hoon' behaviour and allow the locality to develop a more safety conscious attitude to traffic movement. The traffic-calming device could then be re-assessed as to its ongoing viability.

**RECOMMENDATION**

THAT Council;

- i) In accordance with Section 3.50 of the Local Government Act 1995, proceed with the temporary closure to traffic of that portion of William Street, Little Grove for a period of four years;
- ii) Ensure that the road is signed adequately to permit "Local Traffic Use Only" and advise that this is a "no through road"; and
- iii) Authorise staff to finalise the legislative requirements of the closure, should no objections be received.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR MARSHALL  
SECONDED COUNCILLOR PAVER**

**THAT Council;**

- i) In accordance with Section 3.50 of the Local Government Act 1995, proceed with the temporary closure to traffic of that portion of William Street, Little Grove for a period of four years;**
- ii) Ensure that the road is signed adequately to permit "Local Traffic Use Only" and advise that this is a "no through road"; and**
- iii) Authorise staff to finalise the legislative requirements of the closure, should no objections be received.**

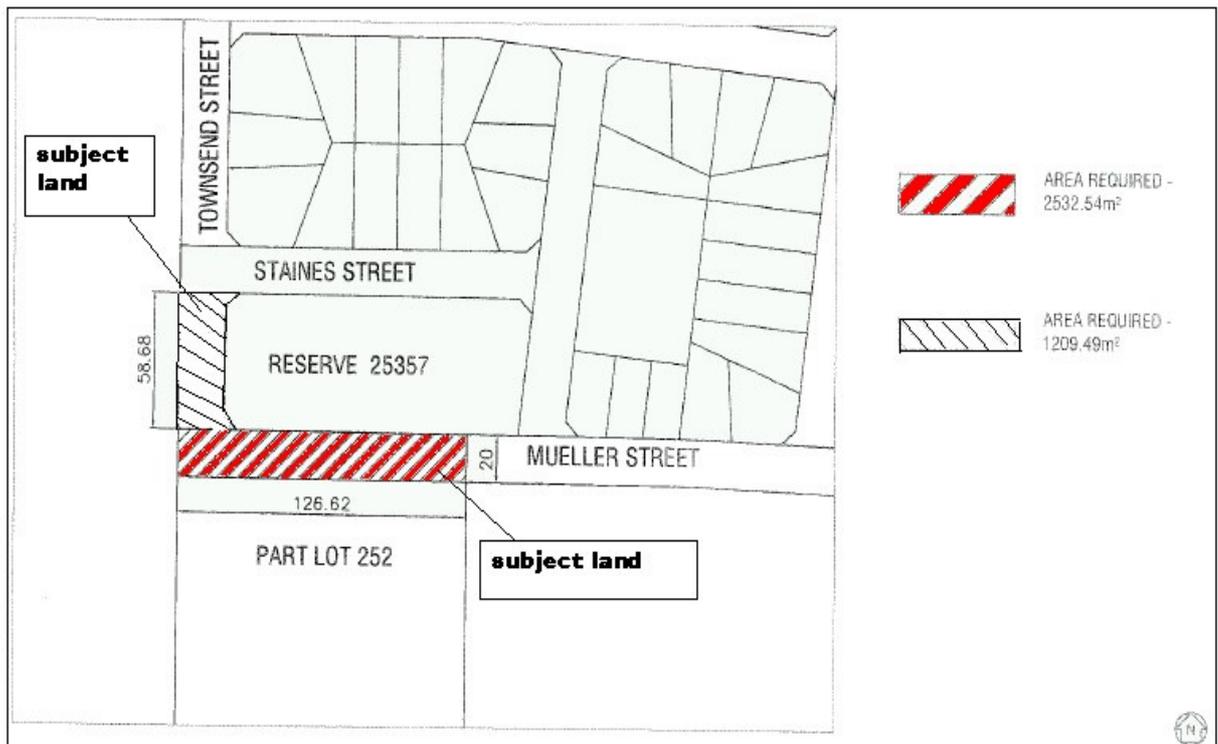
**CARRIED 13-0**

**WORKS & SERVICES REPORTS**

Item 13.7.3 was withdrawn from the agenda.

**13.7.3 Proposal to acquire land from Mueller Street**

<b>File/Ward</b>	:	STR131 (Vancouver Ward)
<b>Proposal/Issue</b>	:	Proposal to acquire land from Pt Lot 252 Mueller Street and Reserve 25357 for road reserve
<b>Subject Land/Locality</b>	:	Pt Lot 252 Mueller Street and Pt Reserve 25357
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	STV Investments Pty Ltd and Crown Land
<b>Reporting Officer(s)</b>	:	Executive Director Works and Services (L Hewer) and Executive Support Officer Grant Funding and Finance (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 19.04.05 Item 13.3.5 OCM 20.06.06 Item 18.1
<b>Summary Recommendation</b>	:	That Council acquire land for road reserve purposes
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



**WORKS & SERVICES REPORTS**

Item 13.7.3 continued

**BACKGROUND**

1. At a Council progress meeting in February 2005, it was requested that Cull Road be upgraded. It was agreed at Council to redistribute funding from Cull Road to Mueller Street and construct access to Hanrahan Road.
2. Under the City's Roads Master Plan, 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.
3. In April 2005, Ms Attwell and Mr J Kelly (the proponents) initially approached staff with a proposal to connect their future subdivision lot 247 Cull Road to the local road network via Cumming Road.
4. 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 IA 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. Because of the need to construct the western extension of Mueller Street (to link with Cull Road) and respond to the current demand for residential land, 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.
5. There are two land deals required to address the road reserve needs, namely a request to the Crown to excise portion of Reserve 25357 and to the private landowners of lot 252 Mueller Street.
6. Council staff have attempted to negotiate with affected landowners to resolve the land acquisition necessary to complete the extension of Mueller Street, but have so far been unsuccessful due the sale of the land during negotiations.

**STATUTORY REQUIREMENTS**

7. Section 18 of the Land Administration Act, requires Council to seek Ministerial approval to excise portion of Reserve 25357 for road purposes. As staff have been unable to negotiate with the current landowners to acquire portion of lot 252 Mueller Street, it is recommended Council agree to compulsory acquisition action in accordance with Section 170 of the Land Administration Act.
8. Pursuant to Section 56 of the Land Administration Act, Council is able to dedicate the resultant land as a public road.

**POLICY IMPLICATIONS**

9. The City of Albany Town Planning Scheme 3 states that the broad objective for the Residential Development zone is *"to facilitate the orderly and equitable development for residential purposes of areas where the existing subdivisional pattern, multiple ownership, or other factors make this objective unobtainable by the normal methods of subdivision and development."*

**WORKS & SERVICES REPORTS**

Item 13.7.3 continued

**FINANCIAL IMPLICATIONS**

10. The City of Albany has budgeted for land development of the Council-owned Cull Road Subdivision, which includes the need for Mueller Street extension to be finalised. The compulsory acquisition costs will be funded from the Roads Masterplan Road Construction account Job number 1347.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision***

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

***Mission Statement***

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

***Priority Projects***

*Nil.”*

**COMMENT/DISCUSSION**

12. The road reserve, which forms the extension of Mueller Street is positioned within the concept plan to maximise the subdivision potential of the land. The construction of that road in the short term is likely to reduce illegal dumping on the land and improve marketing of future residential lots created from the land.
13. The improvement of road exposure for adjoining land parcels has economic advantages to local land owners and Council and has the potential to create another urban development front for consumers, in close proximity to the City centre.

**RECOMMENDATION**

THAT Council agrees to;

- i) proceed with compulsory acquisition of portion of lot 252 Mueller Street in accordance with section 170 of the Land Administration Act;
- ii) seek approval for the excision of portion of Reserve 25357 from the Department of Land Information for road reserve purposes in accordance with section 18 of the Land Administration Act; and
- iii) seek approval to dedicate the resultant land as road reserve in accordance with section 56 of the Land Administration Act.

*Voting Requirement Simple Majority*

.....

**WORKS & SERVICES REPORTS**

**13.7.4 Clearing in Council Controlled Land**

<b>File/Ward</b>	:	SER174 (All Wards)
<b>Proposal/Issue</b>	:	Road side vegetation
<b>Subject Land/Locality</b>	:	All areas
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	City of Albany, Crown Land
<b>Reporting Officer(s)</b>	:	Executive Director of Works & Services (L Hewer)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council adopt the Policy for Clearing in Council Controlled Land.
<b>Bulletin Attachment</b>	:	Environmental Code of Conduct – Guidelines for Works on Council Controlled Land
<b>Locality Plan</b>	:	Nil

**BACKGROUND**

1. In the past Local Government had little if any regulations to control roadside vegetation removal.
2. In 2005 the State Government legislated that all clearing including Local Government clearing of road verges was to have Department of Environmental & Conservation approval.

**STATUTORY REQUIREMENTS**

3. Environmental Protection Act 1986 – Environmental Protection (Clearing of Native vegetation) regulations 2004.

**POLICY IMPLICATIONS**

4. This Policy has been prepared in accordance with the 'Corporate Documents Policy' and if adopted, will result in a new policy, 'Clearing in Council Controlled Land Policy'.

**FINANCIAL IMPLICATIONS**

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

**WORKS & SERVICES REPORTS**

Item 13.7.4 continued

**STRATEGIC IMPLICATIONS**

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

**“Community Vision:**

*A Healthy City: Albany’s community will enjoy healthy, fulfilling lifestyles and a flourishing natural environment through restoration, and protection, of areas of high biodiversity within land, river and sea ecosystems.*

**Mission Statement:**

*The City of Albany is committed to sustainably managing Albany’s municipal assets.*

**Priority Projects:**

*Nil.”*

**COMMENT/DISCUSSION**

- 7. Council staff have taken pro-active steps in the last 2-3 years to ensure that all clearing is carried out to “Best Practice”.
- 8. Since the legislation has been enacted Council Staff have developed and adopted an Environmental Code of Conduct for clearing in Council controlled reserves (see attached Report/Information/Bulletin). Their code outlines all the requirements of the legislation, incorporating our Best Practice techniques

**RECOMMENDATION**

THAT Council adopt the Clearing in Council Controlled Land Policy as attached.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR WOLFE**

**THAT Council adopt the Clearing in Council Controlled Land Policy as attached.**

**CARRIED 13-0**

Item 13.7.4 continued



## Council Policy

# Clearing in Council Controlled Land

© City of Albany, 2006

Adoption Date:  
Adoption Reference:  
Review Date:  
Maintained By:  
Document Reference: P

102 North Road, Yakamia WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**WORKS & SERVICES REPORTS**

Item 13.7.4 continued

**1. Objective**

To ensure that all vegetation cleared by the City of Albany is carried out in accordance with statutory legislation.

**2. Scope**

The management of road reserves, gravel pits and other Council controlled land.

**3. Definitions**

<b>Vegetation Clearing:</b>	<b>Any clearing of vegetation including trees, remnant vegetation and small flora</b>
-----------------------------	---

**4. Policy Statement**

"To minimise the environmental impacts that could be caused by works carried out on Council controlled land."

**5. Legislative and Strategic Context**

State Legislation states that all vegetation clearing by Local Government has to conform to State regulations.

The Council has produced a document titled "Environmental Code of Conduct – Guidelines for Works on Council Controlled Land" to incorporate all processes, procedures and operational requirements to further enhance the State regulations. The document has been reviewed and endorsed by the Department of Environment and Conservation.

This Policy conforms to the Environmental Protection Act 1986 – Environmental Protection (Clearing of Native Vegetation) Regulations 2004 and Environmental Protection (Environmentally Sensitive Area) Notice 2005.

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

**6. Review Position and Date**

Executive Director of Works & Services to review on or before 30/6/2009.

Adoption Date:  
Adoption Reference:  
Review Date:  
Maintained By:  
Document Reference: P

102 North Road, Yorkania WA 6330  
PO Box 484, Albany WA 6331  
Tel: (+61 8) 9841 9333  
Fax: (+61 8) 9841 4099  
staff@albany.wa.gov.au  
www.albany.wa.gov.au

**WORKS & SERVICES REPORTS**

Item 13.7.4 continued

**7. Associated Documents**

- Environmental Code of Conduct – Guidelines for Works on Council Controlled Land

and

- Environmental Protection Act 1986 – Environmental Protection (Clearing of Native Vegetation) Regulations 2004

CEO Authorisation: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**WORKS & SERVICES REPORTS**

**13.8 WORKS & SERVICES COMMITTEES**

**13.8.1 Bushcarers Advisory Committee Minutes – 8<sup>th</sup> September 2006**

<b>File/Ward</b>	:	MAN121 (All Wards)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration.
<b>Reporting Officer</b>	:	Reserves Officer (S Maciejewski).
<b>Summary Recommendation</b>	:	That the minutes of the Bushcarers Advisory Committee meetings held on the 8 <sup>th</sup> September 2006 be adopted.

**COMMENT/DISCUSSION**

1. The Department of Agriculture and Food has legislation dealing with plants that may pose a threat to agriculture or animals. In regards to “nuisance plants”, some Local Authorities in Western Australia has adopted Local Laws to deal with plant species that cause broader environmental concerns. The City of Albany does not currently have a Local Law that addresses Pest Plants. In order for the recommendation of the committee to be actioned (i.e. Victorian tea-tree to become a Pest Plant) a Local Law would need to be developed and adopted by Council.
2. Staff has provided an alternate recommendation in regards to Minute 5.4. The Committee has sought co-operation from several absentee landowners to remove Victorian Tea-tree from their properties without success.

**COMMITTEE RECOMMENDATION**

That the minutes of the Bushcarers Advisory Committee meetings held on the 8<sup>th</sup> of September 2006 be adopted (Copies of the minutes in the Elected Members’ Report/Information Bulletin).

- 5.4 That Victorian Tea-tree is declared as a Pest Plant in the area indicated on Map 1.
- 6.1 That Lawrie Anderson becomes a Committee member representing the Department of Environment and Conservation.
- 6.1 That Vernice Gilies becomes a Committee member representing the community.

**WORKS & SERVICES REPORTS**

Item 13.8.1 continued

**RECOMMENDATIONS**

- 1. THAT the minutes of the Bushcarers Advisory Committee meetings held on the 8<sup>th</sup> of September 2006 be adopted with the exception of item 5.5.
- 6.1 That Lawrie Anderson becomes a Committee member representing the Department of Environment and Conservation.
- 6.1 That Vernice Gilies becomes a Committee member representing the community

*Voting Requirement Absolute Majority*

- 2. THAT Council commence the process of preparing a Local Law to deal with Pest Plants within the City of Albany and that the Bushcarers Advisory Committee be advised accordingly.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR JAMIESON  
 SECONDED COUNCILLOR WILLIAMS**

- 1. **THAT the minutes of the Bushcarers Advisory Committee meetings held on the 8<sup>th</sup> of September 2006 be adopted with the exception of item 5.5.**
- 6.2 **That Lawrie Anderson becomes a Committee member representing the Department of Environment and Conservation.**
- 6.2 **That Vernice Gilies becomes a Committee member representing the community**

**CARRIED 13-0  
ABSOLUTE MAJORITY**

**MOVED COUNCILLOR JAMIESON  
 SECONDED COUNCILLOR WILLIAMS**

- 2. **THAT Council commence the process of preparing a Local Law to deal with Pest Plants within the City of Albany and that the Bushcarers Advisory Committee be advised accordingly.**

**CARRIED 13-0**

# **General Management Services**

## **REPORTS**

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.1 STRATEGIC DEVELOPMENT**

Nil.

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.2 ORGANISATIONAL DEVELOPMENT**

**14.2.1 Schedule of Ordinary Council Meetings and Agenda Briefings 2007**

<b>File/Ward</b>	: MAN006 (All Wards)
<b>Proposal/Issue</b>	: Schedule of Ordinary Council Meetings and Agenda Briefings 2007
<b>Subject Land/Locality</b>	: N/A
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Corporate Governance Coordinator (JR Byrne)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Nil
<b>Summary Recommendation</b>	: To adopt a schedule of dates, times and venues to hold Ordinary Council Meetings and Agenda Briefings during 2007
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	: Nil

**BACKGROUND**

1. The Council has previously established a schedule of holding one (1) Ordinary Council Meeting on the third Tuesday of each month, with Agenda Briefing Sessions held one (1) week prior on the second Tuesday of each month, in accordance with the Briefing and Meeting Arrangement Policy (copy attached).
2. Both Ordinary Council Meetings and Agenda Briefing Sessions are open to the public in accordance with the Local Government Act 1995.
3. In recent times, the Council resolved to amend the starting time of Ordinary Council Meetings from 7.30pm to 7.00pm.

**STATUTORY REQUIREMENTS**

4. Sections 5.3, 5.4 and 5.25 of the Local Government Act 1995 and Regulation 12 of the Local Government (Administration) Regulations 1996 apply. In essence, the Council must establish meetings dates and at least once each year give local public notice of the dates on which and the time and place at which ordinary council meetings are to be held in the next 12 months.

**POLICY IMPLICATIONS**

5. Briefing and Meeting Arrangement Policy.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.2.1 continued

**FINANCIAL IMPLICATIONS**

6. Costs associated with the advertising of the Ordinary Council Meeting and Agenda Briefing Session times, dates and venues will be incurred and managed within the existing budget.

**STRATEGIC IMPLICATIONS**

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

***“Community Vision:***

*Nil.*

***Mission Statement:***

*The City of Albany is committed to providing sound governance.*

***Priority Projects:***

*Nil.”*

**COMMENT/DISCUSSION**

8. This item seeks to establish a schedule of dates, times and venues for the holding of Ordinary Council Meetings and Agenda Briefing Sessions during the 2007 calendar year, which is consistent with past practice and the Council’s Briefing and Meeting Arrangement Policy. It is proposed that all meetings will be held in the Council Chambers, with Agenda Briefing Sessions to be held on the second Tuesday of each month commencing at 6.00pm and Ordinary Council Meetings to be held on the third Tuesday of each month commencing at 7.00pm. A table of dates follows:

Schedule of Meetings 2007

Agenda Briefings	Ordinary Council Meetings
9 January	16 January
13 February	20 February
13 March	20 March
10 April	17 April
8 May	15 May
12 June	19 June
10 July	17 July
14 August	21 August
11 September	18 September
9 October	16 October
13 November	20 November
11 December	18 December

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.2.1 continued

RECOMMENDATION

THAT:

1. The following Schedule of Agenda Briefing Sessions and Ordinary Council Meetings for 2007 be adopted, with Agenda Briefing Sessions to commence at 6.00pm and Ordinary Council Meetings to commence at 7.00pm:

Schedule of Meetings 2007

Agenda Briefings	Ordinary Council Meetings
9 January	16 January
13 February	20 February
13 March	20 March
10 April	17 April
8 May	15 May
12 June	19 June
10 July	17 July
14 August	21 August
11 September	18 September
9 October	16 October
13 November	20 November
11 December	18 December

2. All Agenda Briefing Sessions and Ordinary Council Meetings to be held in the Council Chambers at 102 North Road, Yakamia.
3. The adopted Schedule of Agenda Briefing Sessions and Ordinary Council Meetings for 2007 be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.

*Voting Requirement Simple Majority*

.....

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.2.1 continued

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WELLINGTON**

**THAT:**

- 1. The following Schedule of Agenda Briefing Sessions and Ordinary Council Meetings for 2007 be adopted, with Agenda Briefing Sessions to commence at 6.00pm and Ordinary Council Meetings to commence at 7.00pm:**

**Schedule of Meetings 2007**

<b>Agenda Briefings</b>	<b>Ordinary Council Meetings</b>
9 January	16 January
13 February	20 February
13 March	20 March
10 April	17 April
8 May	15 May
12 June	19 June
10 July	17 July
14 August	21 August
11 September	18 September
9 October	16 October
13 November	20 November
11 December	18 December

- 2. All Agenda Briefing Sessions and Ordinary Council Meetings to be held in the Council Chambers at 102 North Road, Yakamia.**
- 3. The adopted Schedule of Agenda Briefing Sessions and Ordinary Council Meetings for 2007 be advertised pursuant to Regulation 12 of the Local Government (Administration) Regulations 1996.**

**CARRIED 13-0**

**GENERAL MANAGEMENT SERVICES REPORTS**

## **Briefing and Meeting Arrangement Policy**

- i) Council shall conduct meetings on the third Tuesday of each month commencing at 7.30pm preceded by a meal commencing at 6.00pm for Councillors and senior staff;
- ii) Council shall conduct an Agenda briefing session on the second Tuesday of each month commencing at 6.00pm. The Agenda briefing is to be open to the public except for matters that are prescribed as 'behind closed doors items' in the Local Government Act;
- iii) Council shall provide an opportunity (maximum timeframe, one hour) for Councillors at the conclusion of the Agenda Briefing session to discuss relevant general interest items in a confidential forum;
- iv) Council shall conduct Concept briefing sessions on the first, fourth and fifth Tuesday of each month as required, behind closed doors commencing at 6.00pm;
- v) Council shall issue the Ordinary Council Meeting Agenda on the Friday afternoon prior to the Agenda Briefing Session; and
- vi) Briefing Session Guidelines for Members at Briefing sessions:
  - a. all discussion shall be channelled through the chair;
  - b. elected members shall not reveal their intention on how they will vote on the issue under discussion;
  - c. no opportunity shall be provided to create a collective Council decision;
  - d. elected members shall declare financial interests at concept briefings and may remain in the chamber and participate in the item concerned;
  - e. elected members shall declare financial interests at agenda briefings and may remain in the chamber and participate in the item concerned subject to approval of a majority of elected members present at the briefing;
  - f. chairing arrangements for briefings shall be the same as those for ordinary Council meetings; and
  - g. Agenda Briefing Session business shall be limited to matters listed for debate at the next ordinary Council Meeting and information arising from Councillor attendance at external Committee and Conference meetings.

**Andrew Hammond**  
Chief Executive Officer

19 October 2004  
OCM 19.10.2004  
Item 14.2.2

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.3 ECONOMIC DEVELOPMENT**

**14.3.1 Proposed Donation of Miniature House Collection to City of Albany**

<b>File/Ward</b>	: REL051 (All Wards)
<b>Proposal/Issue</b>	: Consideration of an offer to donate a miniature house collection to the City of Albany.
<b>Subject Land/Locality</b>	: N/A
<b>Proponent</b>	: Mr B Felber
<b>Owner</b>	: Mr B. Felber (owner of collection)
<b>Reporting Officer(s)</b>	: Manager Economic Development (J Berry)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Nil
<b>Summary Recommendation</b>	: THAT Council allocate up to \$3,000 from the existing economic development budget to remove the collection from Goode Beach and enter a formal agreement with the Albany Historical Society Inc regarding storage and display
<b>Bulletin Attachment</b>	: N/A
<b>Locality Plan</b>	: N/A

**BACKGROUND**

1. Acting on a suggestion from Cr Paver, City officers (J.Berry and P.Madigan) accompanied the Secretary of the Albany Historical Society Inc to inspect a collection of miniature houses at 9 Fynd Street Goode Beach owned by Mr Bill Felber.
2. Being of ill health, Mr Felber has recently relocated to Perth and prior to his departure offered to donate the complete collection of houses to the City of Albany.
3. The collection includes 26 miniature houses with associated accessories and is in excellent condition (see attached pictures). If displayed in a suitable precinct the collection would likely be of interest to visitors (and locals).
4. The Albany Historical Society Inc has agreed to store the collection within its leased premises at the Old Gaol in Stirling Terrace until a suitable display venue is made available. Possible venues may include Mouchemores Cottage or a purpose built display in the vicinity of the Patrick Taylor Cottage precinct (the subject of an expansion proposal by AHS Inc)

**STATUTORY REQUIREMENTS**

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

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.3.1 continued

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

7. Two quotes have been received for packing, relocating and storing the collection. The cheapest quote is for \$2,470 for packing and removal. Storage would be \$38.40 per week.
8. Albany Historical Society Inc has offered to provide storage free of charge at a damp free area of the Old Gaol (previously used for archiving)
9. No valuation on the collection has been undertaken.

**STRATEGIC IMPLICATIONS**

10. This item is not referred in the City of Albany 3D Corporate Plan however relates to Council's community services, heritage and tourism objectives.

**COMMENT/DISCUSSION**

11. If Council resolves to accept the donation of the houses the City of Albany will enter further negotiation with the Albany Historical Society Inc (AHS Inc) and other appropriate organizations regarding a suitable display space. AHS Inc has agreed to store the collection free of charge until a suitable location is available. The AHS Inc is in the process of securing a management order of the precinct surrounding Patrick Taylor Cottage and views this area as a suitable display space for a purpose built building. Mouchemores Cottage (leased to the WA Museum) may also be suitable upon further negotiation with the lessees.
12. The AHS Inc has offered to provide volunteer personnel to control a display once a suitable venue is agreed.
13. If Council resolves to decline the offer it is likely the collection would be auctioned for sale.
14. The owners of the display require a decision as soon as possible as the residence the collection is stored in will soon be disposed of. I

**RECOMMENDATION**

THAT Council

- a) accept/decline the proposed donation of the Miniature House collection owned by Mr B Felber of 9 Fynd Street Goode Beach.
- b) Allocate up to \$3,000 from the existing 2006/2007 economic development budget to secure professional services to pack and remove the collection
- c) Enter a formal agreement with the Albany Historical Society Inc regarding conditions for storage and future display.

*Voting Requirement Simple Majority*

.....

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.3.1 continued

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR JAMIESON**

**THAT Council**

- a) accept the proposed donation of the Miniature House collection owned by Mr B Felber of 9 Fynd Street Goode Beach.**
- b) Allocate up to \$1,000 from the existing 2006/2007 economic development budget to secure professional services to pack and remove the collection**
- c) Enter a formal agreement with the Albany Historical Society Inc regarding conditions for storage and future display.**

**CARRIED 13-0**

Reason:

- The Miniature House Collection is of immense cultural value and can be packed and removed at minimal cost.

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.4 GENERAL MANAGEMENT SERVICES COMMITTEES**

**14.4.1 Minutes of the Albany Tourism Marketing Advisory Committee**

- File/Ward** : STR208 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Manager Economic Development (J.Berry)
- Summary Recommendation** : That the minutes of the Albany Tourism Marketing Advisory Committee held on 6 November 2006 and 4 December 2006 be received and recommendations adopted.

RECOMMENDATION

THAT the minutes of the Albany Tourism Marketing Advisory Committee meetings held on 6 November 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*) and the following recommendation be adopted.

- i) THAT Council endorse the preliminary design concepts for interior layout and new external features for the Albany Airport. (*copy of concepts attached to the meeting minutes in the Elected Members Report/Information Bulletin*)

*Voting Requirement Simple Majority*

- ii) THAT the minutes of the Albany Tourism Marketing Advisory Committee meetings held on 4 December 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin)

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WELLINGTON**

**THAT the minutes of the Albany Tourism Marketing Advisory Committee meetings held on 6 November 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*) and the following recommendation be adopted.**

- i) THAT Council endorse the preliminary design concepts for interior layout and new external features for the Albany Airport. (*copy of concepts attached to the meeting minutes in the Elected Members Report/Information Bulletin*)**
- ii) THAT the minutes of the Albany Tourism Marketing Advisory Committee meetings held on 4 December 2006 be received (copy of minutes are in the Elected Members Report/Information Bulletin)**

**CARRIED 13-0**

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.4.2 Minutes of the Special Meeting of Electors – 4<sup>th</sup> December 2006**

- File/Ward** : MAN080 (All Wards)
- Proposal/Issue** : Minutes of Special Meeting of Electors for Council Consideration.
- Reporting Officer(s)** : Corporate Governance Coordinator (JR Byrne)
- Summary Recommendation** : That the minutes of the Special Meeting of Electors held on 4 December 2006 be received.

RECOMMENDATION

THAT the minutes of the Special Meeting of Electors' held on 4 December 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR WATERMAN**

**THAT the minutes of the Special Meeting of Electors' held on 4 December 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*).**

**CARRIED 13-0**

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.4.3 Minutes of the General Meeting of Electors – 5<sup>th</sup> December 2006**

- File/Ward** : MAN080; REL113 (All Wards)
- Proposal/Issue** : Minutes of General Meeting of Electors for Council Consideration.
- Reporting Officer(s)** : Corporate Governance Coordinator (JR Byrne)
- Summary Recommendation** : That the minutes of the General Meeting of Electors held on 5 December 2006 be received.

RECOMMENDATION

THAT the minutes of the General Meeting of Electors' held on 5 December 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR MARSHALL**

**THAT the minutes of the General Meeting of Electors' held on 5 December 2006 be received (*copy of minutes are in the Elected Members Report/Information Bulletin*).**

**CARRIED 13-0**

**15.0 ELECTED MEMBERS' MONTHLY REPORT/INFORMATION BULLETIN**

- 15.1 Elected Members' Report/Information Bulletin  
DRAFT MOTION  
THAT the Elected Member's Report/Information Bulletin, as circulated, be received and the contents noted.

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WOLFE**

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

**CARRIED 13-0**

**16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Item 16.1 was considered after Item 10 and prior to Item 11.

**16.1 Off Road Vehicles – Rescission Motion**

Councillor Lionetti had provided the Chief Executive Officer with written advice that he intended to move the following motion at the 19 December 2006 Ordinary Council Meeting:

'THAT Council rescind motion 11.2.1 of the Ordinary Council Meeting of 21/11/2006 and that the issue of Off Road Vehicles at Cheynes Beach be subjected to a 30 day community consultation period and reconsidered at the January 2007 Ordinary Council Meeting.'

*Absolute Majority Vote Required*

.....

The written notice of motion was submitted in accordance with Clause 10.1 of the City of Albany Standing Orders Local Law and sub-regulations (1) (b) and (1a) of Regulation 10 of the Local Government (Administration) Regulations 1996.

Councillors Lionetti, Wiseman, Waterman, West and Marshall supported the rescission motion in writing.

**MOVED COUNCILLOR LIONETTI  
SECONDED COUNCILLOR WEST**

**THAT Council rescind motion 11.2.1 of the Ordinary Council Meeting of 21/11/2006.**

**LOST 5-9**

**RECORD OF VOTE:**

For the motion: Councillors Marshall, Waterman, West, Lionetti and Wiseman  
Against the motion: Mayor Goode, Councillors Paver, Bocjun, Emery, Wellington, Williams, Evans, Jamieson and Wolfe

Councillor Wiseman left the meeting at 8.00pm following consideration of Item 16.1

Councillor Lionetti retired from the meeting at 8.00pm following consideration of Item 16.1

**17.0 MAYORS REPORT**

DRAFT MOTION

THAT the Mayor's Report dated 19 December 2006 be received.

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR JAMIESON**

**THAT the Mayor's Report dated 19 December 2006 be received.**

**CARRIED 13-0**

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

Nil

**19.0 CLOSED DOORS**

Prior to the consideration of Item 12.7.3, the Chief Executive Officer requested all members of the public and media to vacate the Council Chambers.

**12.7.3 Internal Review Committee meeting minutes – 6<sup>th</sup> November 2006**

Refer to Item 12.7.3 in the Minutes for the resolution of the Council.

**20.0 NEXT ORDINARY MEETING DATE**

Tuesday 16<sup>th</sup> January 2007, 7.00pm

**21.0 CLOSURE OF MEETING**

There being no further business, the meeting closed at 10.40pm.

Confirmed as a true and correct record of proceedings.

---

**A Goode, JP**  
**Mayor**

**APPENDIX A**

**WRITTEN NOTICE OF DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
-------------	-------------	---------------------------

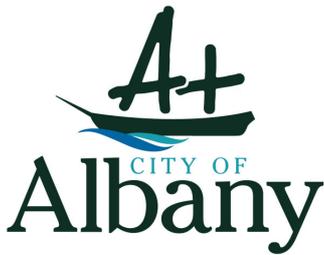
**APPENDIX B**

**INTERESTS DISCLOSED DURING THE COURSE OF THE MEETING**

Nil.

**INTERESTS DISCLOSED BY OFFICERS**

Nil.



[Agenda Item 12.1.1 refers]  
[COUNCIL – 19<sup>th</sup> December 2006]

**SUMMARY OF ACCOUNTS**

Municipal Fund			
Cheques		Totalling	\$168,481.27
Electronic Fund transfer		Totalling	\$1,581,169.72
Credit Cards		Totalling	\$9,291.27
Payroll		totalling	\$775,222.60
<b>Total</b>			<b><u>\$2,534,164.86</u></b>

**CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER**

This schedule of accounts to be passed for payment totalling \$2,534,164.86 which was submitted to each member of the Council on 19 December 2006 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

---

**CHIEF EXECUTIVE OFFICER**  
**(A Hammond)**

**MAYOR**

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$2,534,164.86 which was submitted to the Council on 19 December 2006 and that the amounts are recommended to the Council for payment.

---

**MAYOR**  
**(A Goode JP)**