

MINUTES

ORDINARY MEETING OF COUNCIL

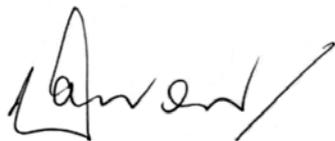
**Held on
Tuesday, 20th November 2007
7.00pm
City of Albany Council Chambers**

City of Albany

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Signed _____

Andrew Hammond
Chief Executive Officer

Date: 26th November 2007



NOTICE OF AN ORDINARY COUNCIL MEETING

His Worship The Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday, 18th December 2007 in the Council Chambers, North Road, Yakamia commencing at 7.00 pm.

(Signed)

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

Andrew Hammond
CHIEF EXECUTIVE OFFICER

26th November 2007

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1.0 DECLARATION OF OPENING

His Worship the Mayor declared the meeting open at 7.00pm and extended a welcome to all present.

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

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

Chief Executive Officer	A Hammond
Executive Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	L Hewer
Manager of Building and Health Services	K Barnett
Senior Planning Officer	K Hughes

Minute Secretary	S Jamieson
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Approximately 45 members of the public were in attendance.

2 media representatives.

Apologies/Leave of Absence:

Councillor	DR Wiseman
Executive Director Development Services	R Fenn

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

3.0 OPENING PRAYER

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

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.0 PUBLIC QUESTION TIME

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

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

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

The following members of the public addressed Council:

- **Jill Williams, Thompson Road, Youngs Siding**

Ms Williams addressed Council on behalf of Julie Slattery in regards to the Proposed City of Albany "Responsible Cat Ownership Local Law", Item 11.2.1.

Ms Williams requested Council to defer the adoption of the law, to allow the Cat Law Committee vision of Protection, Sterilisation and Micro chipping to be implemented into the Law.

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

Mr Neil Smithson of Smithson Planning, addressed council and provided an update on Albany's UNESCO World Heritage Nomination – Australian Convict Colonial Settlements and the actions that have been taken to solicit support from the Federal Government Candidates.

The following details Mr Smithson's address to Council:

Thank you Mister Mayor / Councillors

Neil Smithson of Smithson Planning, 364 Middleton Loop, Albany

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

Further to my comments to Council in June, July, August and October 2007, I have distributed a copy of our report on this matter.

Following Senator Ian Campbell's announcement in January 2007, and Senator Ruth Webber's Question 3043 to the Senate in March 2007, I can advise that the Hon. Malcolm Turnbull MHR – Minister for the Environment and Water Resources (functionally responsible for Australia's World Heritage) has not responded to date, and the question as to why Albany was not included on the list of Australia's Convict Colonial Settlements remained unanswered at the calling of the federal election.

Item 5.0 continued

I draw your attention to the listed Federal candidates for the O'Connor electorate, and can advise that the Hon. Wilson Tuckey (Liberal), Mr Philip Gardiner (Nationals), Mr Mac Forsyth (Christian Democrats), Mr Dominic Rose (Labor), and Mr Adrian Price (Greens) all support Albany's nomination.

Ms Judy Sudholz (Citizens Electoral Council) and Mr Ross Paravicini (One Nation) both oppose the nomination, and the remainder of the candidates have not declared a position.

Of the Western Australian Senate candidates, I can advise that the following support the nomination:

- Hon Ruth Webber and the Hon. Louise Pratt (Australian Labor Party)
- Mr Gerard Goiran and Mr Peter Watt (Christian Democrats)
- Mr Gary Warden and Ms Sarah Bishop (Climate Change)
- Dr Erica Lewin, Mr Rob Olver and Mr Don Hoddy (Australian Democrats)
- Mr Scott Ludlum, Ms Alison Xamon and Ms Brenda Roy (Australian Greens)
- Mr Tony Crook and Mrs Wendy Duncan (National Party of Australia)
- Mr Thomas Hoyer and Ms Shirley Primeau (Carers' Alliance)
- Hon. David Johnston, Hon. Alan Eggleston, Ms Michaelia Cash, Mr Michael Mischin, and Mrs Jane Mourtiz (Liberal Party of Australia).

I can advise that the following Senate Candidates oppose the nomination :

- Ms Jean Robinson and Mr Stuart Smith (Citizens Electoral Council)
- Mr James Hopkinson and Mr Ron McLean (One Nation Party).

The remainder of the Senate Candidates (29) have not declared their position to our office.

I draw your attention to the listed State politicians, and can advise that the following support the nomination:

- Hon. Robyn McSweeney MLC (Liberal), Shadow Minister for Heritage & GS, Western Australia
- Mr Peter Watson MLA (Labor), Member for Albany, Western Australia
- Hon. Matt Benson MLC (Labor), Member for South-West, Western Australia
- Hon. Paul Llewellyn MLC (Greens), Member for South-West, Western Australia
- Hon. Barry House MLC (Liberal), Member for South-West, Western Australia
- Hon. Nigel Hallett MLC (Liberal), Member for South-West, Western Australia

Item 5.0 continued

At this time I have contacted but have not heard back from the following State politicians:

- Hon. Alan Carpenter MLA (Labor), Premier, Western Australia
- Hon. Kim Chance MLC (Labor), Minister for the Great Southern, Western Australia
- Hon. Michelle Roberts MLA (Labor), Minister for Heritage, Western Australia
- Hon. Sheila McHale MLA (Labor), Minister for Tourism; Culture & the Arts, Western Australia
- Hon. Adele Farina MLC (Labor), Member for South-West, Western Australia
- Hon. Sally Talbot MLC (Labor), Member for South-West, Western Australia
- Mr Terry Redman MLA (National), Member for Stirling, Western Australia
- Hon. Paul Omodei MLA (Liberal), Leader of the Opposition, Western Australia
- Ms Katie Hodson-Thomas MLA (Liberal), Shadow Minister for Tourism, Western Australia

I draw your attention to the listed Local politicians, and following on from the September 'meet-the-mayoral candidates' session hosted by the Albany Chamber of Commerce & Industry, Mayor Milton Evans has reaffirmed his support to champion Albany's nomination. The remainder of you councillors are listed thereafter as 'not yet committed', and I invite you to contact our office individually as appropriate.

In relation to each of these statements (federal, state or local), I would reiterate that even though these politicians support the nomination, there is no guarantee that the Commonwealth of Australia will support, or that the inclusion of Albany's precinct will be acceptable to the UNESCO World Heritage authority. I have attached a copy of that organisation's mission statement and the selection criteria used for consideration of World Heritage nominations (both Cultural and Natural).

With reference to the attached response from Mr Terry Bailey, Assistant Secretary Heritage Division, Commonwealth Department of the Environment and Water Resources, I would highlight his final paragraph :

"Important convict sites around Australia are expected to benefit substantially in the event that the Australian Convict Sites are inscribed on the World Heritage List. The CNSC is currently examining ways to maximise tourism opportunities for other significant convict sites. It is anticipated that state and territory officials will coordinate tourism and promotion strategies of convict sites in their jurisdiction. Tourism trails of convict sites in Australia are likely to be one of these measures."

Item 5.0 continued

Mister Mayor / Councillors – what we are doing here is working through the issue of just what convict colonial heritage means to Albany, the Great Southern, Western Australia, Australia and the rest of the world. It is not an overnight consideration, and will evolve in the lead-up to the 2009 State Election. Indeed, there are still several elections before the World War 1 Anzac years of 2014-18 and the Western Bicentennial of 2026-27.

A number of federal / state candidates / politicians have asked what impact World Heritage inscription will have on the continuity of Albany port access, and I have responded :

“It depends on your viewpoint, but my professional opinion is, very little – there is currently one railway line and a two-lane road that is almost impossible to re-engineer to two railway lines and a four-lane road.

“Therefore, it will be urban development under a Peak Oil & Gas business regime associated with an Albany Central Business District lead residential / commercial consolidation and waterfront tourism that will systematically reduce effective long-term heavy freight access expressed through scale of economy capacity (truck / train length) and a decline in operating hours (curfews / noise abatement / traffic management capacity).

“In the mean-time, Grange Resources’ new billion dollar Southdown iron ore project will establish 1500 new homes on Albany’s urban periphery, putting an estimated additional 5,000 vehicle movements per day on Albany’s already congested road network (particularly the big round-about) – it’s a good thing we are building that ring road to the current port location!

“Of course, future governments State and Federal might agree to suggest ‘we need to push through a heavy freight (road / rail) access solution’, ignoring Albany Anzac and the Western Bicentennial – and, good luck with that!”

Briefly, two more things if I may Mister Mayor. I received a recent invitation from the Australian Institute of Urban Studies (WA Division) to attend a forthcoming address by Her Worship the Lord Mayor of Perth, Cr Lisa Scaffidi, where she will outline ‘Her vision for the future of the City of Perth’. Following the recent community planning workshop, I was wondering if you might entertain a similar invitation from the Albany Chamber of Commerce & Industry to do likewise for ‘your vision for the future of Albany’.

Also, there was an outstanding article in yesterday’s West Australian (19 Nov 2007 – Page 10), ‘Minister ends Cottesloe delay’, enunciating the differential viewpoints of the Hon. Alannah MacTiernan, Minister for Planning & Infrastructure, the Western Australian Planning Commission, Mayor Kevin Morgan and the Council of the Town of Cottesloe, and Mr John Hammond, President of the Keep Cott Low anti-high rise action group. I believe the article should be of interest to the Council of the City of Albany for its relevance to building activity in waterfront areas, height control, and community participation via referendum on controversial development.

Thank you for your time Mister Mayor / Councillors.

Yours faithfully
SMITHSON PLANNING
Neil R. Smithson

- **Ms Sylvia Leighton, Mount Clarence**

Ms Leighton addressed Council in regards to the Proposed City of Albany “Responsible Cat Ownership Local Law”, Item 11.2.1.

The following details Ms Leighton’s address to Council:

Good evening Mayor and Councillors. My name is Sylvia Leighton from the Mt. Clarence area in Albany. I’d like to address you in reference to the proposed cat laws which are before council tonight as item no. 11.2.1.

I’d like to congratulate council for bringing this topic to the table for discussion and giving it time to have had a good ‘airing’. I’d also like to congratulate all members of the public who have joined in the debate and it certainly has sometimes attracted some fairly colourful and passionate letters into the local paper. Everybody has engaged in the discussion with the common hope that the local cat laws finally decided upon will draw on the widest possible knowledge base and suit the diversity of needs of the Albany community.

Unfortunately it seems that this first attempt by the City Council to propose new cat laws may not have met the expectations of many of the concerned parties and I would like to call council to send the proposed cat laws back for further discussion and reworking.

It appears that the proposed local cat laws put forward by the City of Albany are closely aligned to those being proposed by the City of Geraldton Council. I would like to encourage council to consider making our proposed local laws more closely aligned with the local cat laws in operation in the Shire of Busselton as we have natural heritage issues more closely aligned with Busselton than with Geraldton. In particular I would like to focus on the shared responsibility that the Shire of Busselton and the City of Albany have in relation to the impacts of cats on our local population of the rare and endangered western ring tailed possum. To my knowledge the City of Geraldton does not have a population of rare and endangered fauna living within the city boundary and therefore their proposed local cat laws do not have to take this issue into consideration.

Just this weekend gone on November 17th there was a press release posted by ABC News about recent results of a scientific survey carried out by the Department of Environment and Conservation looking at the survival rates of the endangered ring tailed possum over in the Busselton area. The report states that by radio tracking some of the ring tailed possums over a period of time the scientists have proven that cats are now the biggest threat against the possum population.

Item 5.0 continued

I would just like to provide council with a little bit more information about the endangered ring tailed possum which we all know is special resident here in the vicinity of the City of Albany. The western ringtail possum of course is a nocturnal native mammal which used to be found from Geraldton to the southern edge of the Nullarbor Plain. It's populations were first reported to be in decline in 1909 and this continued with extensive local extinctions of the inland populations by the 1940's. The western ring-tailed possum was given the 'rare and endangered' status in 1983. It is now classified as a Schedule 1 Endangered species – a title given to animals that are in danger of becoming extinct within 10 years.

Most populations now occur in mainly coastal areas of peppermint woodlands. There is still a small population in the hills of Perth which is believed to be in decline. There is a population in the Bunbury/Busselton area which in recent years has been going through alarming decline and it is this trend which has led to the new study which has just been carried out.

There is an inland population which occurs in the Warren River catchment area and I'm unsure of its present population status. In the south coast region it is the Albany population which is the stronghold for the species. If you drive to Denmark Township you won't find the ring-tailed possum. If you drive out to Green Range you won't find the ring tailed possum. If you drive up to the Porongurup Ranges you may be very lucky to see one and this is because they have just returned there after being absent for about forty years. However with the recent fire it may not have survived.

In Albany we think the ring tailed possum is a 'common' animal because we are very lucky to find it in the bush reserves and some of us are lucky to have it venture down into our gardens. As part of my job I often take school children on spotlighting walks on Mt. Clarence and we have the great pleasure of seeing ring tailed possums along with their cousins the brush tailed possum living in their natural habitat. The western ringtail possum's home range is 0.5 to 1.5 hectares in peppermint forest and about 2.5 hectares in Eucalypt forest, and they will use up to eight different drays (leaf nests that they make to shelter in over night) in the course of a year. The fox has always been believed to have been the primary predator of the western ringtail possum but now it seems we can also state that the cat is an equally formidable predator of the possum. In continuous canopy the western ringtail possum is reasonably safe from foxes. It is when it descends to the ground that it is exposed to the terrestrial predator. The cat on the other hand is an able climber of trees and we can assume that it does capture some of its possum prey (probably babies left in the drays by parents whilst they go and feed) up in the tree canopy.

Item 5.0 continued

Unfortunately with the growing pressure of housing within the City boundary and increased subdivisions the Albany urban gardens are becoming smaller. Along with this trend trees are losing favour and people are having them removed from their gardens. It is this garden foliage which assists the Albany western ring tailed possum population to move across the landscape and for grown baby possums to move out of their parent's territory to find a new home territory. With fewer trees the possums are forced down onto the ground more often. Western Ring Tailed Possums are pretty 'cluey' and when they smell and see a dog in a backyard and they know to steer well clear or to definitely stay up in the trees. However, when they come across a cat they probably don't fare as well as a cat can quite easily leap out of its garden confines and climb trees to hunt the young possums as well.

Feral cats of course are the consequence of irresponsible domestic cat ownership in the past. Sometimes owners have not fed their pets enough food so it has had to go and forage in the bush and over time it becomes wild. There has been many a case of unwanted kittens being dumped in the bush. Sometimes owners have moved house and they 'forget' to take their pet cat along with them. Sometimes even a well fed cat will just prey on native animals for the 'sport' of it as it is their natural instinct. It was hoped that the new cat laws might address some of these irresponsible pet cat ownership issues by addressing cat sterilisation, licensing and guidelines to cat owners to house the cats in a responsible manner. For those people who love to have cats as a pet it must be annoying that irresponsible cat owners which give 'cats' a bad name.

As residents of Albany we are very lucky to have the endangered western ring tailed possum right here on our doorstep. It is part of the unique natural heritage of Albany and of our state. In fact it is very precious natural heritage to this nation and I hope the City of Albany Council will send the proposed cat laws back for further working and take into account the fact that if cats are not properly cared for then they could become detrimental to the future of the Albany western ring tailed possum population.

The link to the ABC Media report which appeared on the 17th Nov. 2007 is listed below: <http://www.abc.net.au/news/stories/2007/11/17/2093655.htm>

Item 5.0 continued

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

Mr Bolger addressed Council in regards to the Proposed City of Albany “Responsible Cat Ownership Local Law”, Item 11.2.1.

Mr Bolger explained that he has observed a significant decrease in bird species over a five year period. Mr Bolger spoke against the Cat Law sighting it will not address the current issues in particular the requirement to have an independent witness to verify a troublesome cat.

Mr Bolger requested Council to review the proposed Responsible Cat Ownership Local Law and the need to include a Cat Curfew and trapping.

- **Mr Neil Newman, Millbrook**

Mr Newman addressed Council in regards to the final Adoption of the City of Albany Sloping Land Policy, Item 11.3.1.

Mr Newman a manufacturer and Installer of retainer walls, raised concern over the planned height restrictions on the construction of ‘Retainer Walls’ on sloping land with a slope greater than 10 degrees.

Mr Newman requested Council to consider if the following was taken into consideration:

- Storm water run off;
- Aesthetics of Pole Homes; and
- The establishment of gardens on undulating slopes.

Mr Newman tabled photos of ‘Retainer Walls’ and a ‘Pole Home’.

- **Mr Tony Harrison, Little Grove**

Mr Harrison addressed Council and requested support for industries and activities that utilise the Great Southern marine environment in particular: Whale Watching, Scuba Diving, Professional Fishing, and Mussel Farms.

Mr Harrison raised concern that the Port Authority and Grange Securities want to dredge the Port and dump the sand between Break sea Island and Bald Head.

Mr Harrison requested Council to look after the King George Sound marine environment.

Mr Harrison also expressed his concern over non conforming land use, in particular Granite mining on productive fertile farms. Quote: “Mining Granite is not a form of farming”.

Mr Harrison appealed to cat owners to be responsible.

At 7.33pm through a vote of hands, public question time was extended.

Item 5.0 continued

- **Mr Colin Woods, 73 Oxford Street, Gledhow**

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

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

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

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

- **Mr Perry Spanbroek, Frenchman Bay Road, Little Grove**

Mr Spanbroek addressed Council in regards to Planning Compliance, Fish Processing, Lot 12 Kitson Road, Gledhow, Item 11.1.6.

The following details Mr Spanbroek's address to Council:

His Worship the Mayor and Councillors

My name is Perry Spanbroek and I reside at 747 Frenchmans Bay Rd Albany. I am Director and shareholder of VR Property Holdings owner of a Facility at Kitson Rd Gledhow.

I wish to speak to Item 11.1.6 tonight's agenda concerning the Factory in Kitson Rd.

First of all I would like to thank those councillors who were able to find the time to visit the facility and also for any of those councillors who wish to visit you are more than welcome.

This "Factory" has been operation now for approximately twelve years with various different operators. The current operator, Mr Adam Soumelides of Southern Seafoods has been running his business there for 4 years. In that time he has developed a strong and viable business which has added a great deal to the local economy.

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

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

Item 5.0 continued

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

The problem of odours emanating from the site have been dealt with expeditiously and the sewerage and drainage on the site has been upgraded significantly. It should be mentioned here that the factory when refurbished was done to “export standards” and that standard still applies today.

Any complaints have been dealt with immediately and council has been kept fully informed.

Adam Soumelides has invested heavily in his business and we as landlords have also invested heavily to keep a good business employing directly and indirectly up to 15 people operational.

We accept that there have been complaints from neighbours, however this is an industrial site and noise and odours are a consequence of uses within this zoning. The factory was operational before the houses on the western side of Kitson Rd were built and I find it surprising that a residential development should occur in an area zoned as “General Industry”.

I realize that council is faced with a decision tonight to force the immediate closure and end of a viable business which Adam and ourselves have strived to maintain.

I would therefore ask council to support the alternative motion which is being put tonight, allowing a period of up to 18 months for all parties to consider other options.

Thank you.

- **Mr Tony Demarteau, Lorenzo Way, Orana**

Mr Demarteau addressed Council in regards to the Emu Beach Caravan Park, Item 13.5.2. Mr Demarteau gave his support to the business owners of the Emu Beach Caravan Park and urged Council to support them in their request for a long term lease.

Public Question Time finished at 7.42pm

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 16th October 2007;

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

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR WOLFE**

THAT the following minutes:

- **Ordinary Council meeting held on 16th October 2007;**

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

MOTION CARRIED 12-0

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

8.0 DISCLOSURE OF FINANCIAL INTERESTS

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

Name	Item	Nature of Interest
Cr R Paver	11.1.4	Financial – Applicant is a client of Cr Paver. Extent of Interest – Cr abstained from being involved in the debate and vote.
Cr R Paver	12.6.1	Financial – Tenderer is a client of Councillor. Extent of Interest – Cr abstained from being involved in the debate and vote.
Cr N Williams	11.1.5	Impartiality – Proponents are well known to Cr Williams. Cr has worked with Dr Knight at SRMG for a length of time. Extent of Interest – Cr does not have a vested interest in this item and subsequently will take part in the debate and voting on this item.
Cr N Williams	11.1.6	Impartiality – The tenants operating the Fish Processing Operation, Trading as Great Southern Sea foods; are close friends of the Councillor. Extent of Interest – Cr is good friends with the operators' wife and is seen socially often. Cr does not have a financial interest in the operation.
Cr N Williams	13.5.2	Impartiality – The proponents are relatives of Cr Williams (Sister and Brother in Law). Extent of Interest – Cr abstained from being involved in the debate and vote.
Mr A Hammond (CEO)	13.5.1	Impartiality – Partner works for South Coast NRM.

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

11.0 REPORTS – DEVELOPMENT SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on green –
See Pages 19-147]

12.0 REPORTS – CORPORATE & COMMUNITY SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on yellow –
See Pages 148-165]

13.0 REPORTS – WORKS & SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on pink –
See Pages 166-199]

14.0 REPORTS – GENERAL MANAGEMENT SERVICES

[Reports from this portfolio are included in the Agenda and photocopied on buff –
See Page 200-201]

Development Services

REPORTS

DEVELOPMENT SERVICES REPORTS

- R E P O R T S -

11.1 DEVELOPMENT

11.1.1 Development Application - Outbuilding - Lot 75 (No. 76) Gladville Rd, McKail

File/Ward : A164731 (West Ward)

Proposal/Issue : Proposal to construct an outbuilding that does not comply with the City's Outbuilding Policy

Subject Land/Locality : Lot 75 (No. 76) Gladville Road, McKail

Proponent : K Weatherhead

Owner : S & K Weatherhead

Reporting Officer(s) : Senior Planning Officer (I Humphrey) & Planning Cadet (T Gunn)

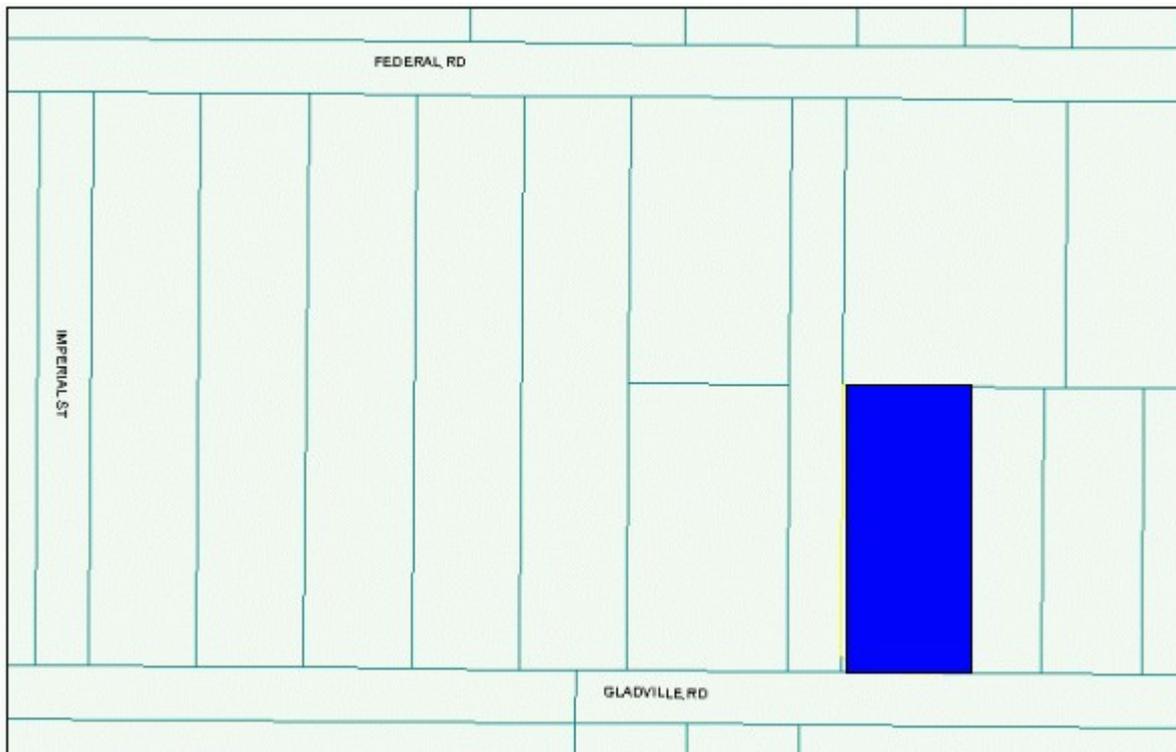
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : Issue Notice of Planning Scheme Refusal

Bulletin Attachment : Nil

Locality Plan :



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

BACKGROUND

1. An application has been received for an outbuilding at 76 Gladville Road, McKail that does not comply with the City of Albany's Outbuilding Policy. A site plan is attached at the rear of this report.
2. The subject land is zoned "Special Residential (Area No. 9)" within Town Planning Scheme No. 3 and is 4054m² in area.
3. There is an existing 108m² outbuilding on the property with the proposal to construct a further 54m² outbuilding, bringing the total floor area of outbuildings on the property up to 162m². This does not comply with the 140m² floor space allowable in a Special Residential zone, under Council's Outbuilding policy. The proposed extension to the existing shed would have an eave height of 2.8m and a ridge height of 4.5m, which complies with Council's Outbuilding Policy.

STATUTORY REQUIREMENTS

4. Any proposed outbuilding should comply with the relevant provisions of Special Residential zone No 9 within Town Planning Scheme 3 and Council's Outbuilding Policy.
5. Within "Special Residential Area No. 9" new structures are required to be setback 12.0m from the frontage of a lot and 5.0m from the side or rear boundary of a lot. In this instance the outbuilding is proposed to be built 2.0m from the eastern boundary.
6. No colour schedule for the outbuilding has been submitted to Council. If approved, a condition would be imposed to restrict the use of zincalume and off-white colours as specified in the special provisions relevant of this zone.

POLICY IMPLICATIONS

7. Clause 6.9.4 (B) of Town Planning Scheme No. 3 states
 - B. Council shall take into account the provisions of the policy and objectives, which the policy was designed to achieve and any submissions lodged, before making its decision.*
8. The aim of the Outbuilding Policy is:

"To achieve a balance between providing for the various legitimate needs of residents for outbuildings, and minimising any adverse impacts outbuildings may have on neighbours, a street, a neighbourhood or locality, or the City as a whole."
9. This policy objective is achieved by enforcing the height, area and other requirements of the Outbuilding Policy.
10. Council has recently amended its policy increasing the floor space of outbuildings within particular zones. The policy has increased the floor area on Special Residential lots from 120m² to 140m². Council now has some of the most generous outbuilding sizes compared to other local governments within the State.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

11. The newly adopted policy states that Council will only approve outbuildings not consistent with its policy where exceptional circumstances are presented by the proponent.

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. The proponent has explained that the main reasons for a further 22m² of outbuilding floor space is to cover and store machinery already located on the property. Attached to the rear of this report is a copy of the correspondence received from the proponent stating the reasoning for the proposed outbuilding.
15. The proponent has requested a side setback relaxation from 5.0m to a minimum of 2.0m. Staff believe the relaxation is acceptable due to the new structure being located along the same building alignment as the existing structure that would appear to have been built prior to the planning provisions being put in place. The proponent has also stated he has consulted with his eastern adjoining neighbour, who has raised no objections to the proposal, and has supplied a letter to this effect.
16. The outbuilding will have minimal impact on the streetscape due to the location of the proposed outbuilding being located behind the existing residence.
17. The Outbuilding policy has recently been amended with increases to the floor area of sheds in this particular zone. Supporting this application could encourage larger outbuildings on surrounding properties and could be used to set a precedent within Special Residential areas. Given the policy was recently amended, this would undermine the new policy's effectiveness. For these reasons, Staff feel the proposal should not be supported.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

RECOMMENDATION

THAT Council resolves to issue a Notice of Planning Scheme Consent Refusal for an oversized outbuilding at 76 Gladville Road, McKail as the outbuilding does not comply with the floor space restrictions contained within the City of Albany's Outbuilding Policy.

Voting Requirement Simple Majority

.....

ALTERNATE MOTION BY COUNCILLOR WILLIAMS

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR MATLA**

THAT Council resolves to issue a Notice of Planning Scheme Consent Refusal for an oversized outbuilding at 76 Gladville Road, McKail as the outbuilding does not comply with the floor space restrictions contained within the City of Albany's Outbuilding Policy;

AND

THAT the applicant be encouraged to examine the possibility of constructing additional vehicle storage on the property by means of carports and garages attached to the residence.

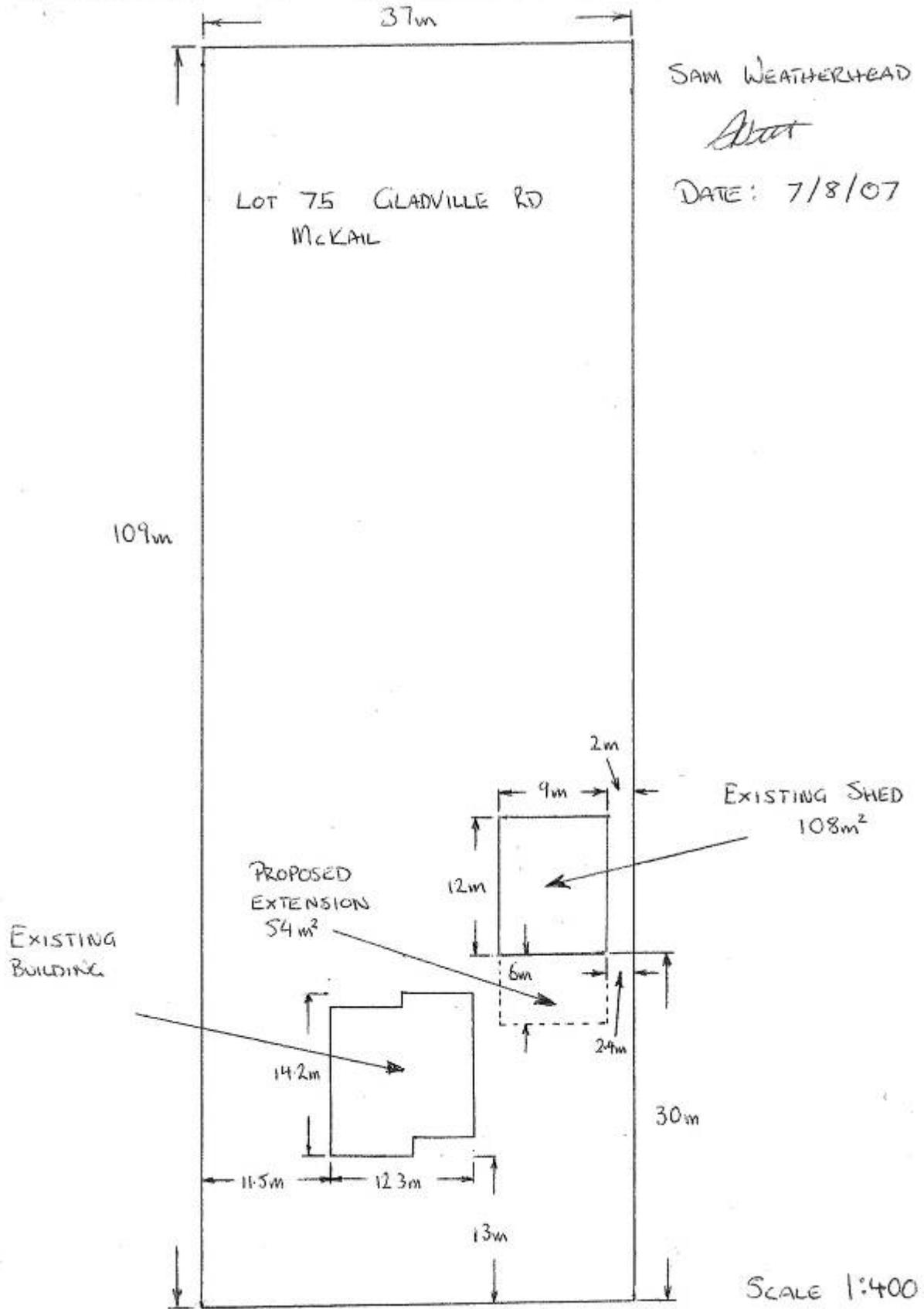
MOTION CARRIED 12-0

Reason:

The requirements of the landowner to store his family car and recreational vehicles under cover can be achieved by extensions to the existing residence which will not contravene Council's policy and he should be encouraged to pursue those options.

ORDINARY COUNCIL MEETING MINUTES – 20/11/07
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued



Item 11.1.1 continued

1:150

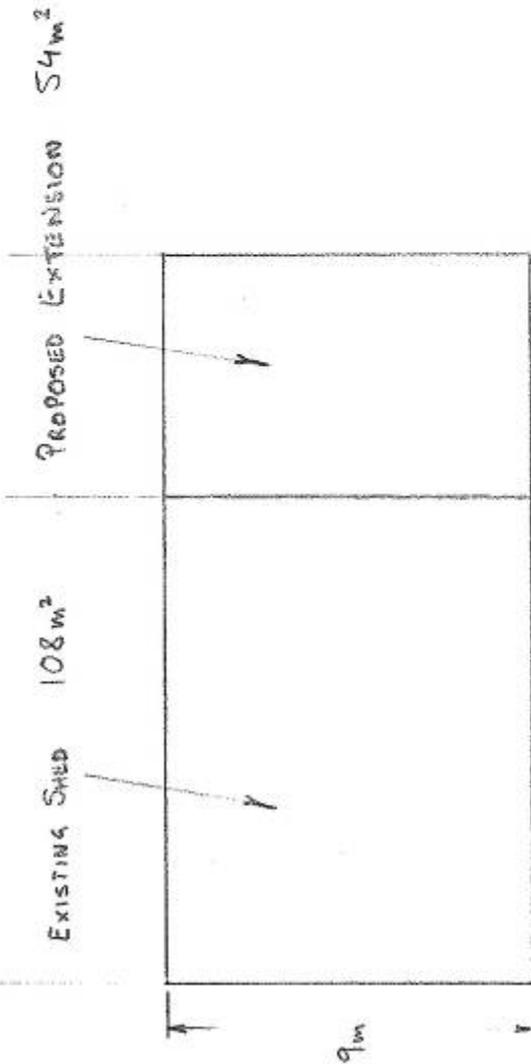
LOT 75 GLADVILLE RD

MICKAIL

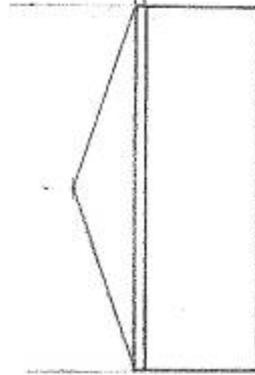
REF NO P275254



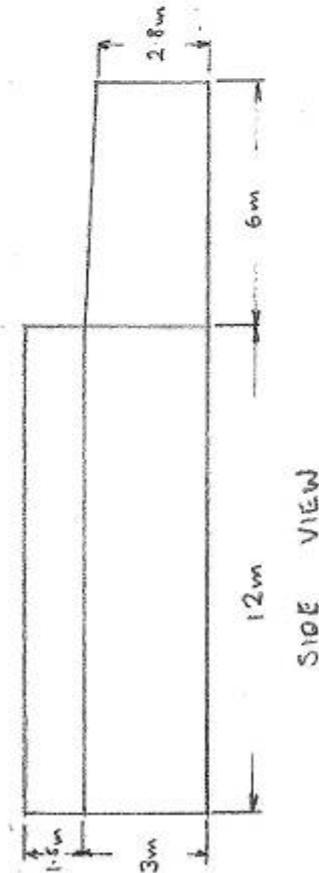
All 4731
 Plan 10



TOP VIEW



FRONT VIEW



SIDE VIEW

SAM WEATHERHEAD

17/11/07

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

7th August 2007

TO WHOM IT MAY CONCERN

RE: PROPOSED SHED EXTENSIONS AT 76 GLADVILLE ROAD, MCKAIL.

Our existing shed is 108sqm and our proposed plan is to extend an extra 54sqm for a total shed area of 162sqm. The addition would be added to the front of the existing shed as shown in the plan provided.

We have worked hard over the years to purchase a number of assets and our existing shed is not sufficient to garage them.

Our list of assets to store in our shed include:

2 x Collectable Vehicles
2 x Family Vehicles
2 x Half Restored Vehicles
1 x Ride on Lawn Mower
2 x Adult 4 Wheelers
2 x Childrens 4 Wheelers
1 x Two Wheel Motorbike
1 x 6x4 Trailer
1 x Bike Trailer

We have discussed this with our neighbours who have no concerns with the proposed plan.

We request that you consider this extension as we would find it a lot more cost effective than having to relocate to a property with ample shed space.

We look forward to your decision.

Regards,



SAM WEATHERHEAD.



KAYLENE WEATHERHEAD.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued



ADJOINING OWNERS COMMENT
PROFORMA
VARIATION TO THE DESIGN CODES

City of Albany Records
Doc No: ICR7035542
File: A164731
Date: 08 AUG 2007
Officer: PLAN10

PLEASE BE AWARE THAT YOU ARE UNDER NO OBLIGATION!

Attach:

Where a development does not meet the Acceptable Development standards prescribed under the Residential Design Codes the applicant must demonstrate to Council that the performance criteria can be met. In considering whether to support a variation to the Codes Council wishes to seek the views of adjacent neighbours, which may be affected by the development. Please take the time to view the applicant's plans in detail prior to either objecting or supporting the variation, and should you wish to provide additional comments please attach them to this form. Should you wish to discuss the variation with Council prior to signing the form please contact Council's Planning Department on 9841 9383.

It should be advised that in determining the application for a variation under the Residential Design Codes your comments will be taken into account, however Council is not obliged to support your views. If requested by the applicant Council is required to forward a summary of your comments to them, and should they wish to respond they must do so in writing within seven (7) days.

ADJOINING PROPERTY OWNER DETAILS

Name: ADRIAN & ANNETTE DENBOER
Lot No: 76 Street No: 70 Street Name: GLADVILLE ROAD
Suburb: MCKAIL Post Code: 6330

Residential Address (if different to above property address)

LOCATION OF PROPOSED DEVELOPMENT

Name: SAM & KAYLENE WEATHERHEAD
Lot No: 75 Street No: 76 Street Name: GLADVILLE ROAD
Suburb: MCKAIL Post Code: 6330

DETAILS OF VARIATION TO WHICH COUNCIL DISCRETION IS REQUIRED

Plan Attached (Please attach the proposed plan with signature and date signed specified)

The following to be completed by applicant and sited by the adjoining owner:

What variation is being sought (eg. side setback relaxation, overlooking)? OVERLOOKING

What is the Acceptable Development standard, for the variation being sought? MAX. SHED AREA 120sqm

What setback/relaxation is being proposed? OVERALL SHED AREA 162sqm

ADJOINING OWNER'S COMMENTS

- I do not object
- I object for the following reasons:

Signed: A. den Boer Date: 7/8/07 Phone: 9841 8646

DEVELOPMENT SERVICES REPORTS

11.1.2 Development Application - Outbuilding - Lot 133 (No. 1104) Eden Road, Nullaki

File/Ward	:	A171269 (West Ward)
Proposal/Issue	:	Proposal to construct an outbuilding that does not comply with the City's Outbuilding Policy
Subject Land/Locality	:	Lot 133 (No. 1104) Eden Road, Nullaki
Proponent	:	Chesters Constructions
Owner	:	P & J Gendle
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride) / Planning Cadet (T Gunn)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Issue a Notice of Planning Scheme Consent
Bulletin Attachment	:	Nil
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

BACKGROUND

1. An application has been received for an outbuilding at Lot 133 (No. 1104) Eden Road, Nullaki. A site plan is attached at the rear of this report.
2. The subject land is zoned “Conservation” within Town Planning Scheme No. 3 and is 32.04 hectares in area.
3. The proposal has been referred to Council for consideration as the proposed outbuilding contravenes Council’s Outbuilding Policy.

STATUTORY REQUIREMENTS

4. The land is zoned “Conservation” under Town Planning Scheme No. 3 (TPS3). Outbuildings are permitted within this zone subject to compliance with the Council’s Outbuildings Policy. An application for Planning Scheme Consent and substantial justification is required where the provisions of the policy cannot be met.
5. Clauses 6.9.4 (A) & (B) of TPS 3 state:
 - A. *A Town Planning Scheme Policy shall not bind the Council in respect of an application for Planning Consent, however, it may require the Council to advertise its intention to relax the provisions of the Policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
 - B. *Council shall take into account the provisions of the policy and objectives, which the policy was designed to achieve and any submissions lodged, before making its decision.*

POLICY IMPLICATIONS

6. The aim of the Policy is:

“To achieve a balance between providing for the various legitimate needs of residents for outbuildings, and minimising any adverse impacts outbuildings may have on neighbours, a street, a neighbourhood or locality, or the City as a whole.”
7. Council has recently amended its Outbuilding Policy by increasing the floor space of Outbuildings within particular zones. The Policy has changed for properties located within the conservation zone from having a maximum floor space of all Outbuildings on the property from 120m² to 140m².
8. Where an outbuilding does not comply with the policy Clause 7.0 states:

“Planning Scheme Consent of the City will be required where the above criteria cannot be achieved and unless substantial justification can be provided, the application will not be permitted.”

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

STRATEGIC IMPLICATIONS

10. 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

11. Lot 133 is one of only a few lots within the Nullaki Estate that has a “non-conforming use right” for livestock grazing, and contains large areas of cleared land.
12. The proposed outbuilding has a floor area of 156m² and will be the only outbuilding located on the property. The proposal therefore exceeds the limit by 16m². The proponent has also requested a side setback relaxation from 20.0m to 8.0m and a height relaxation for a small portion of the outbuilding. In relation to the side setback relaxation, the outbuilding will be located in a cleared portion of land with no additional clearing of vegetation required. Staff believe the objectives of the zone, “to protect, enhance and rehabilitate the flora, fauna and landscape qualities of the Nullaki Peninsula” will not be compromised under the proposal.
13. The proponent has stated in his covering letter that he has consulted with his adjoining neighbour who has raised no objections regarding the positioning of the proposed outbuilding. He has signed a copy of the site plan to this effect.
14. The proponent has explained that the main reasons a further 16m² of outbuilding space is needed is to accommodate a stable for two horses and to provide adequate shelter for them from the weather. The proponent has also reduced the size of the outbuilding from the original plans and has stated that the outbuilding cannot be made any smaller; the stable materials don’t come in any smaller sizes. Attached to the rear of this report is a copy of the correspondence received from the proponent stating his reasoning for the proposed outbuilding.
15. The building has dimensions of 14.7m in length x 10.52m in width x 3m in wall height and 4.9m to the ridge height. The requirements for outbuildings located within the conservation zone are 3.5m to wall height, and 4.5m to the ridge height. The portion of the outbuilding that is over height is minimal and, given the shed will not be highly visible in the landscape; staff are supportive of the relaxation.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

16. In summary staff believe the proposal meets the exceptional circumstances test on the following grounds and should be supported.
- The proposed stables are to be located in an already cleared portion of the property.
 - The outbuilding will not be highly visible from roads and other public vantage points.
 - The lot is one of a few properties in the Nullaki that has non-conforming use rights for the keeping of stock.
 - The non-complying outbuilding is not likely to set a precedent given the majority of conservation lots are fully vegetated and stables cannot be considered.

RECOMMENDATION

THAT Council resolves to issue of a Notice of Planning Scheme Consent for the oversized and over height outbuilding at Lot 133 (No. 1104) Eden Road, Nullaki subject to the following conditions:

- i) The outbuilding is to be clad in materials that blend into the natural surroundings.
- ii) A windbreak of endemic tree species is to be planted along the western boundary of the property in the vicinity of the approved shed.
- iii) The windbreak required under condition (ii) shall be fenced from the balance of the land and the vegetation shall be nurtured until it reaches full maturity, with any dead plants replaced.

Voting Requirement Simple Majority

.....

ALTERNATE MOTION BY COUNCILLOR WILLIAMS

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR PRICE**

THAT Council resolves to issue a Notice of Planning Scheme Consent Refusal for an oversized outbuilding at Lot 133 (No 1104) Eden Road, Nullaki as the outbuilding does not comply with the floor space restrictions contained within the City of Albany’s Outbuilding Policy.

MOTION CARRIED 12-0

Reason:

The requirements of the policy and the needs of the landowner can be met by the purchase of a shed from an alternate manufacturer and by adjusting the layout of the stables and storage facilities within the proposed shed.

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

Re: Planning Permission for Horse Stables.

We own one horse and two small ponies which are used solely for recreational purposes. The reason for building a stable is to provide them with walk in walk out shelter that they can use at their leisure and to provide a storage area for our tack etc.

The stable needs to be positioned on the western side of the property with the stalls facing east into the horse paddock so as to provide adequate shelter from the weather. The severe storms and rain are predominately from the west, (N/W,W,S/W).

The stable also needs to be at the northern end of the horse paddock so as to be within walking distance from the main residence for my 12yo daughter.

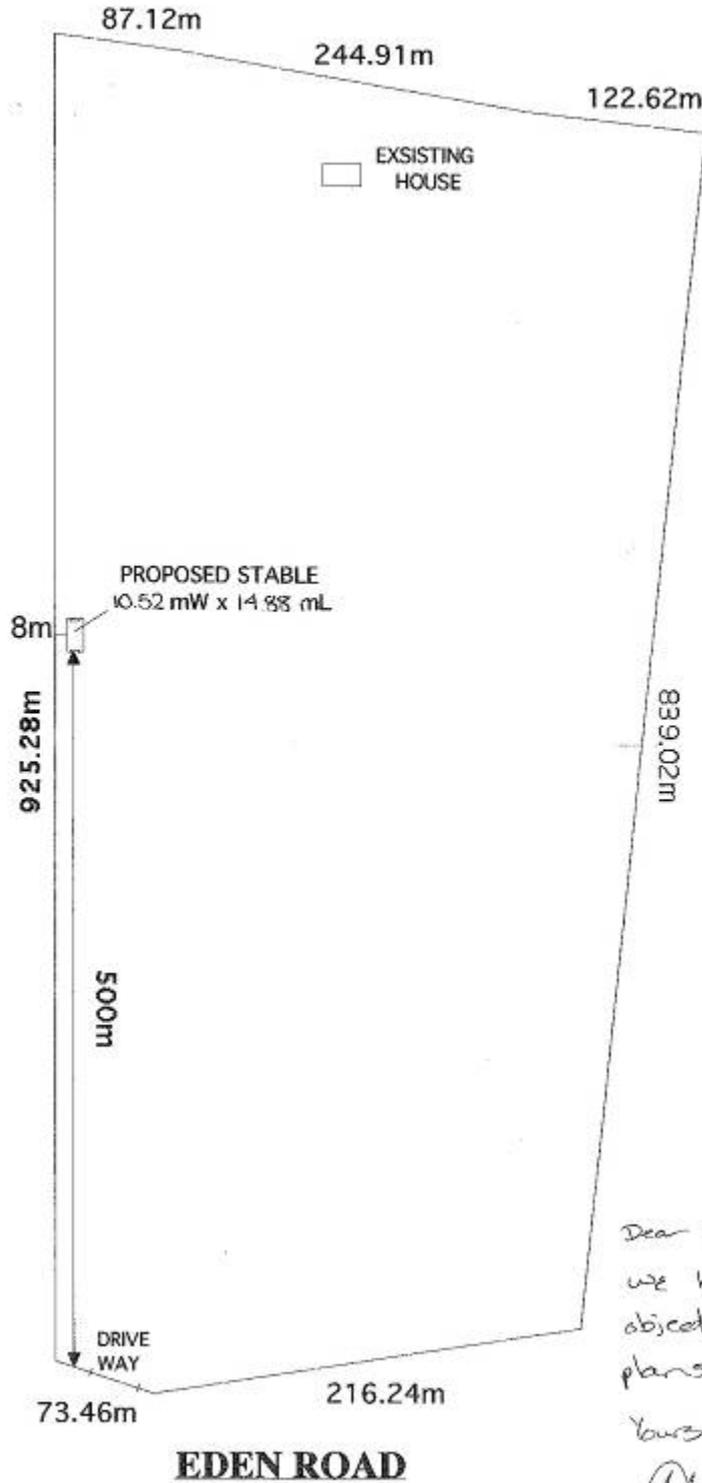
The proposed position of the stable has been discussed on site with the owner of the neighbouring property (Lot132) and they have no objection to this proposal.

A row of windbreak trees are to be planted along the western border to provide additional shelter and privacy. These trees will consist of indigenous species such as Yates, Karri and peppermint trees.

Thank you,
Paul & Julia Gendle

Item 11.1.2 continued

PROPOSED SITE PLAN FOR P & J GENDLE OF LOT 133, EDEN ROAD, NULLAKI



SCALE 1:3000

Dear council 24/10/07
we have no
objections to these
plans.

Yours sincerely
Megan + Andrew Gendle

Megan + Andrew
Gendle
1 + 132 11 11 67

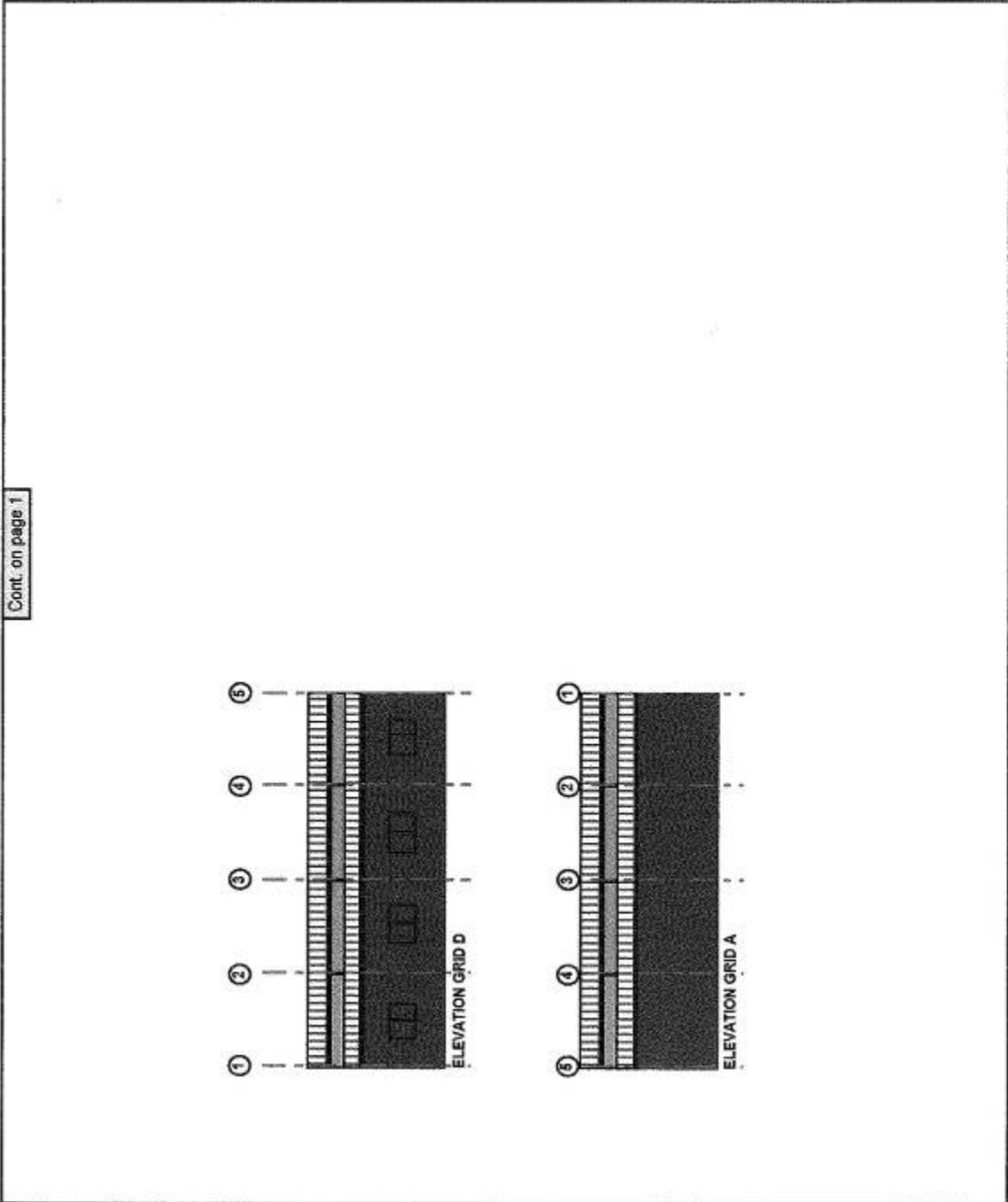


ORDINARY COUNCIL MEETING MINUTES – 20/11/07
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued



SCALE A4 SHEET 1:200	PAGE 2/2
DRAWING NUMBER ALBANY-8887	



DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued

P275291

A171269



Re: Size of Proposed Horse Stable.

City of Albany Records
Doc No: ICR7040023
File: A171269
Date: 11 OCT 2007
Officer: CPLAN1

We originally submitted an application to the planning department in early October for a 245m² stable unaware that there was a maximum limit of 140m² for our location.

When notified of this restriction we reduced the size down as much as possible to obtain a structure $\leq 140\text{m}^2$. But because the dimensions of the standard Ranbuild Kit Stalls are 3.76m x 3.675m it was impossible to reduce the area below 140m². (Ideally we would have preferred stall sizes 4m x 4m but the Ranbuild kit was 3.76m x 3.675m).

We also narrowed the aisle from 3.5m to 3m in order to reduce the area further but the total was still just a bit over 140m² (an extra 16m²). A 3m aisle is less than normal for a stable but we can live with it in order to get as close as possible to your regulations.

We also reduced the height of the walls and roof from the original plans to meet the required regulations which again is not ideal but we are happy to do it in order to have the stable approved and we understand the importance of height restrictions in this area.

We are hoping that you will grant us permission to erect the 156m² stable because;

1. We have made a genuine effort to reduce the total area down to as close to 140m² as possible.
2. The standard Ranbuild kit stall size can't be altered.
3. It is only just over the maximum size limit (16m²).
4. The stable is not visible from any road as the horse paddock is hidden behind a densely vegetated hill.

Thank you,
Paul & Julia Gendle

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 was withdrawn by the Mayor.

11.1.3 Development Application - Caravan Park (Park Home Park with 400 units) - Lots 32, 33 and 34 Catalina Road, Lange

File/Ward : A55659, A55497, A50172 (Yakamia Ward)

Proposal/Issue : Caravan Park, (Park Home Park with 400 Units)

Subject Land/Locality : Lots 32, 33 and 34 Catalina Road, Lange

Proponent : Albany Lifestyle Village P/L

Owner : P Edward & L Pocock

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

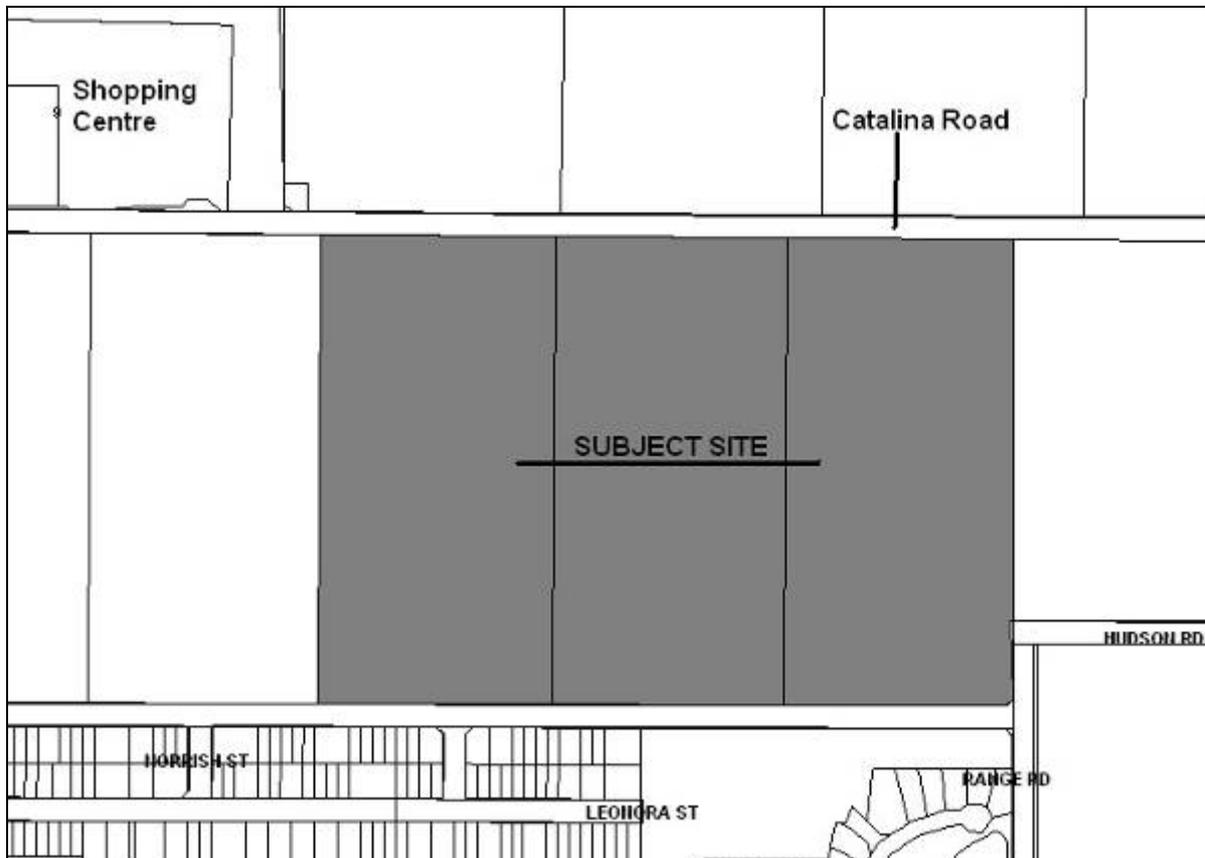
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : Delegate Planning Scheme approval to the Manager of Planning and Ranger Services

Bulletin Attachment : Site Plan, photographs of an existing village

Locality Plan :



DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

BACKGROUND

1. An application has been received from Albany Lifestyle Village seeking Planning Scheme Consent to develop a “Caravan Park, (Park Home Park with 400 Units)” on Lots 32, 33 and 34 Catalina Road, Lange. A complete copy of the application is located in the Councillors Lounge.
2. The Proponent seeks to site 400 Park Home Units on the site, which is aimed towards the 45yr+ (but predominately between 55yr and 70yrs) age group to provide a facility for people too young, fit or active for a traditional retirement village. The total area of the three lots is 24.5ha.
3. The proposed development involves the following infrastructure on the site:
 - 400 park home units
 - Internal road network
 - Tennis and open recreation area facilities
 - Bowling green
 - Administration block
 - Family Centre
 - Clubhouse
 - Workshops (2)
 - Art House
 - Boat and Caravan Parking
4. Each park home site will contain a storage shed, an open sided carport and a functional courtyard area accessible from a living area.
5. The site plan also shows conventional residential lots bordering the “Lifestyle Village”, which is addressed in a Scheme Amendment Request (due to the zoning of the land as “Rural”), which would act as a development buffer to surrounding residential (current and future) lots.
6. Vehicular access to the site is proposed from Catalina Road only. A 6m wide landscaping buffer is also proposed around the completed development between the caravan park (Lifestyle Village) and the nearest residential lots.
7. The site falls within the Yakamia Structure Plan area, with that plan currently being prepared. However this is not ready to be presented to Council (due to on-going vegetation studies), in a final draft form.
8. The estimated cost of the development has been stated as \$12.5 million, which exceeds staff’s delegation powers and therefore the application is presented to Council for deliberation.

STATUTORY REQUIREMENTS

9. The land is zoned “Rural” within Town Planning Scheme No. 3 (TPS3). The use “Caravan Park” is a “SA” discretionary use, meaning Council has the ability to approve or refuse the proposed development.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

10. A Caravan Park is not specifically defined under TPS3, however under Section 1.6 (interpretation), unless the context otherwise requires, words and expressions used in the scheme have the same meaning as they have in the *Planning and Development Act 2005*, which defines a “Caravan Park” as having the same meaning as contained in the *Caravan Parks and Camping Grounds Act 1995*.
11. The *Caravan Parks and Camping Grounds Act 1995* states a caravan park means; *“an area of land on which caravans, or caravans and camps, are situated for habitation”*.
12. The *Caravan Parks and Camping Grounds Regulations 1997* which provides further details and clarification, defines a “Park Home Park” (of which the proposed units are, due to their inability to be drawn by another vehicle) as; *“a caravan park at which park homes, but not any other caravans or camps, are situated for habitation”*.
13. Legal advice sought by City Staff states that park homes are “vehicles” and are therefore a form of “caravan” for the purposes of TPS3. Consequently, a “Park Home Park” may be considered to be a form of “Caravan Park”.
14. Section 5.4 (matters to be considered by Council) within TPS3 states (not the complete list) that;

“The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of Council relevant to the use or development the subject of the application;

- *any approved Statement of Planning Policy of the Commission;*
- *any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State;*
- *any Town Planning Scheme Policy adopted by the Council under clause 6.9, and any other plan or guideline adopted by the Council under the Scheme;*
- *the compatibility of a use or development with its setting;*
- *any social issues that have an effect on the amenity of the locality*
- *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- *the preservation of the amenity of the locality;*
- *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;*
- *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- *whether public utility services are available and adequate for the proposal*
- *whether adequate provision has been made for the access for pedestrians and cyclists;*

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

- *whether adequate provision has been made for access by disabled persons;*
 - *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
 - *whether the proposal is likely to cause soil erosion or land degradation;*
 - *any relevant submission received on the application;*
 - *the comments or submissions received from any authority consulted under clause 5.1A;*
 - *any other planning consideration the Council considers relevant.”*
15. The West Australian Planning Commission’s “Planning Bulletin 49;- Caravan Parks”, provides advice on the matters to be considered in regards to planning for the development of caravan parks. The key planning objectives are;
- *“to provide short-term accommodation for tourists in locations which complement existing tourist and recreation facilities;*
 - *to provide long-term accommodation for permanent residents in locations with access to services normally available to conventional residential development; and*
 - *to encourage development of caravan parks in a manner which is compatible with existing land uses, and which does not have a detrimental impact on the environment or the amenity of the locality.”*
16. In accordance with requirements stipulated in the Scheme, the applicant has provided all the necessary documentation for Council’s assessment. Compliance with stated undertakings and with any modified requirements can be controlled through planning conditions.
17. The proposal was advertised and referred, for a period of 21 days, to surrounding landowners (see Comments/Discussion section below) and government agencies. Responses have been received from Water Corporation and The Department of Water. The Department of Environment and Conservation’s response is still outstanding. Any responses received prior to the Council Meeting will be forwarded to Councillors.

POLICY IMPLICATIONS

18. The Albany Local Rural Strategy, does not specifically address “Park Home Parks”, but Section 9 (Tourist Development), Table 1, under Mobile Home Park, states;

Use	Definition	How Processed	Special Criteria
Mobile Home Park	Caravan Park wholly or partly for permanent or semi permanent residence	Not permitted unless land rezoned to Special Site Mobile Home Park	Rezoning documentation is to include a development guide plan Sealed roads only Only in or adjacent to existing urban areas

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

FINANCIAL IMPLICATIONS

19. In order to facilitate the extra vehicular traffic to and from the site, as well as servicing the resident population, it is expected that significant upgrading of Catalina Road will be required. This is expected to be met by the applicant, however once completed will become a maintenance issue for the Council

STRATEGIC IMPLICATIONS

20. Albany Local Planning Strategy (ALPS) identifies the land for possible future Residential Development, and states that Albany's population of the 50yrs+ and upwards is likely to increase. Under Section 6.2 (Housing) a planning principle is: *"Encourage a diversity of housing choices to match our changing population needs"*.

COMMENT/DISCUSSION

21. This application has been advertised in accordance with the requirements of TPS 3, and a total of nine (9) individual letters of comment have been received, with eight (8) raising objections. A copy of the submissions is included in the Elected Member's Report / Information Bulletin and a précis of their comments follows:
 - a. Have had to get used to Hudson Rd being closed.
 - b. Undesirable people already in the area, and will make situation worse.
 - c. Maintaining a quality interface between the lifestyle village and the surrounding future residential area is critical, but cannot be guaranteed until the perimeter land has been rezoned, and presents a threat to the quality and value of the future residential area.
 - d. It would constitute for better planning to rezone and plan the small precincts of Lots 31-35 Catalina Road, due to the delays in the Yakamia Structure Plan.
 - e. Lots 31-35 should be rezoned from "Rural" to "Residential" as it represents frontal development of land.
 - f. Require the developers to compile a Local Structure Plan.
 - g. The proposal is more akin to a group housing development, with the only caravans likely to be on-site being stored in the designated area at the North East corner.
 - h. The definition of "Grouped Housing" under the Residential Design Codes clearly covers a Park Home proposal of the scale suggested.
 - i. Similar development in Ashby within the City of Wanneroo, is on land zoned "Urban" under the Metropolitan Region Scheme and "Residential" under Council's Town Planning Scheme.
 - j. We respectfully suggest that the Council obtain legal advice to support their position.
 - k. It is not clear what subdivision and/or amalgamation is proposed.
 - l. Support the planning approach of creating a buffer between park homes and the existing residential lots on Hudson Road, and through the placement of standard residential lots fronting onto Hudson Road.
 - m. Proponent should contribute to the development of the Public Open Space which provides a gateway into the park home "village" from the southern end of the development.
 - n. Given that the scale of the proposed development and the amount of hard surface planned for internal roads, it is difficult to see where the drainage is to be contained on-site.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

- o. The Education Department has flagged the need for another primary school in the locality and is collecting cash contributions from subdividers within the Yakamia Structure Plan area.
 - p. A previous draft of the Yakamia Structure Plan indicated the school would be placed on the land, the subject of this proposal.
 - q. Proposal should be viewed and assessed on the basis of the long-term goals for the Yakamia District and not on a short term, lot specific basis that may meet immediate needs.
 - r. To approve this application will be reactionary and short sighted.
 - s. The caravan park will be unsightly and out of place in the area proposed, when the Yakamia plan comes into effect.
 - t. Lack of public consultation as all residents on Hudson and Leonora Streets should have been consulted.
 - u. Heavy construction vehicles passing residential properties will result in further property damage.
 - v. What impacts will further road widening have on properties along Catalina Road.
22. The application can be considered as a “Caravan Park” under TPS3, as a “Park Home Park” is considered a “Caravan Park” under the *Caravan and Camping Grounds Regulations 1997*. The site is located within the Yakamia Structure plan area, however this Structure Plan, although commenced, is currently being held up due to a vegetation study and is not expected to be finalised (even in draft form) for at least 12 months. The site was earmarked as a possible school in the first consultation draft of the Structure Plan. However, following consultation with the Education Department, the school site is now likely to be located to the east of Range Road.
23. Staff’s assessment of the proposal has been limited to the construction and impact on the amenity of the immediate and wider locality. However, this application has been placed before the Council at this time to determine whether this discretionary use is acceptable. Substantial costs would be incurred in preparing the additional information required by staff to approve the application and it would be prevalent to determine whether the actual land use is acceptable.
24. The additional information required would include (but is not a complete list);
- a detailed land survey showing finished floor levels, retaining walls and road levels,
 - a detailed stormwater management system, based on water sensitive design principles,
 - revised site plan showing the amended Catalina Road realignment, to allow for the future capacity of the road.
 - detailed plans (including colours and materials) of the internal park homes and associated buildings,
 - detailed traffic management plan.
25. The proposed land use is a discretionary use under TPS3, and has been assessed under Section 5.4 (matters to be considered by Council), and on the information supplied to date, it generally appears to be acceptable. The additional information required will clarify these points further, and ensure that all of the criteria are met.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

26. WA Planning Commission's guidance, under Planning Bulletin 49, is met, given the proposal complies with the key objectives in terms of providing long-term accommodation close to existing services. The Park Home Park would be compatible with the nearby residential uses and, if properly planned and constructed, would not have a detrimental impact on the environment or the amenity of the locality.
27. The application was advertised in accordance with the requirements of TPS3, with an advertisement placed in a local paper, two signs placed on site and the immediate neighbours and adjoining property owners being notified individually by letter.
28. The request to assess the Public Open Space provision and compliance with Liveable Neighbourhoods and the Residential Design Codes is noted. However, the current development cannot be assessed under these provisions due to the zoning of the property not being "Residential". Allowing the project to proceed could result in increased pressure on other land owners in the Yakamia Structure Plan area to provide additional Public Open Space, and to contribute to the construction of Range Road.
29. The proponent will be expected to upgrade the existing Catalina Road to an urban standard to cater for the future capacity, expected when the area under the Yakamia Structure Plan is developed. The Planning document (Scheme Amendment Request) that has been submitted to address the residential buffer around the site, will be expected to address issues such as Public Open Space and road links between Catalina and Hudson Roads. This development may also need to be relocated slightly to the north to address possible access issues for future residential blocks, which are unlikely to be approved with direct access onto the future Catalina Road.
30. Staff have visited the proponents other lifestyle villages in Perth and Mandurah. Those developments were of a high standard, and photos taken during the visit are included in the Elected Members Report / Information Bulletin.
31. The proposed development has been accompanied by sufficient detail to enable an informed decision to be made regarding the land-use. Further technical and environmental information is required before a formal planning decision can be made. The use of the land complies with the principles of the Town Planning Scheme and State policies, and therefore staff recommend that Council supports the development, by providing delegated authority to issue a subsequent approval; the value of this project currently prevents planning staff from doing a final assessment of the application.
32. In relation to potential planning conditions, the three major outstanding issues are the contribution of Public Open Space (POS) for the Yakamia Structure Plan area, the upgrading of Catalina Road and the contribution to the upgrading of Range Road (representing the key north-south distributor road within the Structure Plan). It is proposed that a contribution to Public Open Space and the upgrading of Catalina Road be requested as part of any planning approval, with the contribution to the upgrade of Range Road being applied at the subdivision stage (applicable to the creation of the residential lots bordering the proposed village). Details on drainage outfall, effluent disposal and built form will also be resolved.

DEVELOPMENT SERVICES REPORTS

Item 11.1.3 continued

RECOMMENDATION

THAT Council resolves to support the concept of developing a Caravan Park (Park Home Park with 400 Units) on Lots 32, 33 and 34 Catalina Road, Lange, and delegates authority pursuant to Clause 6.10 of Town Planning Scheme No. 3 to the Manager of Planning and Ranger Services to issue a Notice of Planning Scheme Consent once all outstanding information has been received.

Voting Requirement Absolute Majority

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DEVELOPMENT SERVICES REPORTS

Councillor Paver declared a financial interest in Item 11.1.4 and left the chamber at 7.55pm.

11.1.4 Development Application - Native Fauna Enclosure and Amphitheatre - Lot 7900 Whaling Station Road, Frenchman Bay

File/Ward : A162430 (Vancouver Ward)

Proposal/Issue : Construction of Native Fauna Enclosure and Amphitheatre

Subject Land/Locality : Lot 7900 Whaling Station Road, Frenchman Bay

Proponent : Les Bail

Owner : The Jaycees Community Foundation Inc

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

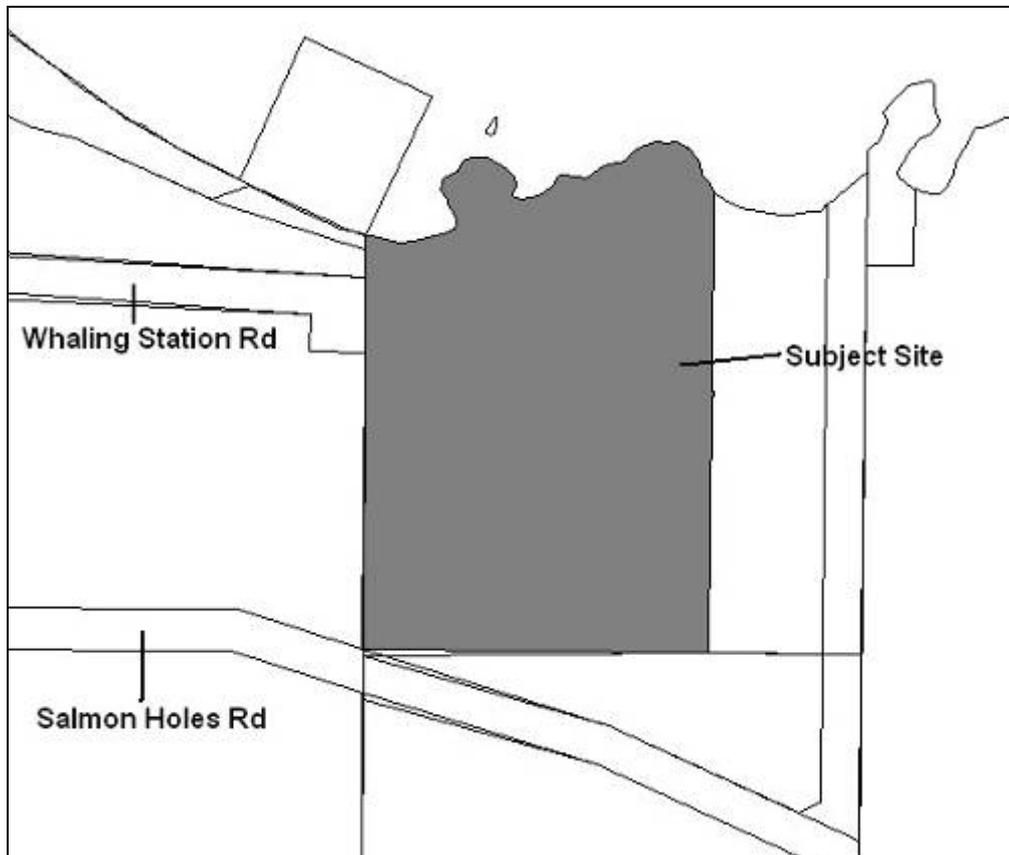
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : Receive and consider the proposal

Bulletin Attachment : Copy of the Municipal Heritage Inventory entry and Concept Plans

Locality Plan :



DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

BACKGROUND

1. An application has been received from Les Bail, Manager for “Whale World”, seeking Planning Scheme Consent for a Native Fauna Enclosure, and Amphitheatre, at Lot 7900 Whaling Station Road, Frenchman Bay, see sketch within the Elected Members Report / Information Bulletin
2. According to the proponent, six concept workshops in 2005 involving the Department of Environment and Conservation, City of Albany, Great Southern Development Commission, Great Southern Area Consultative Committee, Great Southern TAFE, Murdoch University and representatives of many other community stakeholders, assisted in developing concept plans for an “Albany Biodiversity Park”.
3. It is proposed to develop the degraded land south of the “Whale World heritage precinct” into an eco-sustainable, educational tourism precinct. From 1 July 2007, the whole site will be re-branded by the Jaycees Community Foundation (Inc) as Discovery Bay (heritage and nature on display) incorporating Whale World and the proposed Albany Biodiversity Park attractions of “Faunatopia”, “Floracopia” and “Vancouver Wetlands”.
4. Faunatopia will consist of a captive breeding and rehabilitation facility and public Australian fauna display enclosures and will be the first module developed. The display will incorporate a nocturnal house, a sub-tropical area, open animal enclosures and extensive free range areas.

STATUTORY REQUIREMENTS

5. The site is zoned “Special Use Zone 2” under Town Planning Scheme 3 (TPS3), which provides additional uses of museum, aquaculture and (subject to Council approval) associated uses.
6. The site is included both on the State Heritage list and Council’s Municipal Heritage Inventory (copy attached in the Elected Member’s Report / Information Bulletin). The application has been referred to the Heritage Council of WA and, whilst informal support has been received, the formal response is yet to be received.
7. Section 5.4 (matters to be considered by Council) of TPS3 states (not the complete list);
“The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of Council relevant to the use or development the subject of the application;
 - *the conservation of any place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990 or is included in Schedule 8 – Places of Heritage Value, and the effect of the proposal on the character or appearance of a heritage area;*
 - *any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State;*
 - *any Town Planning Scheme Policy adopted by the Council under Clause 6.9, and any other plan or guideline adopted by the Council under the Scheme;*
 - *the compatibility of a use or development with its setting;*
 - *any social issues that have an effect on the amenity of the locality;*

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

- *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- *the preservation of the amenity of the locality;*
- *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;*
- *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- *whether public utility services are available and adequate for the proposal;*
- *in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- *whether adequate provision has been made for access by disabled persons;*
- *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- *whether the proposal is likely to cause soil erosion or land degradation;*
- *the cultural significance of any place or area affected by the development;*
- *any relevant submission received on the application;*
- *the comments or submissions received from any authority consulted under clause 5.1A;*
- *any other planning consideration the Council considers relevant;*
any other planning consideration the Council considers relevant.”

POLICY IMPLICATIONS

8. Albany Local Planning Strategy highlights the site as “Local Reserve”. Land nearby is defined as a “Tourism Accommodation” node (Frenchman Bay Caravan Park site), and the subject land is located at the end of an established tourist drive.

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

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 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

11. This application has yet to be advertised for public comment, and is lacking some detailed information to allow for a formal assessment and determination to be made. It is presented to Council to ascertain whether a Native Fauna Enclosure and Amphitheatre is an acceptable associated use, in terms of the additional uses permitted on the site.
12. The assessment of the proposal is limited in terms of the construction materials and the impact of the proposed development on the amenity of the immediate and wider landscape. Considerable costs would be incurred in the preparing of the additional information required and it would be prudent to determine whether the actual land use is acceptable to Council prior to the Jaycees Foundation (Inc) proceeding to provide that additional documentation.
13. The site is predominately used for tourism, and the proposed native fauna enclosure and amphitheatre, could be seen to enhance this use and increase it’s viability as a tourist destination. The road access would appear acceptable and the development (if approved) would be subject to a traffic impact assessment. The application would need to gain the approval of the Heritage Council (due to it’s inclusion on the State Heritage List), and would also be referred to the Department of Environment and Conservation for their consideration.
14. In conclusion the proposal does have merit, and could be seen as an associated use, to an established tourism use. The proposal is to be located within native bush/shrub land and adjoining a national park, which would be fitting for this type of development and it is to be placed upon degraded land within the current site. If Council is fundamentally opposed to the development, this report provides an opportunity to express that position.

DEVELOPMENT SERVICES REPORTS

Item 11.1.4 continued

RECOMMENDATION

THAT, Council resolves to receive and consider a development application for a Native Fauna Enclosure and Amphitheatre and associated additional uses at Lot 7900 Whaling Station Road, Frenchman Bay.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR WOLFE**

THAT, Council resolves to receive and consider a development application for a Native Fauna Enclosure and Amphitheatre and associated additional uses at Lot 7900 Whaling Station Road, Frenchman Bay.

MOTION CARRIED 11-0

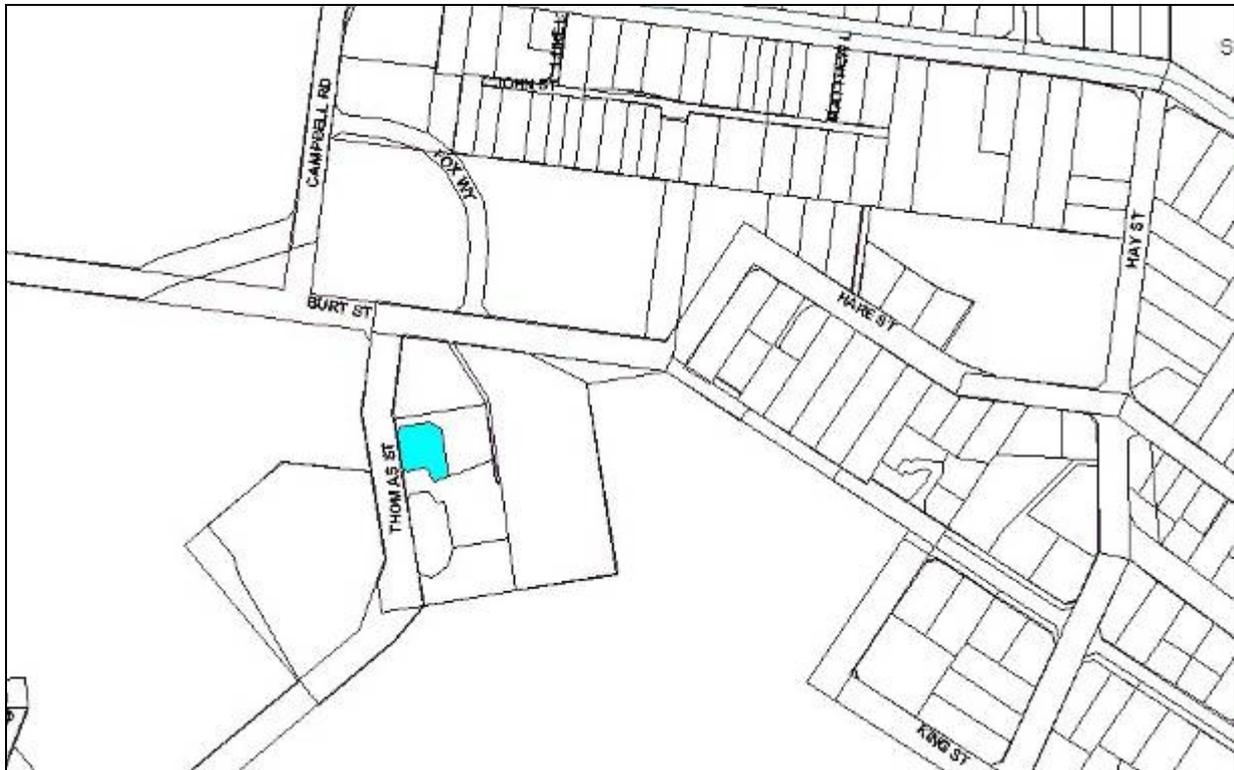
Cr Paver returned to the Chamber at 7.57pm

DEVELOPMENT SERVICES REPORTS

Cr Williams declared an Impartiality interest in Item 11.1.5. Cr Williams stated that she does not have a financial interest; therefore participated in the debate and vote.

11.1.5 Removal of Pine Trees - 7 Thomas Street, Mt Clarence

File/Ward	:	A153813 (Frederickstown Ward)
Proposal/Issue	:	Removal of Pine Tree
Subject Land/Locality	:	7 Thomas Street, Mt Clarence
Proponent	:	A Knight & J Thiel
Owner	:	A Knight & J Thiel
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Support Request
Bulletin Attachment	:	Arborist Report
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

BACKGROUND

1. The owner of 7 Thomas Street, Mt Clarence is seeking Council approval to remove a pine tree located on the northern side of the existing garage.
2. The subject land is located within “Old Surrey” Policy Area, which promotes development that is in sympathy with the Old Surrey building, which is one of the earliest private owned houses in Western Australia. The pine tree is in excess of 75 years old and before the site was subdivided several years ago, was located on the original Old Surrey land holding.
3. One of the objectives of the Old Surrey Policy is to retain the secluded character by retaining vegetation. It also specifically states that no vegetation should be removed without the approval of Council.
4. The proponent’s justification to remove the tree is attached to the rear of this report. A detailed report from a qualified arborist is included in the Elected Member’s Report / Information Bulletin.

STATUTORY REQUIREMENTS

5. The subject lot is zoned Residential R20. The Old Surrey Policy states the following in relation to vegetation protection:

“Design Guideline Objectives

- 4.2 *To retain the quiet and secluded character of Thomas Street by protecting existing trees and vegetation, both within the road reserve and on private land.*

Retention of Trees and Vegetation

- 5.2 *Prior to development proceeding on site, the landowner shall submit a plan identifying all existing trees and vegetation on the lot and shall obtain Council approval for removal of any trees or vegetation.*
- 5.3 *Within the “Old Surrey” environs no development shall be permitted which would result in the removal of existing trees or changes to the terracing and gardens, unless approval has been granted by Council.*
- 5.4 *Council may require supplementary tree planting and landscaping to be provided as a condition of development approval.”*

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. In the event that the tree falls down and damages property on the subject land or adjacent land, after Council refuses the request to remove the tree, Council may need to defend a liability suit. This is especially the case as the arborist has recommended that the tree should be removed as soon as possible.

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

9. The arborist report prepared by Greenman Trading Company concluded the following in relation to the subject pine tree:
- The tree has entered a state of decline from which it is unlikely to recover.
 - Currently the tree as a whole appears to be in a relatively stable condition and entire tree failure is unlikely over the short term.
 - Because of it's large size and great height and because of it's deteriorating condition the tree poses a significant hazard to the security of people and property within a radius of 23 metres from the base of the stem.
 - Little can be done to reverse the consequences of severe damage inflicted on the tree over the past 3 years as described in the report.
 - Damage to the supporting roots of this tree means that the likelihood of failure over the medium to long term is very high. The potential for fatalities and damage to structures if the tree fails is also high. The tree should be removed to ground level as soon as possible.
10. The proponent has advised that the tree has already caused damage to the existing shed when a large limb fell from the tree (photographs attached to the rear of this report).
11. The arborist's report clearly outlines the potential hazards associated with the tree and staff believe the removal of the tree is necessary to guarantee public safety and protect infrastructure from damage. The replanting of vegetation as per clause 5.4 of the Old Surrey is also recommended to ensure the objectives of the policy are met. Previous undertakings of the landowner to replant a terraced bank on the southern side of the property has been delayed due to drainage problems on-site; the applicant is anxious to complete that work at the earliest opportunity.

RECOMMENDATION

THAT, upon the receipt of an Application for Planning Approval, Council delegates to the Manager of Planning and Ranger Services the authority to remove the pine tree from 7 Thomas Street, Mt Clarence provided suitable screening vegetation is planted in it's place within 60 days of it's removal to promote the objectives of the Old Surrey Policy.

Voting Requirement Absolute Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

Cr Paver Moved and Cr Price Seconded the following alternate motion.

ALTERNATE MOTION BY COUNCILLOR PAVER

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR PRICE**

THAT, upon the receipt of an Application for Planning Approval, Council delegates to the Manager of Planning and Ranger Services the authority to issue a Notice of Planning Scheme Consent granting conditional approval for A Knight and J Thiel to remove the pine tree from 7 Thomas Street, Mt Clarence and that, to achieve the objectives of the Old Surrey Policy, the approval notice contain, but not be limited to conditions that:

- i) require the landowner to provide suitable screening vegetation on the property of similar scale and form to the vegetation that existed on-site prior to development of the property;
- ii) a suitable professional be engaged to analyse and provide advice on the remedial landscaping required under the previous condition; and
- iii) the required planting, where possible using advanced plant stock, be undertaken within 60 days of the pine tree being removed.

Voting Requirement Absolute Majority

Reason:

The original officer's recommendation failed to clarify who was responsible for the costs incurred in having the tree removed and it was not adequately specific on the expectations of Council in regards to the planting that needed to be undertaken following the removal of the pine tree.

Cr Wolfe presented an amendment to the Alternate Motion.

AMENDMENT

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WALKER**

THAT part iii) of the alternate motion is amended to read:

- “iii) the required planting, where possible using advanced plant stock, be undertaken before June 2008.”**

MOTION CARRIED 11-1

Reason:

To ensure the replanting and re-establishment of vegetation is not hampered by water restriction.

The amended alternate motion became the substantive motion.

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WALKER**

THAT, upon the receipt of an Application for Planning Approval, Council delegates to the Manager of Planning and Ranger Services the authority to issue a Notice of Planning Scheme Consent granting conditional approval for A Knight and J Thiel to remove the pine tree from 7 Thomas Street, Mt Clarence and that, to achieve the objectives of the Old Surrey Policy, the approval notice contain, but not be limited to conditions that:

- i) require the landowner to provide suitable screening vegetation on the property and within the Thomas Street road reserve, of similar scale and form to the vegetation that existed on-site prior to development of the property;**
- ii) a suitable professional be engaged to analyse and provide advice on the remedial landscaping required under the previous condition; and**
- iii) the required planting, where possible using advanced plant stock, be undertaken before June 2008.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued

A Knight & J Thiel
7 Thomas Street
ALBANY WA 6330

Your Ref: A153813/LT7010552
6 September 2007

ATTEN: Robert Fenn
City of Albany
PO Box 484
ALBANY WA 6331



City of Albany Records
Doc No: ICR7038062
File: A153813

Date: 12 SEP 2007
Officer: EDDS

Attach:

Dear Robert

RE: REMOVAL/PRUNING OF VEGETATION – 7 THOMAS STREET

We refer to your letter regarding the pruning/removal of vegetation on our property and plans for re-vegetation.

As council is aware, the water issues we have had over winter have been partially rectified with the temporary redirection of the flow from Mt Clarence. Mr Les Hewer has proposed a plan for the permanent resolution and signing off of his proposal and we are waiting for the Cumming's return to Albany for this negotiation to continue.

We have sustained substantial damage to our lawn area and wall due to the flooding incident and ongoing flow of water from the stream line and run-off from the Cumming's driveway. We have had to re-dig much of our lawn and reticulation and this is on-going. We are still dealing with soakage and flow from the properties above us. It is our intention to replant as soon as possible both on the southern verge and along our retaining wall. But to avoid further loss of soil, plants and money we feel we cannot proceed with planting until the larger water issues are solved.

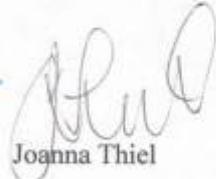
Further to this we would like to **request permission to remove the pine tree** which is just inside our boundary on the northern side of the garage. We have become increasingly concerned regarding the safety of the tree over the last few months. Recently a very large branch fell on our shed, damaging the roof and gutter. (See attached photos) Loose branches have also been removed and at present there are again 4 or 5 more broken and hanging from the tree in the wind. (See further photos attached) The tree itself is positioned right beside our shed, cars and house – right over the top of the master bedroom. The greatest concern is for the safety of the parents in the house, both sleeping right in the line of the tree and/or branches. During a major storm this could be catastrophic.

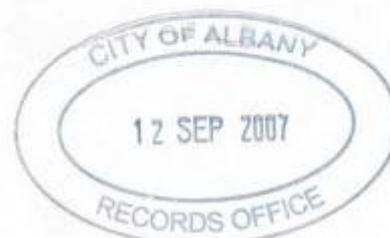
We are aware that this will not be a popular development in the area, but it is our safety and protection of property that has driven the request. As stated above, once the water diversion is finalized, we are more than happy to totally re-vegetate the areas concerned.

Please find enclosed photos of the tree and branches as described. We look forward to hearing from you on this matter.

Your sincerely


Andrew Knight


Joanna Thiel



ORDINARY COUNCIL MEETING MINUTES – 20/11/07
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

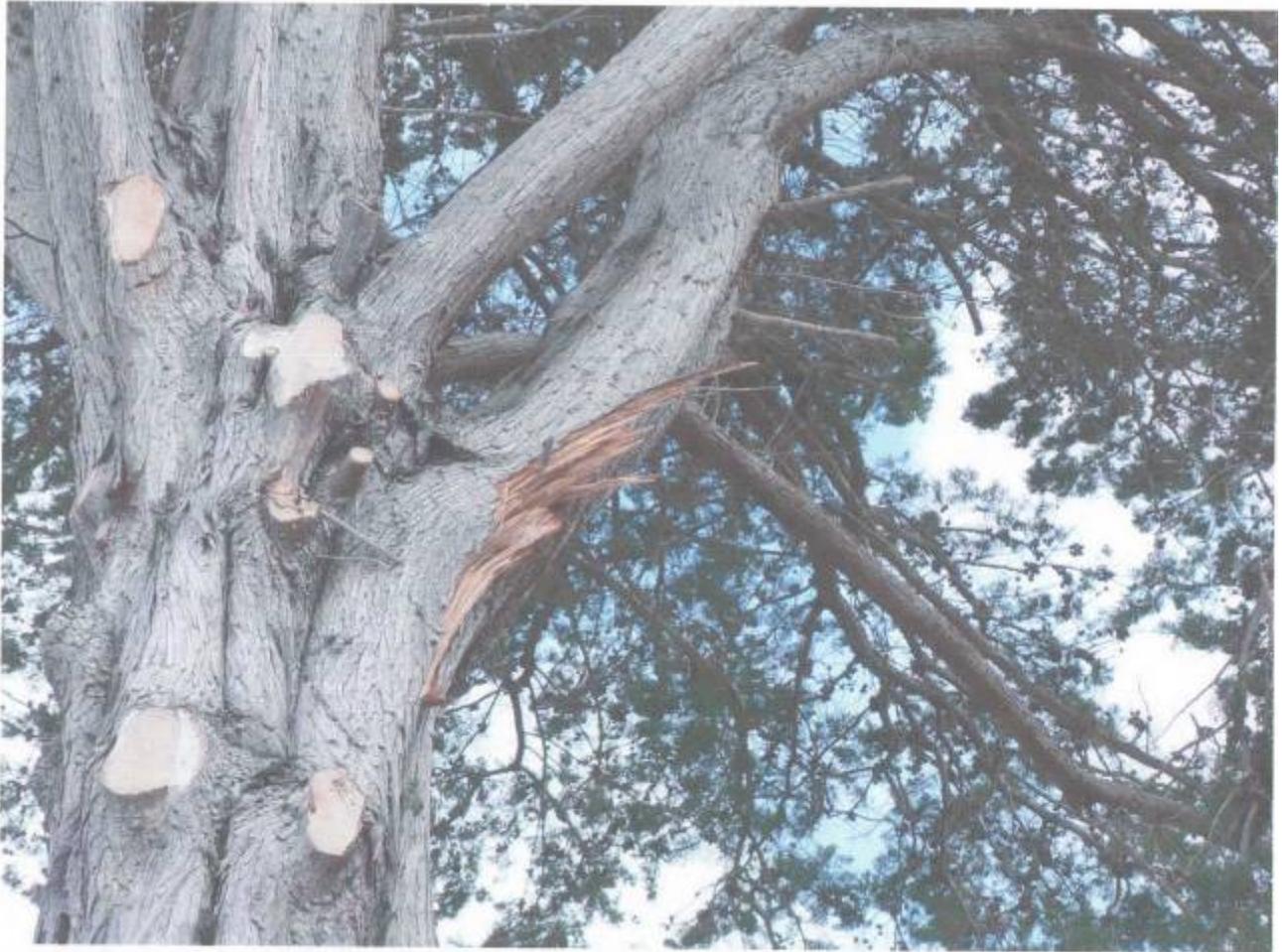
Item 11.1.5 continued



Item 11.1.5 continued

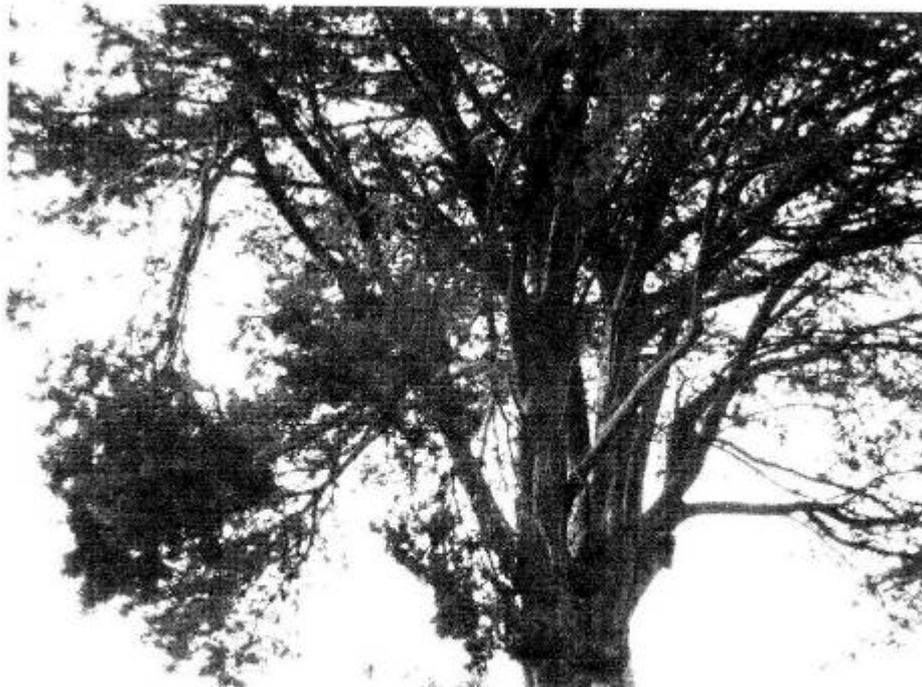


Item 11.1.5 continued



ORDINARY COUNCIL MEETING MINUTES – 20/11/07
** REFER DISCLAIMER **
DEVELOPMENT SERVICES REPORTS

Item 11.1.5 continued



DEVELOPMENT SERVICES REPORTS

Cr Williams declared an impartiality interest in Item 11.1.6. The extent of the interest being: that the Cr is good friends with the Operator's wife; however has no financial interest in the operation. Cr Williams remained to participate in the debate and vote.

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

- File/Ward** : A68387 (West Ward)
- Proposal/Issue** : To determine if non-conforming use rights exist upon the site.
- Subject Land/Locality** : Lot 12 (#23) Kitson Road, Gledhow
- Proponent** : VR Property Holdings
- Owner** : VR Property Holdings
- Reporting Officer(s)** : Manager Planning & Ranger Services (G Bride)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/01/03 - Item 11.1.2
OCM 18/02/03 - Item 11.1.2
- Summary Recommendation** : Advise that a non-conforming use right is not applicable and that a notice to cease the fish processing use be issued
- Bulletin Attachment** : Nil
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.1.6 continued

BACKGROUND

1. An application for planning consent has previously been lodged by Natural Processors Pty Ltd for “Fish Processing” upon Lot 12 Kitson Road, Gledhow.
2. The property is zoned “General Industry” within Town Planning Scheme No. 3, and under this zoning the land use activity of “Fish Processing” is a “PROHIBITED” land use. The definition of fish processing as described in the Scheme is:

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

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

“means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911 (as amended), but does not include fish shops or dry cleaning establishments”

4. On 7 June 1995, the former Shire of Albany granted planning consent for a food processing factory on the subject land for the express purpose of smoking shark fins. Since this time considerable infrastructure has been introduced to the building, such as cool rooms, an ice machine, an oven and a larger fish smoker. One of the conditions attached to the above planning scheme consent stated that: *“should any intensification of the use occur, a new consent would be required from Council.”*
5. Whilst the applicant has secured approvals for various extensions to the building, no application has been made for the intensification of the use to include the smoking and value adding of tuna and other large species of fish.
6. In 1998, approval was given for “cold store factory additions” only; there was no reference to a change or intensification of land use included in that approval.
7. The building is currently occupied and the tenant is processing a range of whole shark and other fish species on the premises. The proponent has claimed that the existing operation should be allowed to continue on the basis that a non-conforming use right exists over the land. The proponent also claims that since the original shark fin drying approval was issued in 1995, fisherman are now required to retain the whole shark body and are not permitted to utilise the fins only. This has resulted in the need to process the whole shark on the site converting the operation from a “dry” to a “wet” industry, generating effluent.
8. The proponent was in the process of upgrading the effluent disposal system, and or connecting the factory to reticulated sewer (based on discussions with the Water Corporation), to improve the disposal of effluent generated by the processing of seafood (predominantly shark) and to negate odour complaints received by Council’s Environmental Health Section from time to time.

DEVELOPMENT SERVICES REPORTS

Item 11.1.6 continued

9. Staff have recommended to the proponent that before he expends significant financial resources on upgrading the facility, that the land use issue needs to be considered by Council. The proponent has provided a detailed explanation as to why the land use should be allowed to continue (refer the proponent's letter following this report).

STATUTORY REQUIREMENTS

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

*“4.1 No provision of the Scheme shall prevent –
(a) the continued use of any land or building for the purpose for which it was lawfully used at the time of the coming into force of the Scheme;
or
(b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits required under the Town Planning and Development Act, 1928 (as amended) and any other law authorising the development to be carried out have been duly obtained and was current.”*
11. There is no provision for Council to approve a use, which is “PROHIBITED”. No appeal rights also exist where a proposal is so defined by a scheme.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

COMMENT/DUSCUSSION

15. The applicants believe that, as fish processing has occurred on the site intermittently over the past eight (8) years, they should be allowed to continue the use.
16. After the initial approval, which allowed the smoking of shark fins, the applicant's documents indicate that the use was then intensified to the point where it would be defined as “Noxious Industry”.
17. To claim “non-conforming use rights” upon the land, the scheme requires one of two tests to be met. The activity must have either been in use prior to the scheme taking effect, or a lawful approval must have since been issued. This proposal fails on both accounts.

DEVELOPMENT SERVICES REPORTS

Item 11.1.6 continued

18. As it was never intended that the land be utilised for fish processing, other than for the minor approved activity of smoking shark fins (which involves minimal waste), the proposed business operation (under existing or new management) cannot be formally recognised or supported in accordance with Town Planning Scheme No. 3.

19. As there is no ability to grant planning scheme consent for the “fish processing” land use within the General Industry zone, and staff believe a “non-conforming use right” does not exist on the land, it is recommended that staff be authorised to commence enforcement action to stop the land use activity on the property. Council has the ability to request the land use be ceased within 30 days of a notice being issued, however this time period can be increased if Council wished to allow the tenant additional time to relocate to an appropriately zoned property. Alternatively, Council could encourage the proponent to lodge a rezoning request to accommodate the fish processing use; there is no guarantee that such a rezoning would be successful (given it represents a spot rezoning) and the process can take up to 2 years to complete.

RECOMMENDATION

THAT Council;

- i) acknowledges that, based upon the information provided, a non-conforming use right does not exist for a fish processing business upon Lot 12 Kitson Road, Gledhow;

- ii) advises the proponent that there is no legal basis for Council to approve “Fish Processing/Curing, Poultry Processing or Rabbit Processing” upon Lot 12 Kitson Road, Gledhow as it is a prohibited land use within the “General Industry” zone applicable to the land; and

- iii) authorises staff to take enforcement action under Section 218 of the *Planning and Development Act 2005* to ensure that the existing land use is discontinued on the site.

Voting Requirement Simple Majority

.....

DEVELOPMENT SERVICES REPORTS

Item 11.1.6 continued

ALTERNATE MOTION COUNCILLOR WILLIAMS

MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR MATLA

THAT Council:

- i) acknowledges that, based upon the information provided, a non-conforming use right does not exist for a fish processing business upon Lot 12 Kitson Road, Gledhow;
- ii) advises the proponent that there is no legal basis for Council to approve “Fish Processing/Curing, Poultry Processing or Rabbit Processing” upon Lot 12 Kitson Road, Gledhow as it is a prohibited land use within the “General Industry” zone applicable to the land; and
- iii) authorises staff to take enforcement action under Section 218 of the *Planning and Development Act 2005* to ensure that the existing land use is discontinued on the site and the owner be provided a period of twelve (12) months to effect that discontinuance; and
- iv) advise the proponent that any extension to the discontinuance date will not be entertained unless it can be clearly demonstrated to Council that the relocation cannot be practically achieved within the allocated timeframe and that contracts are in place for the business to relocate to approved premises completed within a defined timeframe (no more than six (6) months after the original discontinuance date).

Reason:

The officer’s report outlines that there are limited options available to Council to deal with this land use and the business that has developed on the lot. By slightly extending the period available for the tenant to vacate the premises and terminate the land use, the tenant can work through the available options.

Cr Bostock stated that the information received raises doubt as to whether the existing fish processing facility is operating without a suitable planning consent.

Cr Bostock also noted that the use class matrix of Town Planning Scheme 3 contains a blank square for Fish Processing in the General Industry zone and in these circumstances the motion before Council should not be voted on until the issues raised could be clarified.

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

Item 11.1.6 continued

VR PROPERTY HOLDINGS

PO BOX 524
ALBANY W.A. 6331

Phone (08) 9842 2143

Fax (08) 9841 5399

Email: perry@kingopen.com

ABN 21 081 379 393

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

Re: Fish Factory Kitson Rd Geldhow

Dear Graeme

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

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

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

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

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

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.6 continued

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

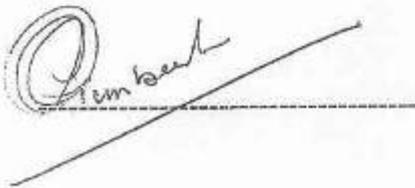
Since that time the factory has been relet to Great Southern Seafoods and as mentioned before their activities are by no means as intense as would have been the case if the party in 2003 had purchased the site. Evidence for this can also be shown in that the AQIS Exporting licence for these premises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

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

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

Yours Sincerely

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

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

DEVELOPMENT SERVICES REPORTS

11.1.7 Liquor Licensing Arrangements - Boutique Brewery - Lot 301 Millbrook Road, Millbrook

File/Ward : A195469 (Kalgan Ward)

Proposal/Issue : Request for a Section 40 Certificate for a Tavern liquor licence

Subject Land/Locality : Lot 301 Millbrook Road, Millbrook.

Proponent : Lentham Holdings Pty Ltd (through Freehills)

Owner : S P Martin

Reporting Officer(s) : Senior Planning Officer (Ian Humphrey)

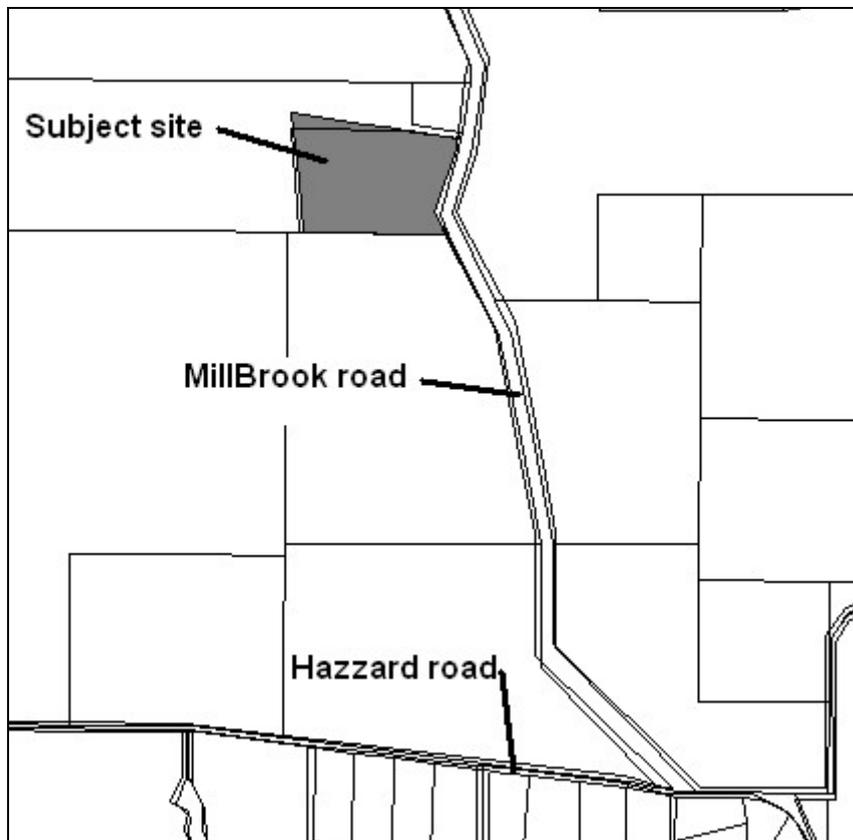
Disclosure of Interest : Nil

Previous Reference : Nil

Summary Recommendation : Issue a conditioned Section 40 Certificate

Bulletin Attachment : Copies of request/clarification and statement of support

Locality Plan :



DEVELOPMENT SERVICES REPORTS

Item 11.1.7 continued

BACKGROUND

1. A request has been received for a Section 40 Certificate for a “Tavern” Licence associated with a Microbrewery approved on Lot 301 Millbrook Road, Millbrook. Prior to the issuing of a Liquor Licence, the Department of Racing Gaming and Liquor requires the applicant to seek approval from the Local Authority via a Section 40 Certificate under the *Liquor Licensing Act 1988*. A Section 40 Certificate is a certificate issued by Council which states that the selling of liquor is in accordance with the existing planning approval issued by Council.
2. An application was approved on the 14 June 2007, for a “Microbrewery and Restaurant”, which is a permitted use on the site, following a Scheme Amendment (No. 231) to rezone the site to “Special Use 15”.

STATUTORY REQUIREMENTS

3. The use “Tavern” is not a permitted use under the criteria of “Special Use 15” or in a “Rural” zone in Town Planning Scheme 3. It is however an “AA” use in a “Rural” zone, although the criteria of “Special Use 15” clearly states that only “P” uses can be considered.
4. Council has the ability to issue a Section 40 Liquor Licence Certificate with or without conditions or can choose to advise that it would refuse an application.
5. There are various types of liquor licence types that can be applied for. In this instance, the proponent has requested Council’s support for a “Tavern” licence. Under the *Liquor Licensing Act 1988* a “Tavern” licence authorises the sale and supply of liquor for consumption on and off the premises. A “Tavern” licence provides the same trading arrangements as a “Hotel” licence, except that the licensee is not required to provide on-site accommodation.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

“Community Vision:

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;*

DEVELOPMENT SERVICES REPORTS

Item 11.1.7 continued

Mission Statement:

The City of Albany is committed to...

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

Priority Projects:

Nil

COMMENT/DISCUSSION

9. This request has been referred to Council following extensive communication between, and clarification from the proponent (copies in bulletin attachment). It would appear, after discussing the various liquor licences options with the Department of Racing Gaming and Liquor that a “Tavern” licence would be the “best fit”. Similar microbrewery establishments across the state are issued with such a licence, subject to conditions being applied to the licence by the Local Authority. These can include the hours of serving alcohol, the types of liquor to be sold both on and off the premises and controls over the types and hours of entertainment. This would be preferable and ensure strict compliance, with the risk of the proponent losing their liquor licence with any non-compliance.
10. It has been assumed from the outset that the land use would operate under a “Producers Licence”, consistent with regional wineries and the Great Southern Distillery. The proposed land use, as detailed in the Planning Scheme Consent, would still be valid as a conditioned “Tavern” Licence (as detailed in the recommendation) would not alter the planning approval. Changing the land use under the Scheme to a “Tavern” could result in future enforcement issues and land use conflicts, should the approved Microbrewery/Restaurant use cease on the property in the future.
11. In conclusion, by issuing a conditioned Section 40 Certificate, staff feel that there will be minimal impact on the amenity of the area, and would provide a strong enforcement tool. The nearby properties have been made aware of the request by the applicant, with a statement of support being provided (copy in the bulletin attachment). An unconditional certificate could leave the door open for inappropriate land use activities (entertainment venue, etc).

RECOMMENDATION

THAT Council resolves to issue a Section 40 Certificate for a “Tavern Licence” at Lot 301 Millbrook Road, Millbrook, subject to the following conditions:

- i) The hours of serving of alcohol to be consumed on the premise shall be restricted between the hours of 10am to 11pm Monday to Saturday and 10am to 10pm on Sundays.
- ii) The applicant is permitted to sell and supply liquor, except in the case of beer, which shall be limited to that which has been produced on the premises, for consumption on the premises.
- iii) Only beer produced on the premise may be sold as packaged liquor for consumption off the premises.

DEVELOPMENT SERVICES REPORTS

Item 11.1.7 continued

- iv) All live entertainment played at the premises is to be of a background type and shall not utilise amplifying equipment.

Voting Requirement Simple Majority

.....

AMENDED OFFICER RECOMMENDATION

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR MORRIS**

THAT Council resolves to issue a Section 40 Certificate for a “Tavern Licence” at Lot 301 Millbrook Road, Millbrook, subject to the following conditions:

- i) The hours of serving of alcohol to be consumed on the premise shall be restricted between the hours of 10am to 11pm Monday to Saturday and 10am to 10pm on Sundays.**
- ii) The applicant is permitted to sell and supply liquor, except in the case of beer, which shall be limited to that which has been produced on the premises, for consumption on the premises.**
- iii) Only beer produced on the premise may be sold as packaged liquor for consumption off the premises.**
- iv) The noise associated with the activities located within the licensed premises (including any external area associated with the licence) shall at all times comply with the assigned levels defined in Table 1 of Regulation 8 of the *Environmental Protection (Noise) Regulations 1997* except that the assigned level shall be determined at the property boundary of the subject land.**

MOTION CARRIED 11-1

Reason:

The current Officer Recommendation has been identified as being problematic to enforce. An alternate Officer Recommendation is provided which ties the external noise levels from the premises to the Environmental Protection (Noise) Regulations 1997, but requires the noise levels to be achieved at the property boundaries of the site, rather than within 15.0 metres of the residence where the noise is being received. This change in measurement requirement allows for additional dwellings to be built in the locality without those residences, or the micro-brewery having to adjust the acoustical values in the building fabric at a future date.

DEVELOPMENT SERVICES REPORTS

11.1.8 Liquor Licence - Section 40 Certificate - Albany Regional Airport

File	: SER152 (Kalgan Ward)
Proposal/Issue	: To consider whether to grant a Section 40 Liquor Licence Certificate for the consumption of Liquor inside the Albany Airport Terminal
Subject Land/Locality	: Location 5650, 5643 and 4861 Albany Highway, Drome
Proponent	: City of Albany
Owner	: N/A
Reporting Officer(s)	: Manager Planning & Ranger Services (G Bride)
Previous Reference	: OCM 21/08/07 - Item 13.3.1
Summary Recommendation	: To issue a Section 40 Certificate
Bulletin Attachment	: Nil
Locality Plan	: N/A

BACKGROUND

1. At its meeting dated 21 August 2007 Council adopted the Albany Regional Airport Business Plan. The Business Plan included details on the refurbishment of the Airport Terminal and included a proposal to sell alcohol for on-site consumption.
2. An application for a Section 40 Liquor Licence Certificate has been received for a “Special Facility Licence” within the terminal of the Albany airport building within the area shown on the attached floor plan.
3. The original Albany Airport terminal was constructed in 1987 and has been extended and refurbished on a number of occasions since then.

STATUTORY REQUIREMENTS

4. The land is reserved for ‘Public Purpose’ in Town Planning Scheme No.3. No planning scheme consent was issued for the airport terminal or it’s extensions.
5. Council has the ability to approve a Section 40 Liquor Licence Certificate with or without conditions or can choose to refuse an application.
6. There are various types of liquor licence types that can be applied for, and in this instance the proponent (Council’s City Services Section) has requested Council’s support for a “Special Facility Licence”. Under the *Liquor Licensing Act 1988* a “Special Facility Licence” authorises the holder of the licence to sell liquor in accordance with conditions imposed on the licence based on the tenor of the business.

DEVELOPMENT SERVICES REPORTS

Item 11.1.8 continued

7. The Department of Racing Gaming & Liquor advises that a “Special Facility Licence” may be granted for the purpose of allowing the sale of liquor to passengers and their guests at an airport, railway station, bus station or seaport or on a train, bus, ship or vehicle.

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 related 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;*
- *Providing a complete tourism experience.*

Mission Statement

The City of Albany is committed to ...

- *Delivering Excellent Community Services.*

Priority Projects

Nil.”

COMMENT/DISCUSSION

11. As the regulations relating to a “Special Facility Licence” are silent on trading hours and specific conditions, Council can and should recommend to the Department of Racing, Gaming and Liquor that certain restrictions be imposed.
12. In this case, staff recommend that the following conditions be applied:
 - (1) The consumption of alcohol shall be limited to the area designated on the floor plan, which corresponds to that area of the building at the lower floor level to the main foyer of the airport terminal. Signs indicating no drinking of alcohol past this point should be erected.
 - (2) The sale of packaged liquor for consumption off the premises is not permitted.
 - (3) The trading hours shall be limited to 2 hours before and 1 hour after a scheduled flight or in the event of special event hosted by the City of Albany at the terminal.

DEVELOPMENT SERVICES REPORTS

Item 11.1.8 continued

RECOMMENDATION

THAT Council resolves to issue a Section 40 Certificate for a “Special Facility Licence” at Location 5650, 5643 and 4861 Albany Highway, Drome, subject to the following conditions:

- i) The consumption of alcohol shall be limited to the area designated on the floor plan, which corresponds to that area of the building at the lower floor level to the main entrance/foyer of the airport terminal. Signs indicating no drinking of alcohol past this point should be erected.
- ii) The sale of packaged liquor for consumption off the premises is not permitted.
- iii) The trading hours shall be limited to 2 hours before and 1 hour after a scheduled flight or in the event of special event hosted by the City of Albany at the terminal.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR MORRIS**

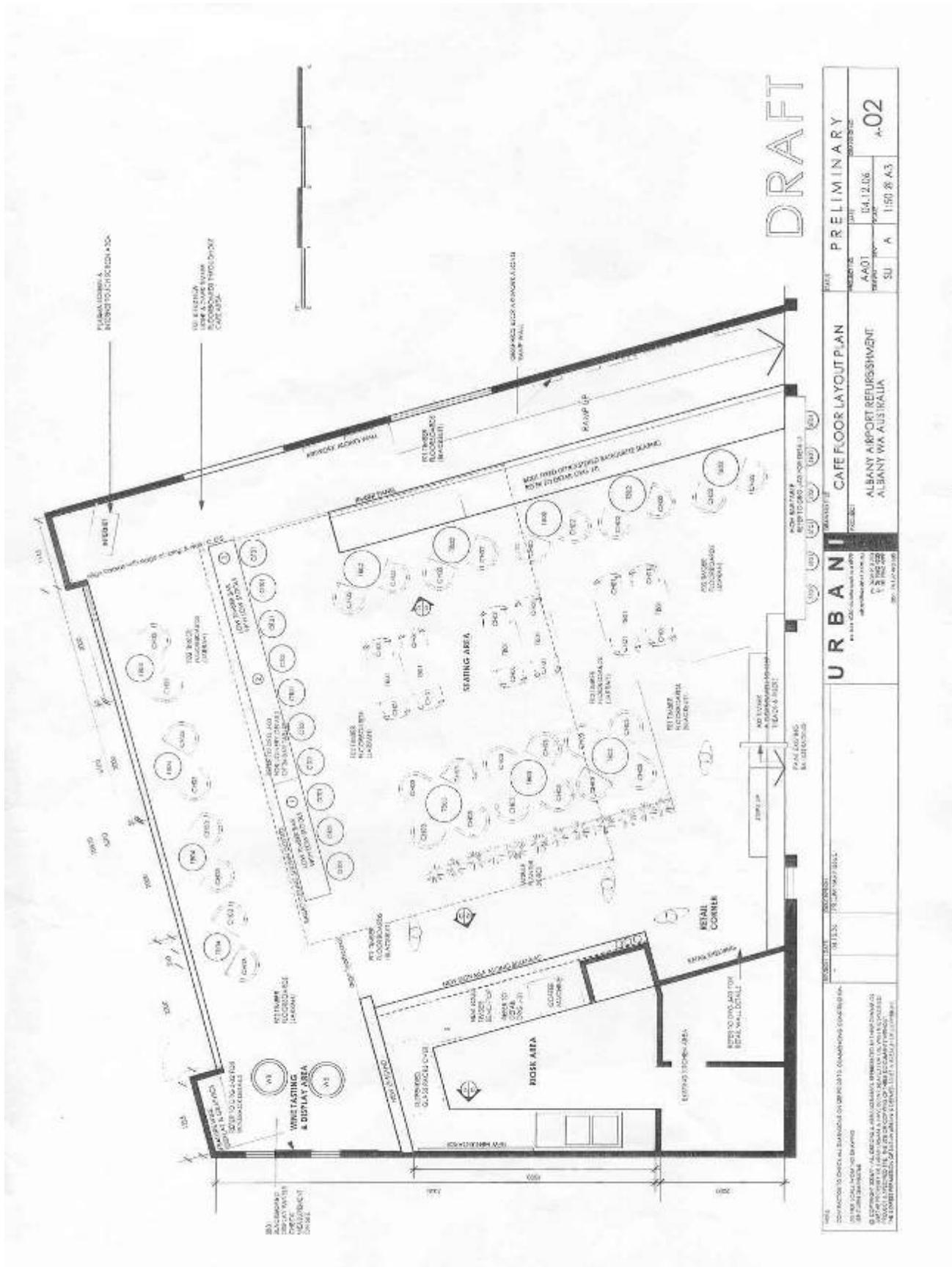
THAT Council resolves to issue a Section 40 Certificate for a “Special Facility Licence” at Location 5650, 5643 and 4861 Albany Highway, Drome, subject to the following conditions:

- i) The consumption of alcohol shall be limited to the area designated on the floor plan, which corresponds to that area of the building at the lower floor level to the main entrance/foyer of the airport terminal. Signs indicating no drinking of alcohol past this point should be erected.**
- ii) The sale of packaged liquor for consumption off the premises is not permitted.**
- iii) The trading hours shall be limited to 2 hours before and 1 hour after a scheduled flight or in the event of special event hosted by the City of Albany at the terminal.**

MOTION CARRIED 10-2

ORDINARY COUNCIL MEETING MINUTES – 20/11/07
 ** REFER DISCLAIMER **
 DEVELOPMENT SERVICES REPORTS

Item 11.1.8 continued



DEVELOPMENT SERVICES REPORTS

11.2 HEALTH, BUILDING & RANGERS

11.2.1 Local Law - Proposed City of Albany “Responsible Cat Ownership Local Law”

File	:	MAN049 (All Wards)
Proposal/Issue	:	To make the City of Albany Responsible Cat Ownership Local Law 2007
Subject Land/Locality	:	City of Albany
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride)
Previous Reference	:	OCM 21/09/04 - Item 11.2.1 OCM 19/04/05 - Item 11.2.1 OCM 15/11/05 - Item 11.2.1 OCM 20/06/06 - Item 11.2.1 OCM 15/05/07 - Item 11.2.2 OCM 17/07/07 - Item 11.2.2
Summary Recommendation	:	That Council make the City of Albany Responsible Cat Ownership Local Law 2007
Bulletin Attachment	:	Draft Responsible Cat Ownership Local Law 2007 and submission from Department of Local Government and Regional Development
Locality Plan	:	N/A

BACKGROUND

1. At it's meeting on 17 July 2007 Council resolved the following:

“THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, advertise its intention to make the City of Albany Responsible Cat Ownership Local Law.”

STATUTORY REQUIREMENTS

2. Section 3.12 of the Local Government Act states:-

“3.12 Procedure for Making Local Laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) At a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

- (3) *The local government is to -*
- (a) *give State-wide public notice stating that -*
- i. *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
- ii. *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
- iii. *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
- * Absolute Majority Required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice -*
- (a) *stating the title of the local law;*
- (b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made”*

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

4. There will be statutory advertising costs which will be funded from the 2007/08 budget.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

STRATEGIC IMPLICATIONS

5. 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...

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

Mission Statement

The City of Albany is committed to ...

- *Delivering Excellent Community Services and Providing Sound Governance.*

Priority Projects

Nil.”

COMMENT/DISCUSSION

6. Council advertised, both state-wide and locally, for public comment, the draft City of Albany Responsible Cat Ownership Local Law 2007, and at the closing date for submissions a total of 47 submissions were received (copies of the submissions have been provided for Council inspection in the Councillor’s Lounge).
7. The vast majority of submissions objected to the introduction of the Local Law on the following grounds:
- (1) The local law is costly and a waste of ratepayers money.
 - (2) The local law does not address the issue of sterilisation.
 - (3) The local law does not address the issue of unwanted, stray or feral cats.
 - (4) The local law will encourage vindictive people to use the nuisance cat clauses to aggravate neighbours.
 - (5) The local law represents a revenue raising campaign.
 - (6) In most instances it would be difficult to identify a cat and know which residence the cat resides at.
 - (7) The local law would target responsible cat owners with more than 3 cats.
 - (8) The local law will cause anxiety and stress amongst cat owners.
 - (9) The local law will undo work carried out by the Cat Sterilisation Society.
8. In response to the concerns above, staff advise the following:
- (1) The cost of drafting and advertising the local law would be less than \$500, and it is anticipated that cat nuisance investigations will not significantly increase the workload of Council’s rangers, as has been the case at the Town of Bassendean which has the same local law in operation.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

- (2) The local law specifically excludes compulsory sterilisation as staff believe the best way to encourage increased rates of sterilisation is through a subsidy or rebate scheme. Council in the past considered a sterilisation scheme, however it resolved to increase funding to the Cat Sterilisation Society in the 2006/07 financial year. The Cat Sterilisation Society can apply under the Community Financial Assistance Fund for funding and Council has supported the actions of this organisation in the past to increase sterilisation rates.
 - (3) The trapping and impounding of all stray or feral cats is labour intensive and is difficult to execute. The Department of Environment and Conservation has feral cat eradication programs within National Park areas. Taking in unwanted cats or strays, building a pound to house and euthanase unwanted cats would represent a significant cost to Council, as previously reported.
 - (4) The Rangers are trained and experienced in handling dog nuisance complaints and it is believed this skill set can be transferred to cat nuisance complaints. The local law requires at least two complainants from different dwellings to lodge written complaints prior to Council undertaking an investigation. Council's practice would be to interview the cat owner and complainants and, depending on the information received and the level of nuisance involved, either convey a warning, take no action or issue a nuisance abatement notice. Where a nuisance abatement notice is not complied with, Council would then have the ability to issue an infringement.
 - (5) The revenue through infringements is likely to be minimal and is unlikely in any case to recover the cost of wages in investigating the nuisance.
 - (6) A witness would have to identify the cat and give information as to where the cat is normally kept to allow the Rangers to investigate the case further.
 - (7) The keeping of more than 3 cats can be considered by Council on application in writing and depending on the circumstances conveyed, has the ability to grant such a request.
 - (8) The Local Law does not propose the impoundment or trapping of cats which is likely to cause anxiety and stress amongst cat owners. The local law gives residents affected by cat nuisance the ability to seek intervention by Council, which currently does not exist.
 - (9) In the officer's opinion the local law will not undermine or devalue the important work done by the Cat Sterilisation Society in relation to the sterilisation of cats.
9. Several submissions stated that the local laws do not go far enough as compulsory sterilisation, micro-chipping, Council registration (same as dogs), the ability to impound and trap cats, designate cat prohibition areas were considered important inclusions within the Local Law. Staff believe that these additional elements are best placed in state legislation (through the introduction of a Cat Act as is applied in other states) so that they apply across all local government boundaries.
 10. Staff believe the proposed Local Law has the capacity to make cat owners more accountable for the actions of their pets. In severe cases, where residents are continually subjected to cat nuisance, a \$100 infringement could be issued by Council; on-going breaches could result in the matter going before the District Court.
 11. A submission was received from the Department of Local Government and Regional Development (see copy in the Elected Member's Report / Information Bulletin) and recommended a number of minor wording and interpretation changes. The changes recommended by the have been incorporated into the City's draft local law as included in the Elected Member's Report / Information Bulletin.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

12. As the amended draft local law is not significantly different from what was originally proposed, Council can continue the process of adopting the local law acknowledging that:

- *The purpose of this local law is to provide for the regulation, control and management of cats within the district.*
- *The effect of this local law is to establish the requirements of cat owners within the district, which must be complied with, and the means of enforcing those requirements.*

RECOMMENDATION

THAT Council receive the submissions from the public on the draft City of Albany Responsible Cat Ownership Local Law 2007.

AND

THAT Council, in accordance with Section 3.12 of the Local Government Act 1995 (as amended), agrees to make the City of Albany Responsible Cat Ownership Local Law 2007 (as detailed in the Elected Member’s Report/Information Bulletin) subject to the Local Law being modified in accordance with the recommendations of the Department of Local Government and Regional Development.

Voting Requirement Simple Majority

ALTERNATE MOTION COUNCILLOR WILLIAMS

<p>MOVED COUNCILLOR WILLIAMS SECONDED COUNCILLOR PRICE</p> <p>THAT Council receive the submissions from the public on the draft City of Albany Responsible Cat Ownership Local Law 2007.</p> <p>AND</p> <p>THAT Council lay this item on the table for a period of no less than one month to provide adequate time for staff to amend the City of Albany Responsible Cat Ownership Local Law 2007 to include provisions requiring compulsory sterilisation of cats other than those held by registered breeders, the compulsory registration of all domestic and breeding cats and the introduction of night time curfews for cats.</p> <p style="text-align: right;">MOTION WITHDRAWN</p>

Reason:

The community opinion expressed in the submissions that have been received indicates that the City’s local law should address the issues of sterilisation, registration and containment of domestic cats.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

Cr Paver spoke against the motion, a recommended a briefing from representatives of the City of Albany Cat Law Working Committee before a decision is made.

Cr Walker spoke for the motion, raising his concern of feral cats in National Parks.

Cr Bostock spoke against the motion sighting that the laws would be difficult to enforce and that laws would not make Cat owners more responsible.

ALTERNATE MOTION COUNCILLOR PAVER

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR WALKER**

THAT Council lay this item on the table until Councillors have received a comprehensive briefing on the draft “Local Laws Relating to the Keeping and Welfare of Cats 2007” from representatives of the City of Albany Cat Law Working Committee.

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

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

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

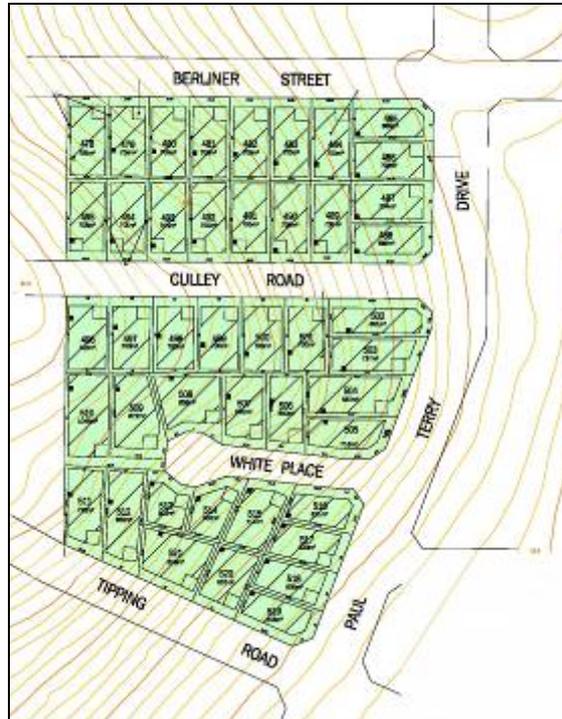
BACKGROUND

1. At it's meeting dated 21 August 2007, Council resolved the following:
“THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to adopt the draft policy entitled “Local Planning Policy - Sloping Land” for the purpose of advertising the policy.”
2. The policy was placed on advertising and at the close of public submissions one (1) submission was received.
3. The submission received during the advertising period is from a manufacturer and installer of retaining walls, who has raised concerns about the policy. This business has been advised of their opportunity to address Council at the Agenda Briefing session and at the Ordinary Council Meeting. (A copy of this letter is attached to the rear of this report).
4. Prior to advertising of the draft policy, a request was received from the developer of Lot 103, Ulster Road to prepare a Detailed Area Plan to address the sloping land issues arising in this subdivision. However, staff indicated that the earthworks issues associated with these lots would be more appropriately managed by including the subject lots in Schedule 1 of the Sloping Land Policy.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

5. The Department for Planning and Infrastructure, in liaison with the City of Albany, supported the subdivision (#124643) of the land comprising “Elizabeth Heights”, Bayonet Head subject to a condition being:
“Proposed Lots 478-484, 489-501, 506-515 and 518-519 being suitably retained with retaining walls”.



6. The purpose of the condition is to control the extent of land retention at the subdivision stage.
7. The developer conveyed to staff that, because of the steep nature of the lots (the land falls 10m over a distance of 50m), the cut, fill and retaining required would be substantial, making the cost of the lots unaffordable.
8. It was agreed that, rather than “suitably retaining” the lots at the subdivision stage, a policy could be adopted to encourage development sensitive to the natural topography. It was also agreed that once the policy is adopted, Council will clear the condition of subdivision, subject to a notification in the form of a memorial being placed on the Certificates of Title (affected lots) advising of the existence of the policy.

STATUTORY REQUIREMENTS

9. Town Planning Schemes 1A and 3 state at clauses 7.21 and 6.9 respectively that;

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

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

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

- Purpose
13. The purpose of this report is to consider the final adoption of the policy (included in the Elected Member's Report / Information Bulletin), which applies to development of specified land (included on Schedule 1 of the policy) with a slope greater than 1:10. The policy seeks to guide landowners, architects and staff at the City in preparing and assessing development proposals for lots to which the policy applies.
- 14. On vacant land with a substantial slope, the subdivider is required to undertake earthworks to flatten the lot or to sell the landing in its current state. Where retaining is not done at the subdivisional stages, a multiplicity of retaining wall types can be used (e.g. Woodrise Estate) and there are "winners and losers" once the first builders move on-site to create a flat building pad. Council's subdivision guidelines seek to overcome that problem by placing the onus upon the subdivider to do the initial earthworks. Where the provision of large retaining walls becomes impractical, an additional level of control is required (policy) to force landowners and builders into an alternative form of housing design and to reduce the opportunity for cutting and filling to respond to the slope on those sites. This alternative form of control has been demonstrated on lots fronting Angove Street, within the Woodrise Estate, where the development has responded to the site, rather than the site modified to suit the development.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

Issues

- 15. The topography of Albany is an important part of its character. Albany has numerous areas containing steep sloping land (greater than 10%). There is the desire (of developers) to create a level site on which to build a house. In order to create a level site on steep sloping land, extensive cut, fill and retaining is required. Extensive cut, fill and retaining has the potential to impact on the amenity of an area, add considerably to the cost of developments and impact upon neighbouring land owners.

Objectives

- 16. The objectives of the policy (proposed for adoption) are to:
 - a) Encourage a philosophy that discourages the recontouring of land as being the preferred method of undertaking the development of sloping sites;
 - b) Restrict excessive cutting and filling of steeply sloping land and encourage house design sympathetic (split level) to the natural topography;
 - c) Reduce neighbour conflict by encouraging a reduction in the level of cutting and filling on development sites and the size of the retaining walls that need to be constructed along the common property boundary(s);
 - d) Promote development that is sensitive to the natural topography and character of Albany; and
 - e) Promote housing designs, which complement the slope of the land to reduce the building's bulk and visual impact.

Conclusion

- 17. The policy will establish development requirements for the subdivision of land, retaining on property boundaries, retaining within the confines of the lot, screening, liaison with neighbours and building height.
- 18. A schedule is to be attached to list the sites that the policy will be applied to and a set of illustrations has been included to provide examples of acceptable site solutions. No submissions were received to warrant changes in the initial consultation draft of the policy.

RECOMMENDATION

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

Voting Requirement Simple Majority

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ALTERNATE MOTION COUNCILLOR PAVER

<p>MOVED COUNCILLOR PAVER SECONDED COUNCILLOR WALKER</p> <p>THAT the matter is laid on the table till the planned restrictions on retainer wall heights are reviewed at an agenda briefing session.</p> <p style="text-align: right;">MOTION CARRIED 12-0</p>
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Item 11.3.1 continued

PN & ER
NEWMAN'S
QUALITY CONCRETE PRODUCTS



LOT 29 HUDSON ROAD ALBANY WA 6330
TELEPHONE (08) 9842 2040
FACSIMILE (08) 9842 2591

P O Box 1460
ALBANY 6331

25/10/2007

City of Albany
102 North Road
ALBANY 6330

Fax 98414099

Kevin Hughes
Senior Planning Officer

Dear Sir

Regards Public Notice re Local Planning Policy
Sloping land with a greater slope than 10 degrees and
The restrictions Council proposes to impose on Retainer Wall heights.

Being a Manufacturer and Installer of retainer walls I have concerns
that I would like to discuss with Council in the future regards the above.

Yours sincerely

PN & ER NEWMAN'S QUALITY CONCRETE PRODUCTS

DEVELOPMENT SERVICES REPORTS

11.3.2 Scheme Policy - Adopt Draft - City of Albany Residential Development (Detailed Area Plan) Policy

File/Ward	:	STR033 (All Wards)
Proposal/Issue	:	Draft Policy dealing with Residential Development within Detailed Area Plans for Cottage lots, R30 Rear laneway lots, Lots adjoining public open space and corner lots
Subject Land/Locality	:	Entire City
Proponent	:	City of Albany
Owner	:	N/A
Reporting Officer(s)	:	Senior Planning Officer (K Hughes)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Adopt Draft Policy for advertising
Bulletin Attachment	:	Draft Policy
Locality Plan	:	N/A

BACKGROUND

1. In recent years, the Department for Planning and Infrastructure in liaison with the City of Albany have supported a number of subdivisions subject to a condition requiring the preparation of a Detailed Area Plan (DAP) for the subdivisional area.
2. DAPs normally address specific design issues such as building orientation, car parking arrangements, surveillance of secondary streets, public open space and fencing treatments.
3. Whenever a DAP was required, it became necessary for Council to adopt a local planning policy for the lots affected by the condition of subdivisional approval.
4. This draft policy has been prepared to address all lots affected by Detailed Area Plans. This policy includes general design criteria for all DAP lots with site specific criteria for individual lots forming a schedule to the policy. This adoption of this policy will eliminate the need for multiple local planning policies to be formulated and it will encourage a common approach/planning solution to on-site development issues.

STATUTORY REQUIREMENTS

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

“POWER TO MAKE POLICIES

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

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

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

POLICY IMPLICATIONS

6. The proposed Residential Development (Detailed Area Plans) Policy would be a Town Planning Scheme policy to be adopted by Council under the provisions of Clause 7.21 of Town Planning Scheme 1A and Clause 6.9 of Town Planning Scheme 3.

FINANCIAL IMPLICATIONS

7. Council is required to advertise the adoption of the policy in the local newspaper at its own cost for two consecutive weeks.

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*

Priority Projects:

Nil.”

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

COMMENT/DISCUSSIONPurpose

9. The purpose of this report is to consider the adoption of the policy (included in the Elected Member's Report / Information Bulletin), which applies to those lots identified in Schedule 1. These lots are to be created as part of the subdivision process and a Detailed Area Plan has been required as condition of the approval issued by the Western Australian Planning Commission. The policy can also be applied to any lot for which Council has determined a Detailed Area Plan is required.

Issues

10. This local planning policy has been created to provide guidance for Council and landowners in preparation of Detailed Area Plans.

Objectives

11. The objectives of the policy (proposed for adoption) are to:
- Avoid the need for separate Local Planning Policies to be prepared for individual sites where Detailed Area Plans have been required as a condition of subdivision by the Western Australian Planning Commission or otherwise required by Council;
 - Ensure a consistent approach to the treatment of lots with access via a rear laneway, and all other lots subject to a Detailed Area Plan;
 - Provide a detailed set of provisions to guide developers in the treatment and design of dwellings with regard to setbacks, site coverage, privacy and surveillance to further refine the Performance Criteria of the Residential Design Codes;
 - Ensure that dwellings on lots adjoining Public Open Space are designed to provide passive surveillance;
 - Ensure that corner lots are designed to address both the primary and secondary streets, whilst providing a high level of privacy to future occupants; and
 - Allow for variation of development standards where considered necessary to address site-specific criteria such as existing built form or sloping land.

Guidelines

12. The policy will establish development requirements for cottage, R30 lots, rear laneway lots, lots adjoining areas of public open space and corner lots. These criteria relate to:
- treatment of rear laneways;
 - vehicular access and garages;
 - dwelling design;
 - setbacks;
 - surveillance of public open space and the street; and
 - fencing.
13. However in some instances variation from these general criteria will be appropriate. Such variations will be included with each individual Detailed Area Plan as listed in Schedule 1. Lots where variations currently would apply include:
- Lot 2 South Coast Highway, McKail
 - Lot 2 Mason Road/Lower King Road, Lange
 - Lot 94 & 95 the Esplanade, Lower King

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

RECOMMENDATION

THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to adopt the draft policy entitled “Local Planning Policy - Residential Development (Detailed Area Plans)” for the purpose of advertising the policy.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WILLIAMS**

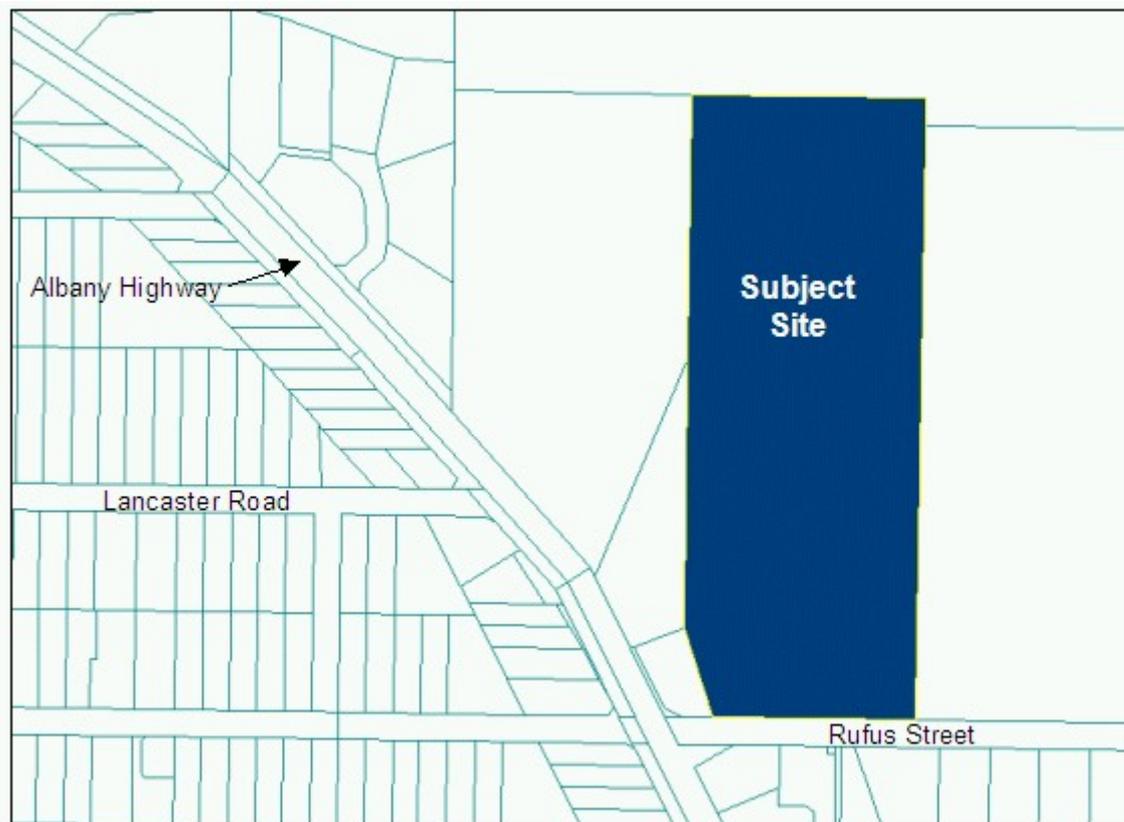
THAT Council, pursuant to Clauses 7.21 and 6.9 of the City of Albany Town Planning Schemes 1A and 3 respectively, resolves to adopt the draft policy entitled “Local Planning Policy - Residential Development (Detailed Area Plans)” for the purpose of advertising the policy.

MOTION CARRIED 11-1

DEVELOPMENT SERVICES REPORTS

11.3.3 Final Adoption - Rufus Street Outline Development Plan

File/Ward	:	STR252 (Kalgan Ward)
Proposal/Issue	:	Rufus Street Outline Development Plan
Subject Land/Locality	:	Lot 7 Rufus Street, Milpara
Proponent	:	Harley Survey Group
Owner	:	Acetown Nominees Pty Ltd
Reporting Officer(s)	:	Senior Planning Officer (K Hughes)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Adopt Rufus Street Outline Development Plan
Bulletin Attachment	:	Copy of Outline Development Plan (minus Appendices)
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

BACKGROUND

1. Lot 7 Rufus Street, Milpara is zoned “Rural” within Town Planning Scheme 3. However, this land is the subject of Amendment No. 263 which seeks to rezone the land to “Residential Development”. That amendment was granted final approval by the Council at its ordinary meeting dated 15 May 2007.
2. It is a requirement of the “Residential Development” zone that an Outline Development Plan be prepared and adopted prior to the subdivision of land. The Outline Development Plan provides overarching principles and a concept plan to guide further staged planning, subdivision and development.
3. The landowners have approached staff at the City to express their desire to develop Lot 7 Rufus Street. A draft Outline Development Plan (ODP) has now been submitted to the City and was referred to Government Departments and advertised for 28 days in accordance with the requirements prescribed in Town Planning Scheme No. 3. A Schedule of Submissions is attached at the end of this report.

STATUTORY REQUIREMENTS

4. Town Planning 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; and*
 - (e) preservation of the environment.”*
5. If Council adopts the draft ODP, it is to be forwarded to the Department of Planning and Infrastructure for adoption by the WA Planning Commission.

POLICY IMPLICATIONS

6. There are no Policy Implications relating to this item. The ODP has been developed in accordance with the principles defined in the *“Liveable Neighbourhoods” (Draft) Operational Policy 2004.*

FINANCIAL IMPLICATIONS

7. There are no Financial Implications relating to this item. The opportunity is available, at the time of subdivision and development, to obtain contributions for the development/upgrading of infrastructure.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

STRATEGIC IMPLICATIONS

8. The City of Albany Local Planning Strategy (ALPS) has identified the subject land as being an ideal location to accommodate residential living and is designated “Future Urban”.

COMMENT/DISCUSSION

Definition Outline Development Plan

9. An Outline Development Plan is required to provide an overarching development concept for subdivision and development. The concept is required (as per state planning guidelines) to define a boundary, a vision, objectives, environmental features (e.g., wetlands, hydrology, flora and fauna), heritage values, location and provision of Public Open Space, a road network and hierarchy, an indicative lot pattern and proposed land uses or zones. The draft Outline Development Plan satisfies these requirements.

Purpose

10. The purpose of this report is to seek Council’s support for the Outline Development Plan in order to enable the subdivision and development, of Lot 7 Rufus Street following the gazettal of Amendment No. 263.

Location and Provision of Public Open Space (POS)

11. Approximately 7896 sq m (10% of the plan area) is allocated for public open space. Final design of facilities in the POS will be determined in conjunction with the City of Albany and relevant government agencies at the subdivision stage.

Road Network and Hierarchy

12. Access to the ODP areas will be via an “access street”, which will connect to Rufus Street. This intersection has been located a safe distance from the junction of Rufus Street and Albany Highway. A second “access street” will provide for future connection of the ODP area to Lot 5 Rufus Street. The road layout has been designed to provide for direct and logical movement. The network provides for a range of transport modes including pedestrian access.

13. However it is noted that the dual use path proposed along Rufus Street does not extend along the entire frontage of the ODP area. It is recommended that the ODP be amended accordingly.

14. The ODP acknowledges that Rufus Street is a District Distributor Road however there is no acknowledgement or road widening requirements to construct Rufus Street ultimately to that standard. It is probable that Rufus/Henry Street may be constructed to a similar standard to North Road and clauses 4.5.1 and 6.3.5 of the ODP need to be amended to acknowledge the need for localised widening across the frontage of the subject land.

Indicative Lot Pattern

15. The layout has been designed to facilitate either east/west or north/south orientation of lots to accommodate solar efficiency. A base zoning of R20 is proposed, with the majority of lots anticipated to be created at a lower density. The design of the ODP area has the potential to create a “sense of place” within the suburb, offering diverse and affordable housing.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

16. The proposed Rufus Street ODP was advertised for public inspection and comment. Three submissions were received from the Department of Education and Training, Water Corporation and the Department of Water. All agencies advised that they had no objections to the ODP.
17. A Schedule of Submissions is attached to the rear of the report, which includes officer comment and recommendations. A copy of each submission is available upon request.

Indicative Lot Pattern

18. The purpose of the ODP is to facilitate the development and subdivision of Lot 7 Rufus Street, the rationale of which falls in line with the Albany Local Planning Strategy, State Planning Policy (Liveable Neighbourhoods document) and contemporary planning principles.
19. Once the Council approves the ODP, it will be referred to the Western Australian Planning Commission for endorsement.

Rufus Street Outline Development Plan Schedule of Submissions

No	Submitter	Submission	Officer Comment	Officer Recommendation
1	Department of Water, 5 Bevan Street, Albany	(a) No objection	(a) Nil	(a) Noted
2	Water Corporation, 215 Lower Stirling Terrace, Albany	(b) No objection	(a) Nil	(a) Noted
3	Department of Education, 151 Royal Street, East Perth	(c) No objection	(a) Nil	(a) Noted

RECOMMENDATION

- i) The Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either adopted or rejected as detailed.
- i) THAT Council, pursuant to Clause 5.2 of the City of Albany Town Planning Scheme 3 resolves to adopt the Rufus Street Outline Development Plan for Lot 7 Rufus Street, Milpara subject to the Outline Development Plan map being modified to:
 - Show a dual use path along the full frontage of Lot 7 Rufus Street; and
 - Clauses 4.5.1 and 6.3.5 noting the requirement for the Rufus Street road reservation to be widened by 5.0m across the frontage of the subject land to meet the needs of a District Distributor Road.

Voting Requirement Simple Majority

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR STANTON**

- i) **The Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either adopted or rejected as detailed.**

- ii) **THAT Council, pursuant to Clause 5.2 of the City of Albany Town Planning Scheme 3 resolves to adopt the Rufus Street Outline Development Plan for Lot 7 Rufus Street, Milpara subject to the Outline Development Plan map being modified to:**
 - **Show a dual use path along the full frontage of Lot 7 Rufus Street; and**

 - **Clauses 4.5.1 and 6.3.5 noting the requirement for the Rufus Street road reservation to be widened by 5.0m across the frontage of the subject land to meet the needs of a District Distributor Road.**

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

11.3.4 Initiate Scheme Amendment - Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47, 50 & 51 Lancaster Road McKail

- File/Ward** : AMD269 (West Ward)
- Proposal/Issue** : Rezoning from “Rural” to “Residential Development” Zone
- Subject Land/Locality** : Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47, 50 & 51 Lancaster Road McKail
- Proponent** : Harley Survey Group
- Owner** : P & J Boccamazzo, A Ovens, L Robinson, E & R Wilkinson, NF, SJ & S Padula, E & S Klein & N Lembo
- Reporting Officer(s)** : Senior Planning Officer (K Hughes) and Thompson McRobert Edgeloe (Planning Consultants)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : Initiate the amendment
- Bulletin Attachment** : Amendment Documentation
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

BACKGROUND

1. The application received is a request to initiate a Scheme Amendment to rezone Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47,50 & 51 Lancaster Road from “Rural” to “Residential Development” zone.
2. The subject lots are majority cleared (pasture), with some remnant vegetation along an intermittent drainage line running from north east to south west through Lot 51 and a portion of Lot 50 Lancaster Road.
3. The site is undulating, rising from the north east corner to the high point located on the western boundary. Contour plans indicate that this is a fall of approximately 14.0m over the entire site.
4. Each lot, other than Lot 47 Lancaster Road, contains a single house and associated outbuildings.
5. The combined site has an area of approximately 11.8583 hectares.

STATUTORY REQUIREMENTS

6. Council’s resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
7. An amendment to a Town Planning Scheme adopted by resolution of Council is to be referred to the Environmental Protection Authority (EPA) for assessment.
8. 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.
9. 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

10. The WA Planning Commission’s Statements of Planning Policy (SPP) No.’s 1 and 3 establish the general principles for planning in Western Australia. The primary aim of the SPP’s being to provide for the sustainable use and development of land by reducing energy consumption, consolidating development where there are existing services, supplying a range of suitable land for a variety of housing and to coordinate new development with the efficient, economic and timely provision of infrastructure and services.

FINANCIAL IMPLICATIONS

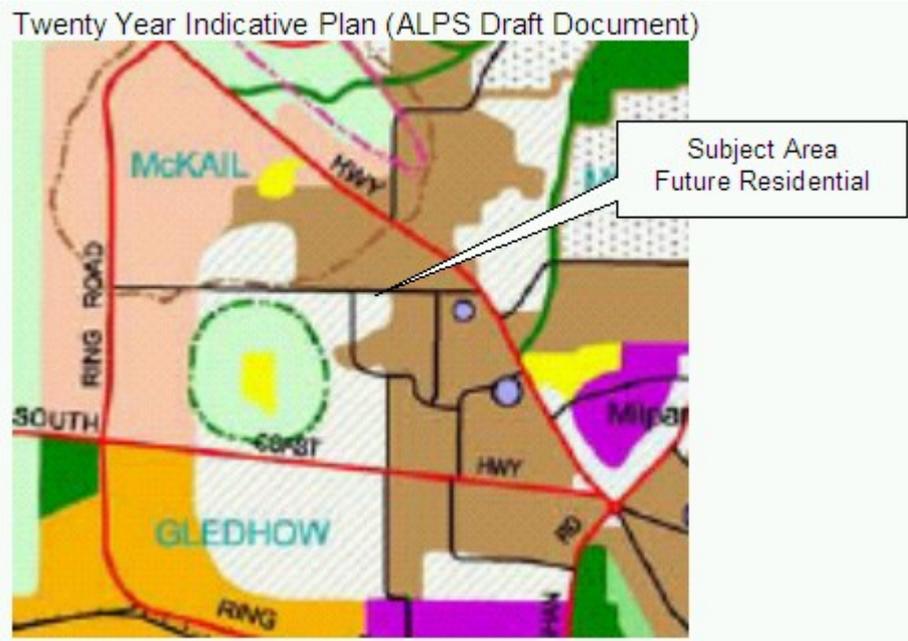
11. There are no immediate financial implications relating to this item, however, further residential development places pressure on the need to improve supporting infrastructure (e.g. roads and drainage) within the vicinity. The cost of extending the required infrastructure will be borne by landowners at the subdivision stage.

DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

STRATEGIC IMPLICATIONS

12. The subject area is identified within the Albany Local Planning Strategy (ALPS) document (Plan 9B) as within an area of either existing residential or being suitable for fully serviced “Future Residential” development. The document proposes to plan and develop the area in an efficient and coordinated manner, as a logical extension of existing settlements and with retail, service and community infrastructure.



13. The Lower Great Southern Strategy (20-30 year strategy for the Great Southern Region) identifies the importance of sustainable land uses. The State Planning Strategy recommends the consolidation of existing housing stock and the provision for a variety of housing available to residents in the City.

STRATEGIC IMPLICATIONS

Proposal

14. The Proponent requests Council support for and the initiation of a Scheme Amendment to rezone Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47,50 & 51 Lancaster Road from “Rural” to “Residential Development” zone.

Opportunities

15. The “Residential Development” zoning complies with the strategic intent (“Future Residential”) for the area and on face value does not present any environmental concerns. The objective of the rezoning is to make available land for residential development at a higher density (R20 and possible pockets of R30/40) than what is permitted under the current zoning of Rural. An opportunity exists for the development of the area subject to the connection of all services and infrastructure required to develop fully serviced residential lots.

DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

16. The intermittent drainage line running from north east to south west through Lot 51 and a portion of Lot 50 Lancaster Road offers an opportunity to establish a vegetated public open space buffer between the proposed residential development and approved Special residential lots to the east of the subject site. This requirement can be established within an “Outline Development Plan” (ODP) and by the implementation of appropriate water sensitive drainage design measures applied at time of subdivision.
17. The lots are mainly cleared and pastured, with small pockets of parkland cleared native vegetation and some non-native species. Development to a residential density does not present an environmental threat to native vegetation to install services and infrastructure.
18. Power and reticulated sewer and water are available to the site.

Constraints

19. The subject land is in close proximity to the “Harold Reid Paceway”. In considering the impacts of the location of this facility to the subject land, information presented to Council relating to a development proposal to south of the subject land was assessed (submitted for inclusion with SAR 119) and officer comments relating to that particular proposal and possible adverse affects were taken into account. Given that the subject site, located at the nearest point, is some 440m from the paceway, there is unlikely to be conflict with the recreational use of the paceway and urban development as proposed.
20. The land is also in close proximity to the Atwell Park Speedway and there is a buffer area determined for that facility. The subject land is on the outer edge of the agreed “Noise Buffer Area” which removes any requirement to modify building designs or accommodate noise impacts from the speedway.

Outline Development Planning

21. The City of Albany Town Planning Scheme (TPS) No. 3 at Clause 5.5 requires that an Outline Development Plan (ODP) be approved by Council and the WA Planning Commission prior to approval of subdivision of any land within a “development zone”.
22. In summary, an ODP shall have regard to the following:
 - *The major road systems under the scheme.*
 - *Topographic conditions.*
 - *Land holdings adjacent to or in the vicinity of the subject land.*
 - *The necessity of providing civic and public facilities.*
 - *Preservation of the environment.*
 - *Provision of recreational & public open space.*
 - *Densities proposed.*

DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

- 23. A draft ODP has been submitted as an appendix to the Amendment documentation. This details possible connectivity of development to all 5 of the subject lots bounded by Morgan Place to the west, Morgan Road to the north, Lancaster Road to the south and the recently approved Special Residential development on the adjoining Lot 9000 Lancaster Road. The draft ODP also highlights public open space provision, creekline protection measures, provision of a dual use path and a mix of low (R20) and medium (possibly R30/40) density development potential. Assessment of the ODP does not form part of this report, as it is subject to a separate planning process prior to commencement of subdivision.
- 24. Subdivision of the land can not occur until the TPS requirement of 5.5 are met and therefore acts as a mechanism to restrict unplanned and un-coordinated development of this land without appropriate planning considerations.

Conclusion

- 25. Due to the compatibility of the application with the strategic intent for the area, and the control mechanism for a “Residential Development” zone under the Scheme (Section 5.5), it is recommended that Council initiate the Town Planning Scheme amendment to rezone the site to a fully serviced (deep sewer) “Residential Development” zone.

RECOMMENDATION

THAT Council resolves pursuant to Section 75 of the *Planning and Development Act 2005* to initiate Amendment 269 to the City of Albany Town Planning Scheme 3 (subject to modifications) for the purposes of rezoning Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47, 50 & 51 Lancaster Road McKail from the “Rural” zone to the “Residential Development” zone.

Voting Requirement Simple Majority

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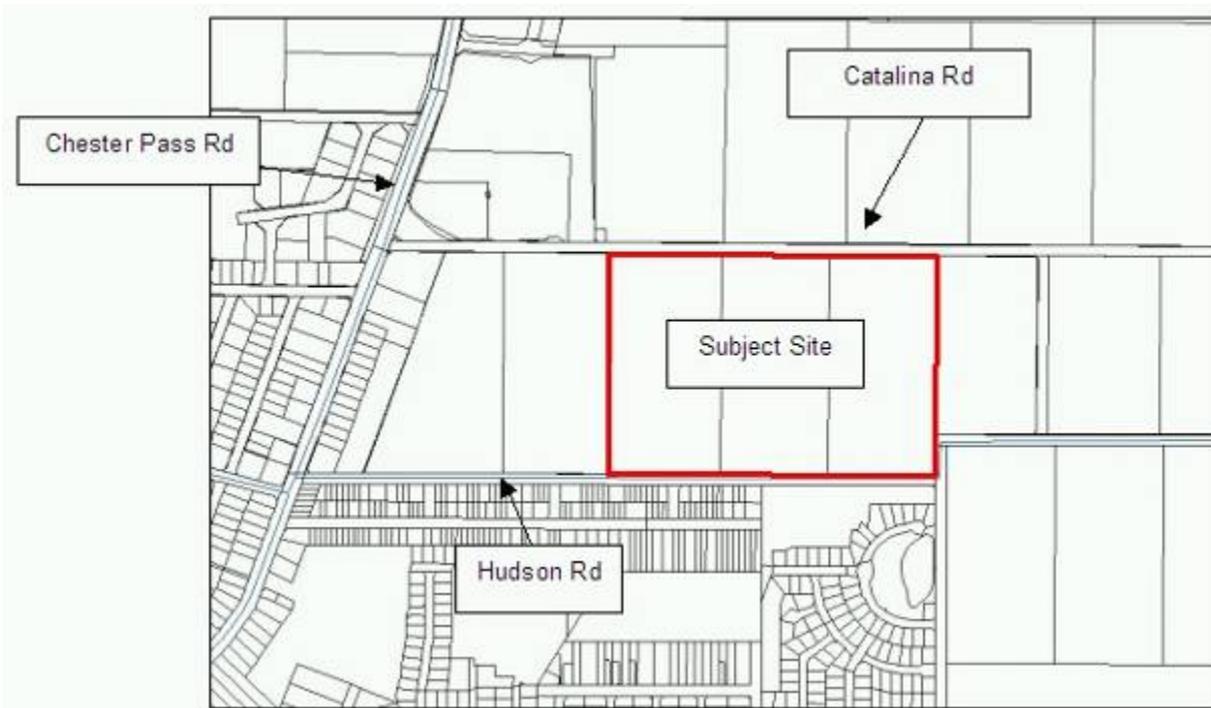
<p>MOVED COUNCILLOR WOLFE SECONDED COUNCILLOR WALKER</p> <p>THAT Council resolves pursuant to Section 75 of the <i>Planning and Development Act 2005</i> to initiate Amendment 269 to the City of Albany Town Planning Scheme 3 (subject to modifications) for the purposes of rezoning Lot 48 Morgan Place, Lot 49 Morgan Road and Lots 47, 50 & 51 Lancaster Road McKail from the “Rural” zone to the “Residential Development” zone.</p> <p style="text-align: right;">MOTION CARRIED 12-0</p>
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DEVELOPMENT SERVICES REPORTS

Item 11.3.5 was withdrawn by the Mayor.

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

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



DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

BACKGROUND

1. The application received is a “Scheme Amendment Request” (SAR) to rezone Lots 32, 33 and 34 Catalina Road, Yakamia from “Rural” to “Residential R20” to include “Park Home Park” as an “Additional Use”. The SAR also proposes to code lots adjoining the boundaries of the land “Residential R30”. A copy of the request is included in the Elected Member’s Report/Information Bulletin.
2. The subject site is situated 12km north east of Albany town centre. The subject lots are bordered by Catalina Road to the north and Hudson Road to the south. The site has a total area of 24.5921 ha.
3. The SAR was referred to the Department of Planning and Infrastructure (DPI), the Department of Environment and Conservation (DEC), the Water Corporation and the Department of Agriculture and Food.

STATUTORY REQUIREMENTS

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

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

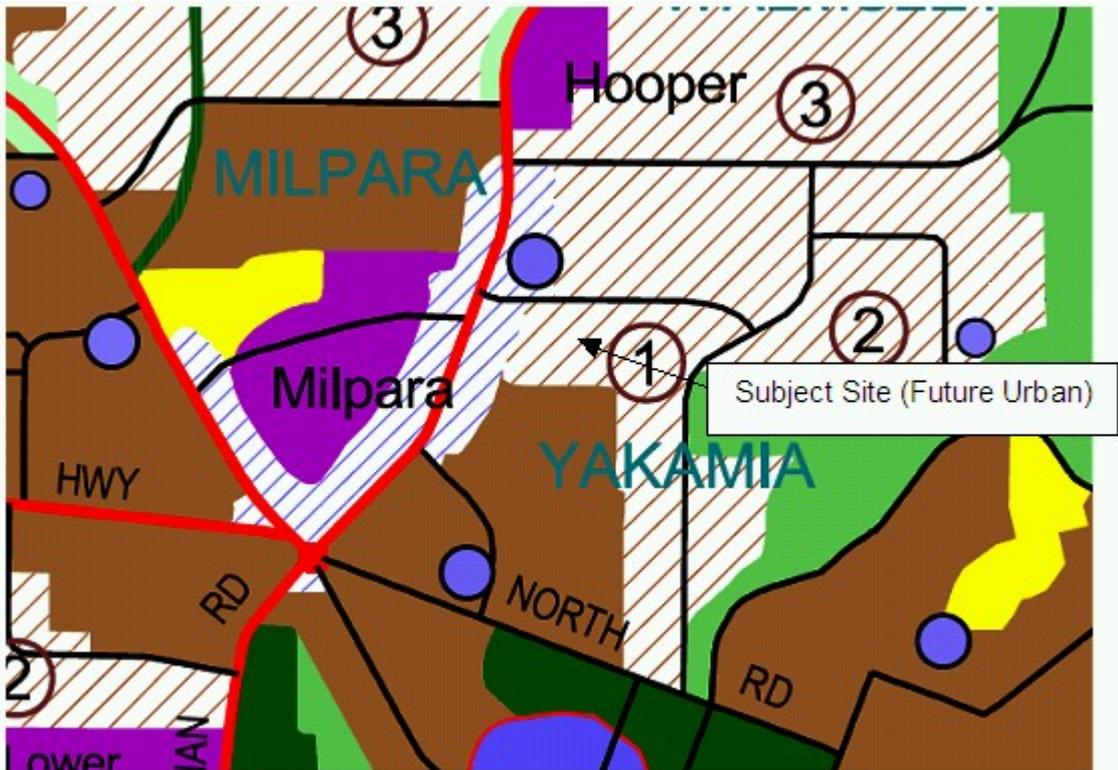
9. There are no Financial Implications relating to this proposal.

DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

STRATEGIC IMPLICATIONS

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



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

Positives

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

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

Negatives

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

Conclusion

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

DEVELOPMENT SERVICES REPORTS

Item 11.3.5 continued

RECOMMENDATION

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

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

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

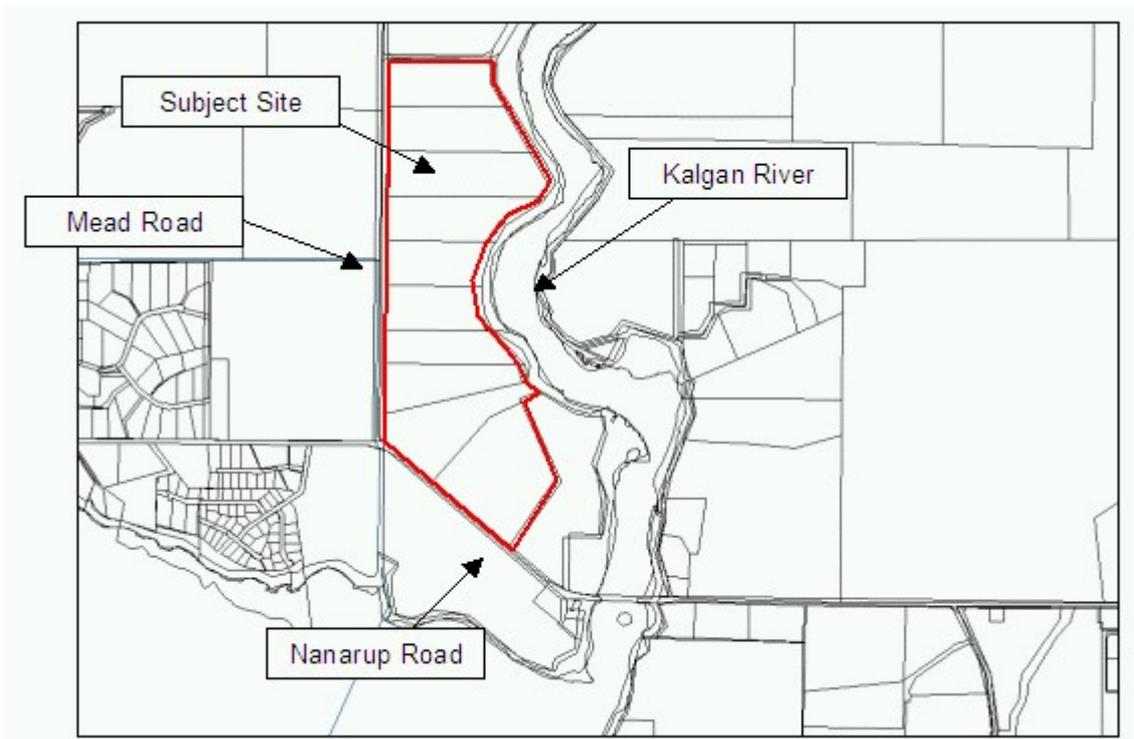
Voting Requirement Simple Majority

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DEVELOPMENT SERVICES REPORTS

11.3.6 Final Approval Scheme Amendment - Lots 17-22 and 27-29 Mead Road and Lot 30 Nanarup Road, Kalgan

- File/Ward** : AMD254 (Kalgan Ward)
- Proposal/Issue** : Consider final adoption of Amendment 254 (amend the Special Rural Scheme provisions applicable to land within Special Rural Area No. 4A)
- Subject Land/Locality** : Lots 17-22 and 27-29 Mead Road and Lot 30 Nanarup Road, Kalgan
- Proponent** : Harley Survey Group
- Owner** : Various
- Reporting Officer(s)** : Senior Planning Officer (K Hughes) and Gray & Lewis Landuse Planners
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 18/10/05 - Item 11.3.3
OCM 19/12/06 - Item 11.3.5
- Summary Recommendation** : Adopt the amendment for final approval (without modification)
- Bulletin Attachment** : Nil
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.3.6 continued

BACKGROUND

1. At its meeting dated 18 October 2005 Council resolved to advise the applicant that it would be prepared to initiate an amendment for the lots in question subject to a number of matters being addressed. The applicant submitted revised documentation and the amendment was subsequently initiated by Council at its meeting on the 19 December 2006.
2. The amendment was referred to the Environmental Protection Authority (EPA) who confirmed no environmental assessment is required. The EPA recommended a number of modifications to the documents and provided general advice. It is not considered that the document needs to be revised as outlined below.

Summary of EPA recommended document changes	Comments	Outcome
Deletion of 7.1(a) – as there will be no development within the Development Exclusion Zone this is unnecessary and open to interpretation. The removal of dead trees within the DEZ has the potential to increase access and destroy faunal habitat.	If removal of dangerous trees is not allowed under the Scheme, the City of Albany may be held liable for compensation if that tree causes undue damage. Allowances need to be made for tree removal and to meet Fire Management Plan requirements.	No modification recommended.
11.3 should be reworded to specifically restrict access to existing tracks and clearly state that the creation of any new tracks through areas containing remnant vegetation will not be permitted.	Conditions can be placed on the subdivision restricting access. The amendment document clearly states that access will be restricted to existing cleared firebreaks and tracks.	No modification recommended.
Lots 23, 24 and 25 are not subject of the amendment and have no additional subdivision potential. They should be deleted and not referred to.	It is clear that the lots do not form part of the amendment however it is relevant to include references to adjacent lots in the non statutory text as it provides context. The guide plan includes an important note that Lots 23, 24 and 25 have no additional subdivision potential.	No modification recommended.
An additional area of remnant vegetation on the north east corner of Lot 20 has been identified as being required to be included in the foreshore.	The applicant submitted a plan to the EPA showing the area and agreed to include it in the foreshore reserve.	No modification recommended however the subdivision guide plan will have to be amended before it is endorsed by the CEO.

3. The amendment (copy of subdivision guide plan follows this report) was advertised for public comment from the 14 August 2007 to the 27 September 2007 and only two submissions were received raising no objections to the amendment.

DEVELOPMENT SERVICES REPORTS

Item 11.3.6 continued

STATUTORY REQUIREMENTS

4. If Council grants final approval of the Amendment, it will be referred to the Western Australian Planning Commission (WAPC) and Honourable Minister for Planning and Infrastructure for approval.

POLICY IMPLICATIONS

5. There are various policies and strategies applicable to the amendment including:
 - Statement of Planning Policy No. 1 – State Planning Framework Policy;
 - Draft Lower Great Southern Strategy (2005);
 - Albany Local Planning Strategy (2007); and
 - Rural Strategy (1996).
6. The abovementioned policies were taken into consideration in the original assessment of the amendment, prior to initiation for public advertising

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

8. The current subdivision guide plan applicable to the subject land prevents the creation of lots less than 8.0 hectares.
9. The amendment is consistent with the recommendations of the City of Albany Local Planning Strategy (ALPS) which identifies the subject lots as suitable for “Rural Residential” development which the WAPC State Planning Policy (SPP) No. 11 identifies to be lots ranging from 1.0 to 4.0 hectares.

COMMENT/DISCUSSION

10. Description of Amendment
The subject land is zoned “Special Rural Zone No. 4A” in the City of Albany Town Planning Scheme (TPS) No. 3. A subdivision guide plan and scheme provisions exist to guide subdivision and control land use in this zone.
11. Amendment 254 proposes to amend the existing scheme provisions for “Special Rural Zone No. 4A” to allow for further subdivision consistent with ALPS.
12. The amendment includes supporting information on land capability, protection of remnant vegetation, fire management, visual amenity, setbacks to Kalgan River etc.

DEVELOPMENT SERVICES REPORTS

Item 11.3.6 continued

Public Submissions

13. During the formal advertising period, only two submissions were received as summarised below;

Ratepayer/ Resident Agency	or	Summary of Submission	Comment	Local Government's Recommendation
Water Corporation		<p>1a. No objection to the amendment.</p> <p>1b. Proponents will need to engage a consulting engineer to discuss with the Corporation the servicing of the area with respect to water and wastewater services. There will be issues with regard to provision of wastewater services as planning is currently under review. With the increase in density of the area it is possible that there will be a requirement for water main upgrades along Nanarup Road.</p>	<p>Noted.</p> <p>Noted – this matter will need to be examined at detailed subdivision design stage.</p>	Dismiss.
Department of Education and Training		No objections	Noted	Dismiss

14. No modifications to the amendment are recommended as a result of public submissions.

Anomalies in amendment document

15. During assessment of the amendment a number of small anomalies were found in the signing pages of the amendment. For example, one page incorrectly refers to the *Town Planning and Development Act 1928* instead of the current *Planning and Development Act 2005*. The signing pages will be corrected before the amendment is referred to the WAPC. The changes are minor and do not impact on processing of the amendment.

Summary

16. The request to amend the Scheme provisions applicable to Special Rural Area No. 4A is supported and the subdivision guide plan recognizes the land constraints. Accordingly it is recommended that Council grant final approval of Amendment 254.

DEVELOPMENT SERVICES REPORTS

Item 11.3.6 continued

RECOMMENDATION

THAT:

- i) Council under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005*, hereby adopts Amendment 254 to the City of Albany Town Planning Scheme No 3 for final approval (amending Schedule 1 – “Special Rural Zones” by changing the Scheme provisions relating to Special Rural 4A).
- ii) Council dismiss the submission lodged by the Water Corporation.
- iii) The applicant be advised to provide corrected signing pages for the amendment document.
- iv) The applicant be advised that support for the amendment should not be construed as approval of the subdivision guide plan. The guide plan needs to be amended to reflect the agreement with the EPA that an area of vegetation on Lot 20 will be included in the foreshore reserve.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR BUEGGE
SECONDED MAYOR EVANS**

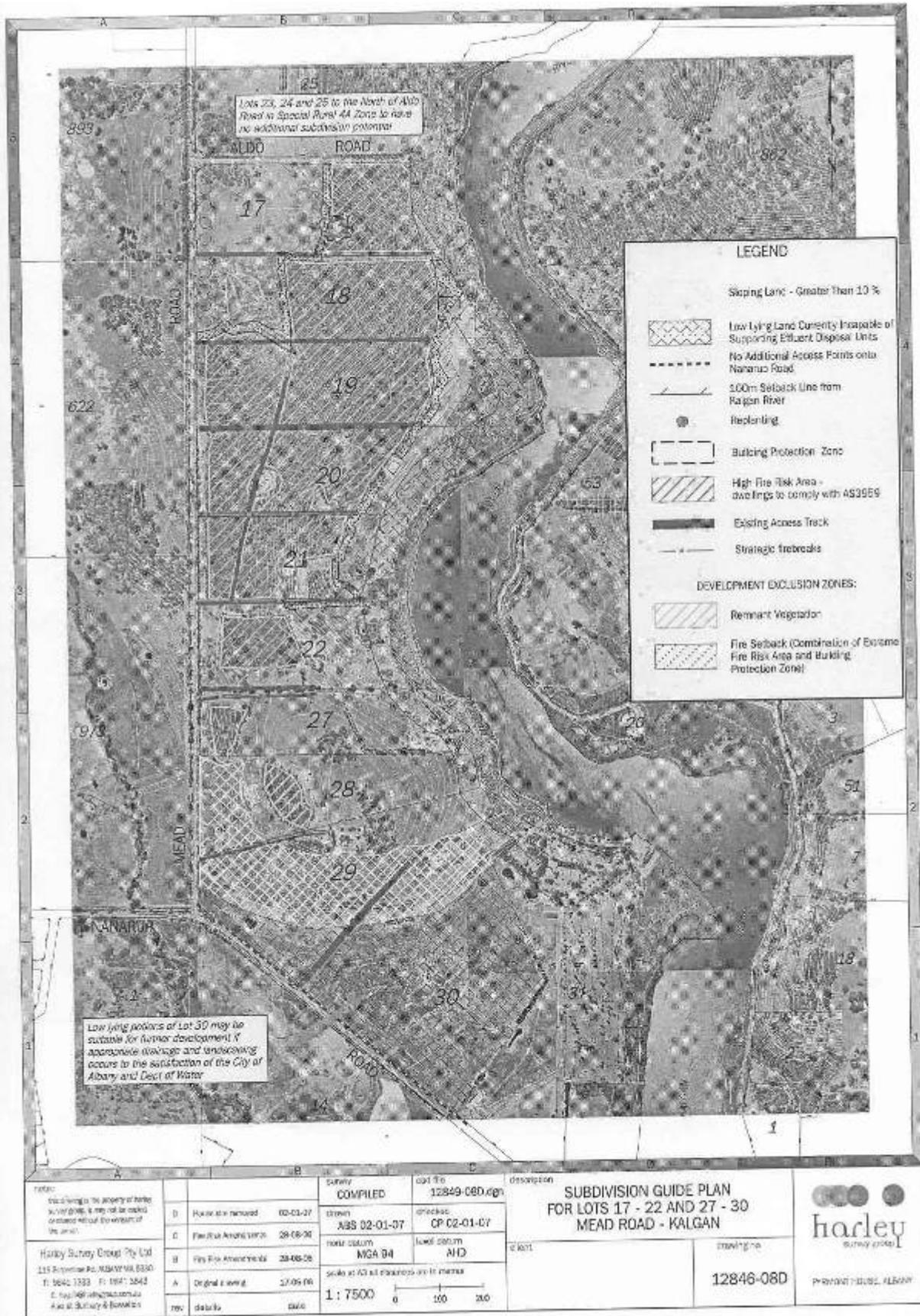
THAT:

- i) Council under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005*, hereby adopts Amendment 254 to the City of Albany Town Planning Scheme No 3 for final approval (amending Schedule 1 – “Special Rural Zones” by changing the Scheme provisions relating to Special Rural 4A).**
- ii) Council dismiss the submission lodged by the Water Corporation.**
- iii) The applicant be advised to provide corrected signing pages for the amendment document.**
- iv) The applicant be advised that support for the amendment should not be construed as approval of the subdivision guide plan. The guide plan needs to be amended to reflect the agreement with the EPA that an area of vegetation on Lot 20 will be included in the foreshore reserve.**

MOTION CARRIED 11-1

ORDINARY COUNCIL MEETING MINUTES – 20/11/07
 ** REFER DISCLAIMER **
 DEVELOPMENT SERVICES REPORTS

Item 11.3.6 continued



DEVELOPMENT SERVICES REPORTS

11.3.7 Final Approval Scheme Amendment - Lot 734 Barker Road, Centennial Park

File/Ward	:	AMD 160 (Frederickstown Ward)
Proposal/Issue	:	Proposed re-zoning of Lot 734 from the “Clubs and Institutions” zone and the “Parks and Recreation” reserve to the “Tourist Residential R40” zone
Subject Land/Locality	:	Lot 734 Barker Road, Centennial Park
Proponent	:	Koltasz Smith
Owner	:	Portstyle Enterprises Pty Ltd
Reporting Officer(s)	:	Senior Planning Officer (K Hughes) and Gray & Lewis Landuse Planners
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 18/04/06 - Item 11.3.3 OCM 18/09/07 - Item 11.3.4
Summary Recommendation	:	That Council adopt the amendment for final approval subject to modifications
Bulletin Attachment	:	Nil
Locality Plan	:	

BACKGROUND

1. An application to amend the zoning of Lot 734 Barker Road (“the lot”) from “Clubs and Institution” zone and the “Parks and Recreation” Reservation to the “Tourist Residential” zone was submitted on 11 December 2006.
2. Council resolved to adopt the amendment for final approval at the Ordinary Council Meeting dated 18 September 2007. The Proponent for the amendment has advised staff that the approved resolution contains a typographical error.
3. The resolution listed a number of uses permissible for the subject lot as per the amendment documents including Hotel, Multiple Dwellings and Grouped Dwellings. Motel was also included in the amendment documents as a permissible use but was omitted from the officer’s report recommendation. This Council item has been prepared to resolve this error.

STATUTORY REQUIREMENTS

4. If Council grants final approval to the Amendment, it will be referred to the Western Australian Planning Commission and Honourable Minister for Planning and Infrastructure for approval.

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

POLICY IMPLICATIONS

5. The City of Albany's Local Planning Strategy and Local Planning Policy - Barker Road Industrial Area apply to this item.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

7. The subject land is identified in Council's Albany Local Planning Strategy (ALPS) as being suitable for consideration of either "Residential" and/or "Central Area" land uses over the next 20 years.

COMMENT/DISCUSSION

8. Proposal
The application is to;
 - Rezone Lot 734 Barker Road, Centennial Park from "Clubs and Institutions" and "Parks and Recreation" to "Tourist Residential R40"; and
 - List Lot 734 Barker Road, Centennial Park in Appendix II - Schedule of Special Sites in order to control future development.
9. The supporting documentation examined land capability, supporting infrastructure, surrounding land uses, flood levels and acoustic levels. These issues were assessed by City staff prior to recommending initiation of the amendment and the modified documents were supported by Council.
10. Extracts from this amendment were provided to all adjoining landowners for comment and inspection on the 9 August. No submissions were received.

11. EPA Advice
The application was referred to the Environmental Protection Authority (EPA) who requested additional information from the City relating to noise issues.

The matter was resolved and the proposal did not require formal assessment. Notwithstanding the above, the EPA advised that;

- *The potential tenants of the proposed lots would be located within the EPA's recommended buffer zone. The light industries that are in the vicinity of the proposal include a spray painting workshop, panel beaters, and numerous fabrication workshops. These are common sources of complaints and are capable of omitting noise that may exceed the Environmental Protection (Noise) Regulations 1997.*
 - *It is recommended that a noise survey be carried out and noise mitigation measures be employed to treat noise exposure.*
 - *Notification should be placed on title to advise potential purchasers of potential noise issues.*
12. The applicant has included a detailed noise assessment in the amendment document. The report recommends construction of a wall along the southern and eastern boundary for noise attenuation.

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

13. The surrounding Industrial area is undergoing a transition and in the longer term potential noise conflict is likely to be reduced. Strategically, it is envisaged that more compatible land uses such as offices, medical consulting rooms, commercial and residential will move into the area and industrial uses will eventually relocate.

EPA Advice

14. The Amendment proposes to list Lot 734 Barker Road in Appendix II - Schedule of Special Sites.
15. The schedule includes controls for land use and development. It requires the developer to prepare detailed development guidelines addressing matters such as building construction, house design, and the method of implementation.
16. A copy of the Schedule as proposed by the applicant follows this report. Refinement of the schedule and modifications are recommended as summarised in the table below;

Recommended Modification	Reason for Modification
The permissible uses should be listed in the 'conditions' columns of Appendix II – Schedule and read;	Under Clause 3.8 additional landuses to those normally permitted for the relevant "Tourist Residential" zone can be included.
<p>1. Notwithstanding Table 1 and Clause 3.8 of the City of Albany Town Planning 1A, the permissibility of uses is as follows;</p> <ul style="list-style-type: none"> • Chalets AA • Club Premises AA • Grouped Dwelling AA • Holiday Accommodation AA • Hotel SA • Motel AA • Multiple Dwelling SA • Private Recreation IP • Residential Building AA • Single House AA" 	<p>The landuses proposed for Lot 734 are not 'additional' landuses and can already be considered under the existing zoning table in the "Tourist Residential" zone.</p> <p>The essence of the amendment is unchanged however modifications are recommended to;</p> <p>(a) clarify the landuses permissible with cross referencing to relevant clauses in the Scheme.</p> <p>(b) Remove any ambiguity between the permissibility of landuses listed in Schedule II compared to those permissible under the zoning table for 'Tourist Residential'.</p>
2. All other landuses not listed in Point 1 above are deemed to be 'x' uses and are not permitted.	
3. The symbols used in point 1 and point 2 have the same meaning as those set out in clause 3.4 of the Scheme.	
<i>Include as condition in Appendix II.</i>	

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

<p>Council may require construction of an acoustic wall along the southern and eastern boundary as a condition of development or subdivision.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>The Schedule currently refers to development however it is noted that the owner can lodge an application with the WA Planning Commission to subdivide Lot 734.</p> <p>It may be preferable that the wall be constructed at subdivision stage, so this modification provides Council with greater discretion.</p>
<p>Council may require lodgement of a new acoustic report as part of a development or subdivision application that is specific to the proposed design.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>Whilst the applicant has provided an acoustic assessment it has limitations as follows;</p> <ul style="list-style-type: none"> (i) It is based on current landuses which have the potential to change by the time development of Lot 734 proceeds. (ii) A number of lots to the south are vacant therefore the future situation will change; (iii) The report recommends a noise attenuation wall to reduce noise impact from surrounding industries. The report however notes that <i>“the assumed benefit of the walls will be negated if multiple storey construction is built”</i> and <i>“should this be the case, a detailed assessment should be undertaken once building plans are available”</i>. (iv) Implementation of some acoustic measures such as use of fixed windows (eg for 2 storey development) will influence the elevations and need to be considered at the early design stage rather than as conditions of development. <p>This modification gives Council greater flexibility and control over noise mitigation measures.</p>
<p>Council may require lodgement of detailed design guidelines as part of a development or subdivision application and advice from the developer as to how the design guidelines will be implemented.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>Design guidelines may be used to ensure buildings are constructed using noise attenuation measures, however there are limited means for implementation including;</p> <ol style="list-style-type: none"> 1. Implementation by the developer (house and land packages) and / or private covenants on title. 2. Adoption of guidelines as a Local Planning Policy by Council. <p>It is considered important that this be agreed to ‘up front’ as part of development / subdivision, and the current amendment provision only requires design guidelines as a condition of development.</p>

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

<p>Council may require a notification or memorial on the Certificate of Title advising prospective purchasers of potential noise sources, and requirements to comply with a design specific noise attenuation report and / or design guidelines. This may be required as a condition of development or subdivision.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>Whilst a condition can be placed on subdivision or development requiring <i>'prospective purchasers to be advised of surrounding light industry and aquatic centre'</i> it would only capture the first new owners.</p> <p>A notification or memorial on title is recommended by the EPA and is the only mechanism that will ensure all future purchasers are advised of potential noise from surrounding landuses. In the longer term Council can agree to lift the notification / memorial if existing industrial uses relocate.</p>
<p>Council may impose conditions on any development relating to noise mitigation including and not limited to measures such as glazing, door treatments, walling, ceiling construction and the use of fixed openings.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>This is applicable regardless of whether the existing acoustic report is deemed sufficient or whether a new report is required for the development/subdivision.</p>
<p>Council may require a 10 metre buffer to the Barker Road Industrial Area as a condition of development or subdivision.</p> <p><i>Include as condition in Appendix II.</i></p>	<p>The amendment document includes a subdivision and development concept plan. It incorporates a 10 metre wide buffer to the Barker Road Industrial Area (south boundary) however is not referred to in the proposed Schedule. The modified provisions give Council discretion to require buffers as a condition of development or subdivision - it is not clear whether the 'buffer' was taken into account in the acoustic assessment.</p>
<p>Council may impose conditions on any development or subdivision as it sees fit. Specific conditions may be considered addressing the following matters;</p> <ul style="list-style-type: none"> • Design interface of Yakamia Creek and the regional open space; • Access and parking arrangements; • Landscaping. <p><i>Include as condition in Appendix II.</i></p>	<p>This requirement is already listed in the amendment and has been re-worded.</p>

Note: Conditions have been worded 'may' instead of 'shall' to provide Council with discretion as to the extent of information required 'up front' as part of a specific development or subdivision application. This provides flexibility and allows opportunity for these matters to be addressed at the more detailed subdivision / development stage.

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

Conclusion

17. The amendment is supported subject to modifications as outlined in this report. Council should be aware of the following matters if final approval is granted;
- (1) The acceptable noise levels for surrounding industrial developments will be lower once “noise sensitive” development occurs on Lot 734. Notwithstanding any notification to potential owners, that noise issues may occur, the surrounding industrial land uses have an obligation to comply with the *Environmental Protection (Noise) Regulations 1997* and any complaints would be processed by the City’s Environmental Health Officers.
 - (2) The acoustic report notes that *“For noise modelling to be a realistic worst case, this would require the cooperation of Council to ensure that future uses on vacant industrial land or new uses on existing land were restricted (e.g. the adjoining lots on the southern boundary to be showroom type uses rather than light industrial).”*
 - (3) The lots along the southern boundary are subject to the requirements of the Local Planning Policy - Barker Road Industrial Area which allows for industrial uses such as panel beating, spray painting, small good manufacturing, dry cleaners, joinery and wood working. The uses are not restricted to “showrooms” as discussed in the acoustic report.
 - (4) If Council supports the amendment it needs to recognise that land uses within the Precinct B of the Barker Road Industrial Area may need to be restricted depending on the extent of noise attenuation measures and buffers provided by the developer at development stage. It is recommended that Council review the Local Planning Policy concurrent with any development proposal for Lot 734.
 - (5) It should be recognised that the strategic intent for the area is to re-zone the industrial land to accommodate a mixture of landuses such as commercial, office, medical and residential. In the longer term potential noise conflict is likely to reduce.

RECOMMENDATION

THAT Council adopt Amendment 160 to the City of Albany Planning Scheme No. 1A for final approval with modifications pursuant to Section 75 of the *Planning and Development Act 2005* for the purposes of:

- i) Re-zoning Lot 734 Barker Road, Centennial Park from “Clubs and Institutions” and “Parks and Recreation” to “Tourist Residential R40” as depicted on the Scheme Amendment map; and
- ii) Including Lot 734 Barker Road, Centennial Park in Appendix II - Schedule of Special Sites with appropriate conditions as follows:

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

	CODE NO.	PARTICULARS OF LAND	BASE ZONE	ADDITIONAL USE	CONDITIONS
S40	40	Lot 734 Barker Road, Centennial Park	Tourist Residential R40		<p>1. Notwithstanding Table 1 and Clause 3.8 of the City of Albany Town Planning 1A, the permissibility of uses is as follows;</p> <ul style="list-style-type: none"> • Chalets AA • Club Premises AA • Grouped Dwelling AA • Holiday Accommodation AA • Hotel SA • Motel AA • Multiple Dwelling SA • Private Recreation IP • Residential Building AA • Single House AA" <p>2. All other landuses not listed in Point 1 above are deemed to be 'x' uses and are not permitted.</p> <p>3. The symbols used in point 1 and point 2 have the same meaning as those set out in clause 3.4 of the Scheme.</p> <p>Noise Attenuation</p> <p>4. Council may require construction of an acoustic wall along the southern and eastern boundary as a condition of development or subdivision.</p>
					<p>Yakamia Creek</p> <p>5. As a condition of development approval the developer shall provide drainage and landscaping details which:</p> <ul style="list-style-type: none"> • Detail the need for any treatment or upgrade of the open drain as a result of the development; • Detail the proposed interface between the creek and the private land; and <p>Detail the manner and responsibility for any works to be undertaken by the developer, the City of Albany or any other parties.</p> <p>Development and Subdivision Guidelines</p> <p>6. Council may require lodgement of a new acoustic report as part of a development or subdivision application that is specific to the proposed design.</p>

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

					<p>7. Council may require lodgement of detailed design guidelines as part of a development or subdivision application and advice from the developer as to how the design guidelines will be implemented.</p> <p>8. Council may require a notification on the Certificate of Title advising prospective purchasers of potential noise sources, and requirements to comply with a design specific noise attenuation report and / or design guidelines. This may be required as a condition of development or subdivision.</p> <p>9. Council may impose conditions on any development relating to noise mitigation including and not limited to measures such as glazing, door treatments, walling, ceiling construction and the use of fixed openings.</p>
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Voting Requirement Simple Majority

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**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WOLFE**

THAT Council adopt Amendment 160 to the City of Albany Planning Scheme No. 1A for final approval with modifications pursuant to Section 75 of the *Planning and Development Act 2005* for the purposes of:

- i) Re-zoning Lot 734 Barker Road, Centennial Park from “Clubs and Institutions” and “Parks and Recreation” to “Tourist Residential R40” as depicted on the Scheme Amendment map; and**
- ii) Including Lot 734 Barker Road, Centennial Park in Appendix II - Schedule of Special Sites with appropriate conditions as follows:**

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

	CODE NO.	PARTICULARS OF LAND	BASE ZONE	ADDITIONAL USE	CONDITIONS
S40	40	Lot 734 Barker Road, Centennial Park	Tourist Residential R40		<p>1. Notwithstanding Table 1 and Clause 3.8 of the City of Albany Town Planning 1A, the permissibility of uses is as follows;</p> <ul style="list-style-type: none"> • Chalets AA • Club Premises AA • Grouped Dwelling AA • Holiday Accommodation AA • Hotel SA • Motel AA • Multiple Dwelling SA • Private Recreation IP • Residential Building AA • Single House AA” <p>2. All other land uses not listed in Point 1 above are deemed to be ‘x’ uses and are not permitted.</p> <p>3. The symbols used in point 1 and point 2 have the same meaning as those set out in clause 3.4 of the Scheme.</p> <p>Noise Attenuation</p> <p>4. Council may require construction of an acoustic wall along the southern and eastern boundary as a condition of development or subdivision.</p>
					<p>Yakamia Creek</p> <p>5. As a condition of development approval the developer shall provide drainage and landscaping details which:</p> <ul style="list-style-type: none"> • Detail the need for any treatment or upgrade of the open drain as a result of the development; • Detail the proposed interface between the creek and the private land; and <p>Detail the manner and responsibility for any works to be undertaken by the developer, the City of Albany or any other parties.</p>

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

					<p>Development and Subdivision Guidelines</p> <p>6. Council may require lodgement of a new acoustic report development or subdivision as part of a application that is specific to the proposed design.</p> <p>7. Council may require lodgement of detailed design guidelines as part of a development or subdivision application and advice from the developer as to how the design guidelines will be implemented.</p> <p>8. Council may require a notification on the Certificate of Title advising prospective purchasers of potential noise sources, and requirements to comply with a design specific noise attenuation report and / or design guidelines. This may be required as a condition of development or subdivision.</p> <p>9. Council may impose conditions on any development relating to noise mitigation including and not limited to measures such as glazing, door treatments, walling, ceiling construction and the use of fixed openings.</p>
<p>MOTION CARRIED 11-1</p>					

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

PLANNING AND DEVELOPMENT ACT 2005

CITY OF ALBANY

DISTRICT PLANNING SCHEME NO. 1A

AMENDMENT NO. 160

The City of Albany under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above local planning scheme by:

1. Rezoning Lot 734 Barker Road, Centennial Park from "Clubs and Institutions" and "Parks and Recreation" to "Tourist Residential R40".
2. Inserting Lot 734 Barker Road, Centennial Park into Appendix II – Schedule of Special Sites as follows:

	CODE NO.	PARTICULARS OF LAND	BASE ZONE	ADDITIONAL USE	CONDITIONS
S40	40	Lot 734 Barker Road, Centennial Park	Tourist Residential R40		<p>Schedule of Conditions</p> <p>Noise Attenuation</p> <p>i) As a condition of development approval the developer shall construct noise attenuation walls, of a material having a minimum surface mass of 15kg/m² such as brick, limestone and concrete or similar, to a height of:</p> <ul style="list-style-type: none"> ▪ 3m high wall along the southern boundary; and ▪ 2.4m high wall along the eastern boundary, fronting Barker Road. <p>Construction to be undertaken in consultation with the City of Albany.</p> <p>Yakamia Creek</p> <p>ii) As a condition of development approval the developer shall provide drainage and landscaping details which:</p> <ul style="list-style-type: none"> ▪ Detail the need for any treatment or upgrade for the open drain as a result of the development; ▪ Detail the proposed interface between the creek and the private land; and ▪ Detail the manner and responsibility for any works to be undertaken by the developer, the City of Albany or other parties.

DEVELOPMENT SERVICES REPORTS

Item 11.3.7 continued

					<p>Development Guidelines</p> <p>iii) As a condition of development approval the developer shall prepare detailed Development Guidelines which address matters including:</p> <ul style="list-style-type: none">▪ Building construction, including glazing, door treatments, walling, ceilings, construction and use of fixed openings;▪ House design, including the siting of outdoor entertaining areas as well as less noise sensitive internal rooms;▪ Design interface of Yakamia Creek and the regional open space;▪ Access and parking requirements;▪ Landscaping; and▪ Information to purchasers on "quiet house" design principles for residential dwellings, and the method of Design Guideline Implementation.
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DEVELOPMENT SERVICES REPORTS

11.4 RESERVES PLANNING

11.4.1 Closure of Street to Vehicles - Leonora Street, Yakamia

File/Ward	:	SER088 (Yakamia Ward)
Proposal/Issue	:	Closure of Western End of Leonora Street to through Traffic
Subject Land/Locality	:	Leonora Street, Yakamia
Proponent	:	City of Albany
Owner	:	City of Albany
Reporting Officer(s)	:	Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Advertise Proposed Closure
Bulletin Attachment	:	Nil
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.4.1 continued

BACKGROUND

1. The City of Albany Town Planning Scheme 1A provides for the subdivision of land at the northern extremity of Barnesby Drive, through to Chester Pass Road. The major subdivider in that locality, the Ardross group of companies, has approached the City, the Department of Planning and Infrastructure and Main Roads WA to explore the various agencies requirements, should they wish to proceed with the subdivision of that area.
2. The connection of Barnesby Drive, through to Chester Pass Road, was seen as a desirable outcome from any future subdivision to provide for safe bus access to schools in the locality, to remove traffic from the Chester Pass Road / Albany Highway roundabout and to connect the residents of Yakamia to shopping, employment and other services in the City's urban area. To achieve that outcome, Main Roads WA is requiring the western end of Leonora Street to be closed to through traffic.

STATUTORY REQUIREMENTS

3. Section 3.50 of the *Local Government Act 1995* allows Council to close a road to the passage of vehicles for short term periods and under longer term arrangements. Under this Act, the road reservation remains in place, but the road is physically barricaded to prevent vehicles moving past or along part of the road reserve.

Section 3.50 states;

- (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.*
- (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 is prescribed or 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 a copy of the contents of the notice required by Section (4)(a).*

Section 58 of the *Land Administration Act 1997* also allows Council to apply to the Crown to permanently close portion of a road reserve. That section of the Act states;

- (1) *When a local government wishes a road in its District to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*

DEVELOPMENT SERVICES REPORTS

Item 11.4.1 continued

- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in the district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in the notice.*

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

5. Council would incur some costs to physically barricade the road upon its closure, landscape the area around the barricade and to potentially modify the road surface to provide for vehicle turning movements at the end of the cul-de-sac.

STRATEGIC IMPLICATIONS

6. Within the Albany Local Planning Strategy, Barnesby Drive is acknowledged as a “Local Distributor Road”.

COMMENT/DISCUSSION

7. Staff have previously “sounded out” residents living on the western end of Leonora Street (between Norrish Street and Chester Pass Road) and the overwhelming response was that the closure of Leonora Street was a good idea and it would improve pedestrian safety on Leonora Street.
8. The residents that objected to the proposed closure were primarily concerned with:
- The potential for increased road traffic noise if Barnesby Drive was to be connected through to Chester Pass Road;
 - Increased difficulty of entering Chester Pass Road if Barnesby Drive was connected onto Chester Pass Road;
 - Safety at the primary school if Barnesby Drive was connected to Chester Pass Road;
 - Possibility of connecting Leonora Street to the subdivisional land to the south and the potential connection of local roads, the movement of vehicles through Leonora Street to shopping facilities to the north and the impacts of new streets on adjacent properties.
9. From a road safety perspective, the closure of the western end of Leonora Street makes sense and it appears the idea has broad support from the affected residents. Connecting Leonora Street to future subdivisional areas to the south was seen as advantageous to Leonora Street residents (to improve access to schools, etc) however that connection is not essential to the longer term planning of the area. Had further subdivisional road connections been provided, properties on either side of the connection would have experienced increased noise levels, had their property converted to a mid-block allotment to a corner allotment and potentially had their rear yards and entertainment areas exposed to a public thoroughfare. The properties opposite the new road connection (the Ardross Group of companies own land on the southern side of Leonora Street) will also experience increased noise at a future intersection and headlight glare from vehicles approaching the intersection.

DEVELOPMENT SERVICES REPORTS

Item 11.4.1 continued

10. Following this report is an aerial photograph showing development at the western end of Leonora Street. An existing business (Marshall Batteries) relies upon Leonora Street for access to the business and the existing road pavement can be retained to act as a driveway into that business. All residential properties would then rely upon Hudson Road to access their street from Chester Pass Road.
11. Closure of the street under the *Land Administration Act 1997* is time consuming, it may necessitate the relocation of services from within that portion of the road reserve and it removes the capacity of Council to maintain pedestrian access arrangements from the cul-de-sac (Leonora Street) to Chester Pass Road. It is for these reasons that staff are recommending that action be taken under the *Local Government Act 1995*.

RECOMMENDATION

THAT Council, pursuant to Section 3.50 of the *Local Government Act 1995*, resolves to close to the passage of vehicles for a period exceeding 4 weeks that portion of Leonora Street shown on the attached plan and that the proposal be advertised in accordance with Section 3.50 (4) of the Act.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR MORRIS**

THAT Council, pursuant to Section 3.50 of the *Local Government Act 1995*, resolves to close to the passage of vehicles for a period exceeding 4 weeks that portion of Leonora Street shown on the attached plan and that the proposal be advertised in accordance with Section 3.50 (4) of the Act.

MOTION CARRIED 12-0

Item 11.4.1 continued



Existing Arrangements

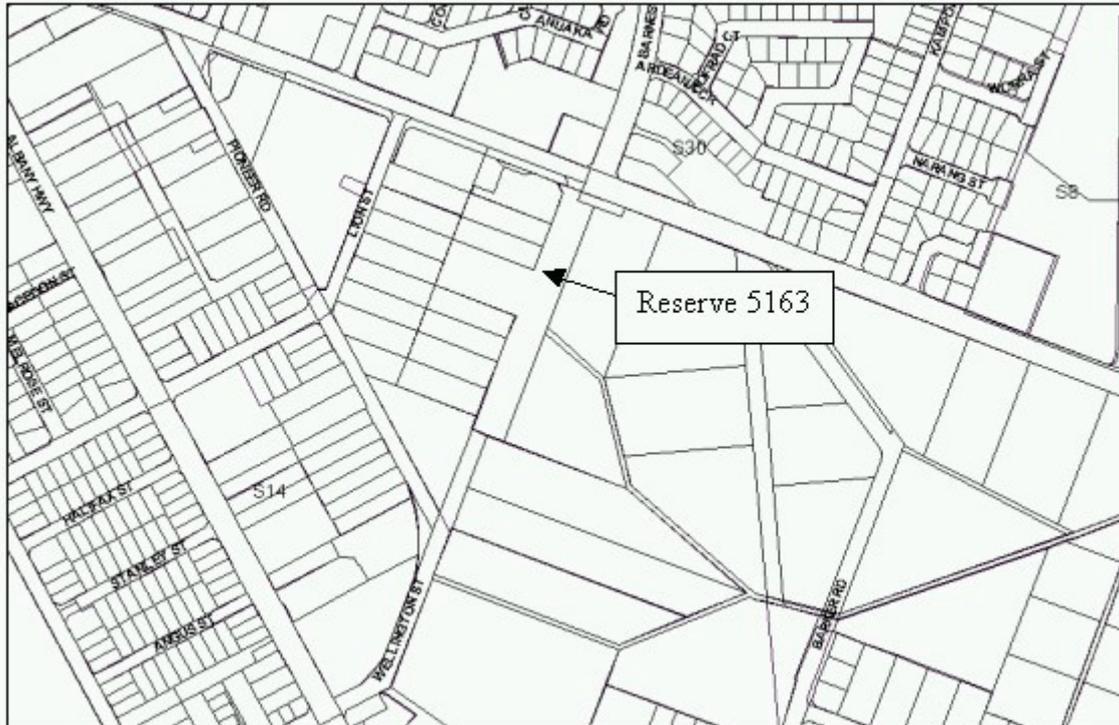


Proposed Closure of Leonora Street

DEVELOPMENT SERVICES REPORTS

11.4.2 Dedication of Road Reserve - Wellington Street, Centennial Park

File/Ward	:	A93243 (Frederickstown Ward)
Proposal/Issue	:	Dedication of Road Reserve
Subject Land/Locality	:	Reserve 5163 Wellington Street, Centennial Park
Proponent	:	City of Albany
Owner	:	Crown
Reporting Officer(s)	:	Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/06/07 - Item 11.4.2
Summary Recommendation	:	Seek Approval to Dedicate Road Reserve
Bulletin Attachment	:	Submissions
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.4.2 continued

BACKGROUND

1. Council owns, in fee simple, six (6) lots in Centennial Park that currently do not have a legal road frontage. Along the eastern boundary of the lots is a strip of Crown land that appears to have previously been a road reservation (portion of Wellington Street). That portion of Wellington Street (see locality plan) appears to have been closed in the past, with the land contained within the road incorporated into the adjoining Crown Reserve 5163. That Reserve has a purpose of “Recreation”.
2. The development of the six freehold titles is severely restricted without those lots having either a legal or a physical road frontage. At the June 2007 meeting of Council it was resolved that the process should be commenced to reinstate the former road reserve. Landowners in the locality and service agencies were advised of the proposal and their comments were sought.
3. Included in the Elected Members Report / Information Bulletin is a copy of the six (6) submissions that were received. Four (4) government agencies have advised that they raise no objection to the proposal. The submission from a Lion Street resident raises concerns over traffic issues in Lion Street that may be exacerbated should development of the City’s Wellington Street lots occur.

STATUTORY REQUIREMENTS

4. Pursuant to Sections 51 and 56 of the *Land Administration Act 1997*, Council is required to resolve to declare a portion of land as a road reserve and to then seek the approval of the Landgate to the dedication of the land for that purpose. In simple terms, Council is requesting the Crown to change the purpose that a portion of the Crown land can be used for.
5. The procedural steps to remove the six (6) lots from a “Parks and Reserves” Reservation in Scheme 1A, and to rezone the land to “Residential”, have been completed. The City is currently waiting upon the Minister for Planning and Infrastructure to complete the process by the publication of a gazette notice under the *Planning and Development Act 2005*.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. Where a Local Authority requests Landgate to dedicate land as a road, and it is in private ownership, the City is required to indemnify Landgate from any future claims for compensation. In this instance, the majority of the land is in Crown ownership, with the small section of Lot Sub 302 required for road purposes held by the City.

STRATEGIC IMPLICATIONS

8. ALPS promotes the expansion of residential housing types within the City and urban consolidation to reduce the ecological footprint of the City.

DEVELOPMENT SERVICES REPORTS

Item 11.4.2 continued

COMMENT/DISCUSSION

- 9. There are currently six (6) freehold titles in existence that do not have either physical or legal road frontage. The section of Wellington Street that provided those titles with frontage in the past appears to have been closed without giving recognition to the access requirements of the properties adjoining that road. This agenda item seeks to re-address that anomaly, plus provide the opportunity for the lots to be developed for residential purposes.
- 10. It is not suggested that the Wellington Street road reservation be extended to North Road as the connection of the Wellington Street road pavement onto North Road, on its current alignment, would create a traffic hazard and exacerbate an existing accident black spot. Portion of Sub Lot 302 is required to be dedicated as a road to provide a suitable area for traffic turning at the head of the cul-de-sac, see attached plan.
- 11. The issues raised by Mr and Mrs Austin are noted and will require independent evaluation under the City’s roads master plan. Whether the six (6) lots in Wellington Street are developed or not, the traffic volumes on Lion Street will continue to rise, as motorists identify it as a short cut between Albany Highway and North Road. Numerous other streets throughout the City face the same problem. Traffic calming work on the road pavement may be needed in the future if traffic volumes become excessive, or safety issues arise.

RECOMMENDATION

THAT Council, pursuant to Sections 51 and 56 of the *Land Administration Act 1997* resolves to dedicate that section of Crown Reserve 5163 and portion of Lot Sub 302, shown on City of Albany Plan “COA_Well_01”, as a public road (Wellington Street) and submit a formal request to the Landgate to dedicate the reserve and portion of Lot 302 as a road.

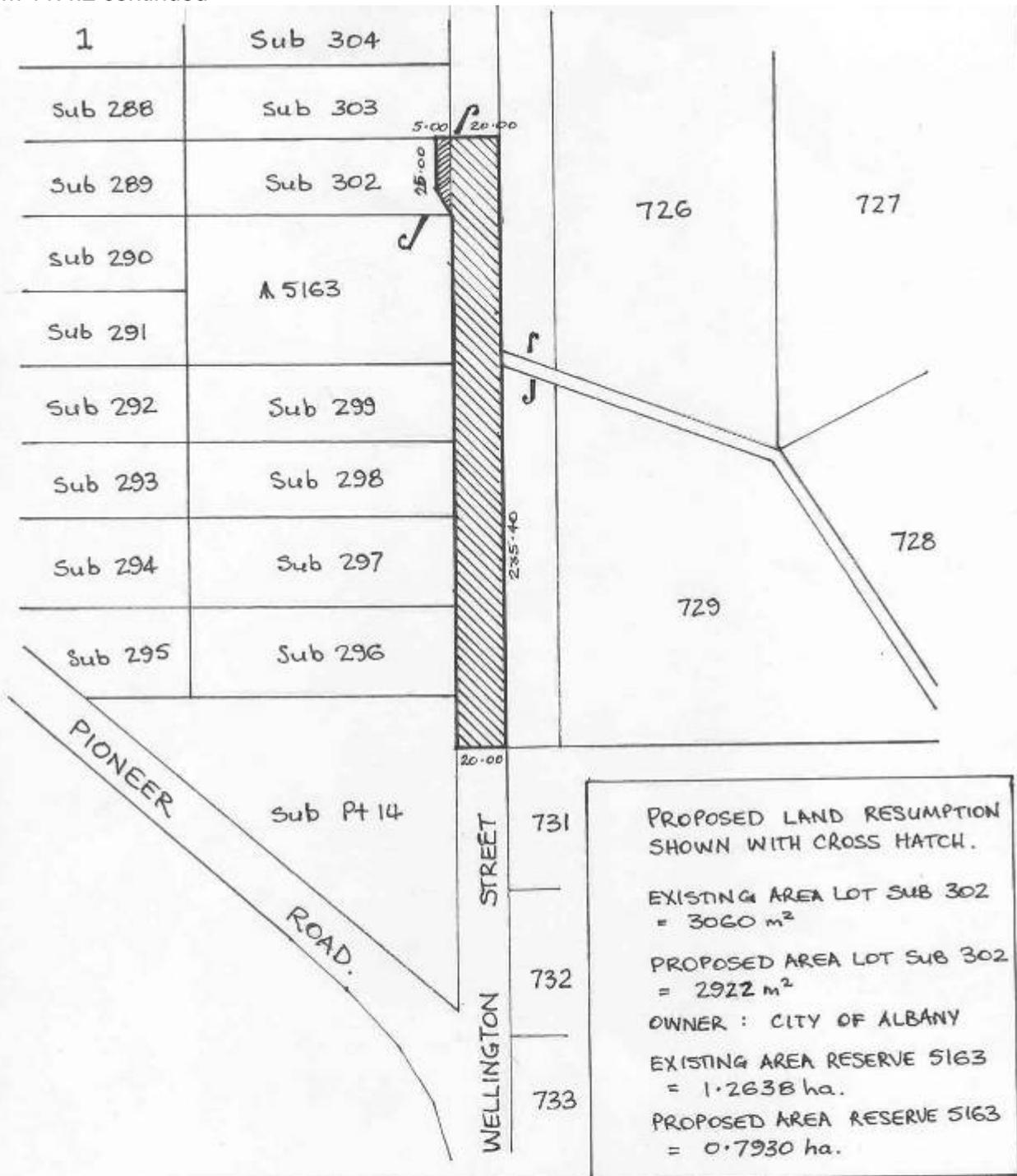
Voting Requirement Simple Majority

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<p>MOVED COUNCILLOR WALKER SECONDED COUNCILLOR MATLA</p> <p>THAT Council, pursuant to Sections 51 and 56 of the <i>Land Administration Act 1997</i> resolves to dedicate that section of Crown Reserve 5163 and portion of Lot Sub 302, shown on City of Albany Plan “COA_Well_01”, as a public road (Wellington Street) and submit a formal request to the Landgate to dedicate the reserve and portion of Lot 302 as a road.</p> <p style="text-align: right;">MOTION CARRIED 12-0</p>

DEVELOPMENT SERVICES REPORTS

Item 11.4.2 continued

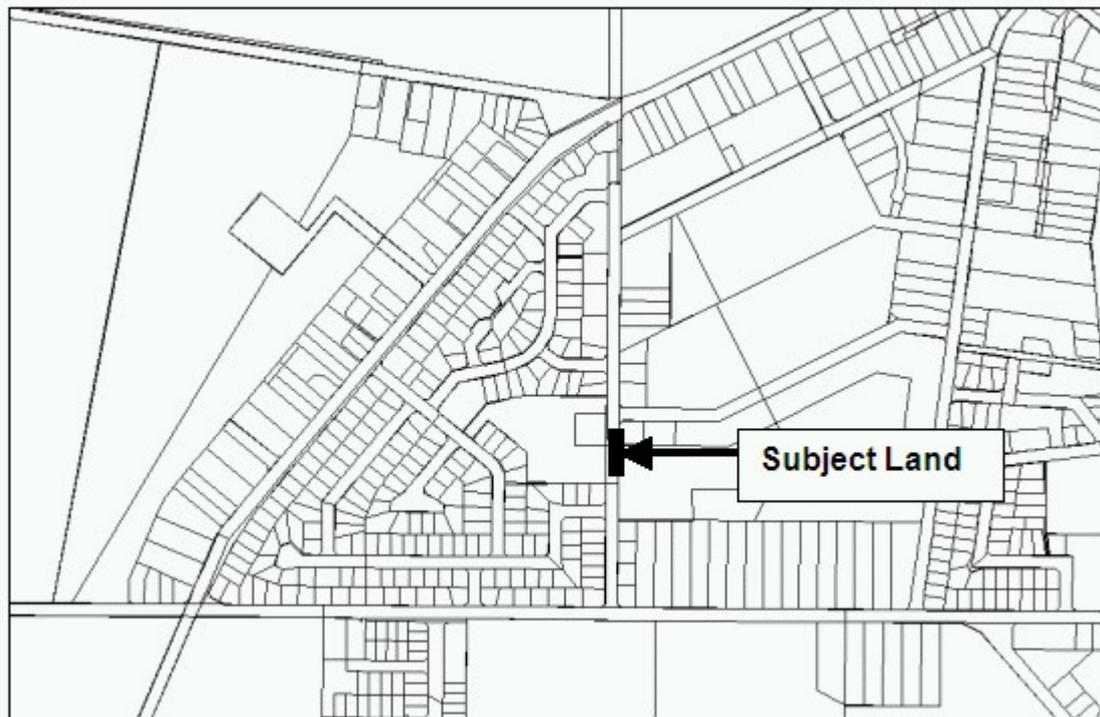


DEVELOPMENT SERVICES			 <p>City of Albany Altogether Better</p>
<p>PROPOSED ROAD DEDICATION - WELLINGTON STREET, ALBANY, AFFECTING RESERVE 5163 AND LOT SUB. 302</p>			
Date: MAY 2007	Drawn: RJF	Scale: 1 : 2000	File: COA_WELL_01

DEVELOPMENT SERVICES REPORTS

11.4.3 Dedication of Road Reserve – Baker Street, Lower King

File/Ward	:	A168743 (Kalgan Ward)
Proposal/Issue	:	Dedication of Road Reserve
Subject Land/Locality	:	Reserve 32523 Baker Street, Lower King
Proponent	:	City of Albany
Owner	:	Crown
Reporting Officer(s)	:	Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/06/07 - Item 11.4.1
Summary Recommendation	:	Seek Approval to Dedicate Road Reserve
Bulletin Attachment	:	Submissions Received
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.4.3 continued

BACKGROUND

1. Subdivision applications have recently been lodged to create residential lots on several larger land parcels located between Baker Street and Francis Street, Lower King. The traffic flows from those subdivisions to schools, shopping and employment facilities is best accommodated by utilising the roads located on the western side of those subdivisions. Baker Street immediately adjoins the western side of the subdivisional area and would form the logical north / south road connection for traffic through Lower King and the subdivision. However, that portion of Baker Street that adjoins Becker Park (Reserve 32523) was previously closed and the former road reserve was incorporated into the reserve. Becker Park has a purpose of "Recreation".
2. City staff have looked at a number of road network options to distribute the future traffic from the subdivisions. Francis Street will be required to carry an unreasonable level of traffic if the northern and southern sections of Baker Street cannot be reconnected.
3. In June 2007, Council resolved to commence the process of advertising the proposal of reclaiming part of Becker Park and dedicating that land as a road reserve. Five (5) submissions were received, four (4) from government agencies who raise no objections to the proposal and advise of services in the locality. The fifth submission is from the planning consultants for the developers mentioned in paragraph 1. They "reserve their position" in regard to the proposal, highlighting that the closure should not be construed to mean an acceptance by their client to fund the construction of the road thereon or to accept any subdivision conditions that may ultimately result from the development of their land. Copies of the submissions are included in the Elected Members Report / Information Bulletin.

STATUTORY REQUIREMENTS

4. Pursuant to Sections 51 and 56 of the *Land Act 1997*, Council is required to;
 - resolve to declare a portion of land as a road reserve and to then seek the approval of the Department of Planning and Infrastructure to the dedication of the land for that purpose; and
 - Seek approval to excise the required land from the Becker Park reserve for the purpose of creating the road.

In simple terms, Council is requesting the Crown to change the purpose that a portion of the Crown land can be used for.

POLICY IMPLICATIONS

5. There are no Policy Implications relating to this item

FINANCIAL IMPLICATIONS

6. Where a Local Authority requests the Department to dedicate land as a road, and it is in private ownership, the City is required to indemnify the Department from any future claims for compensation. In this instance, the land is held by the Crown and that requirement is avoided.

DEVELOPMENT SERVICES REPORTS

Item 11.4.3 continued

STRATEGIC IMPLICATIONS

7. ALPS promotes urban consolidation within the City to reduce the long term ecological footprint of the City

COMMENT/DISCUSSION

8. The road network within Lower King comprises a number of short north / south streets, with indirect east / west connections to Lower King Road. The lot yield from the proposed subdivision of the land between Baker Street and Francis Street will be considerable, and the connection of the northern and southern sections of Baker Street is required to distribute that traffic onto Elizabeth Street and to employment, educational, social and shopping activities planned to the south.
9. A more detailed plan of the proposed closure follows this report. Council is reminded that Baker Street was previously a through road and this agenda item seeks to reinstate that position.

RECOMMENDATION

THAT Council, pursuant to Sections 51 and 56 of the Land Act 1997 seeks the approval of Landgate to excise that section of Crown Reserve 32523 shown on City of Albany Plan COA_BAK_01 from the reserve and requests that Landgate approve the dedication of that excised portion as a public road (Baker Street).

Voting Requirement Simple Majority

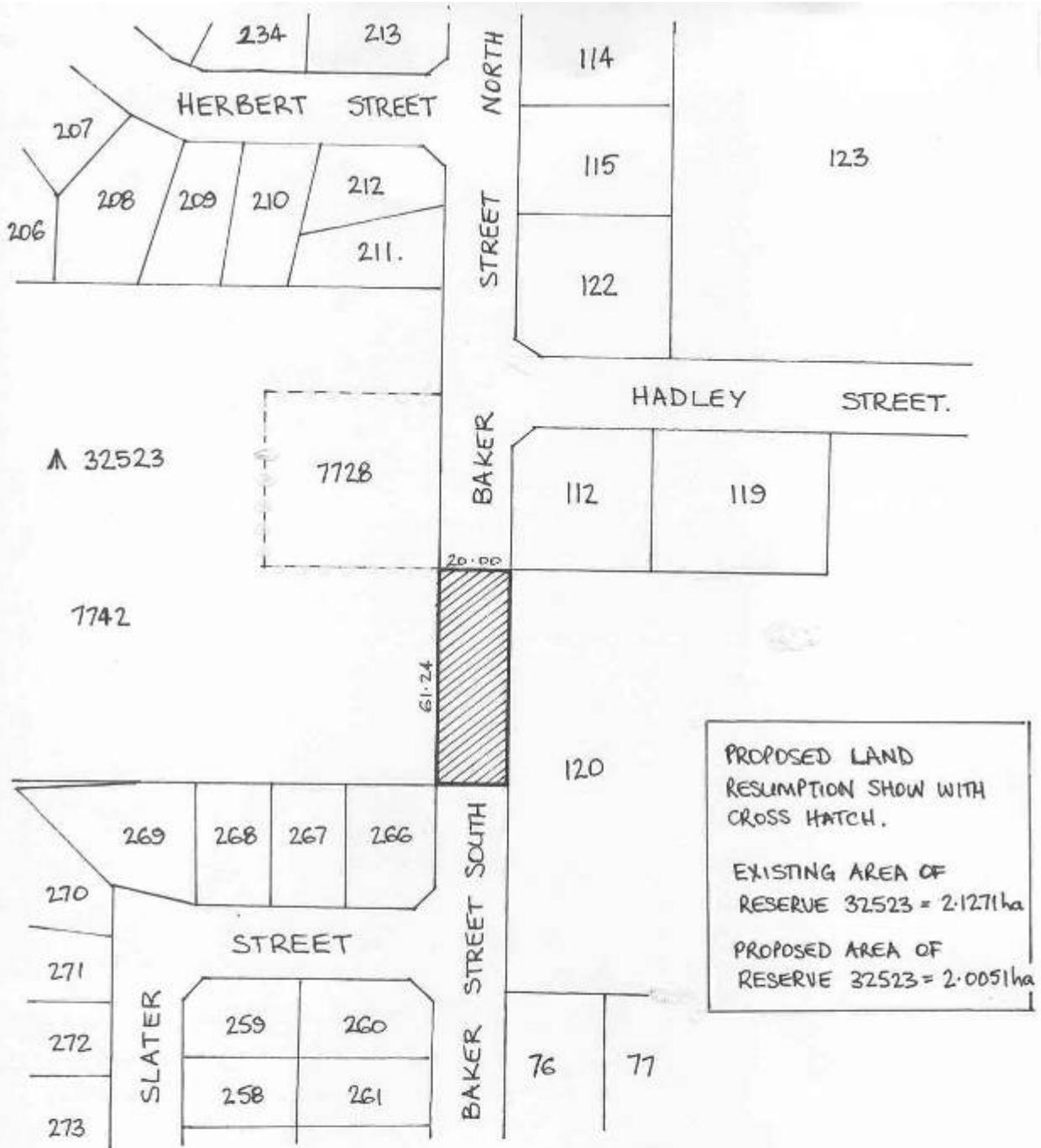
**MOVED COUNCILLOR BUEGGE
SECONDED COUNCILLOR WALKER**

THAT Council, pursuant to Sections 51 and 56 of the Land Act 1997 seeks the approval of Landgate to excise that section of Crown Reserve 32523 shown on City of Albany Plan COA_BAK_01 from the reserve and requests that Landgate approve the dedication of that excised portion as a public road (Baker Street).

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

Item 11.4.3 continued

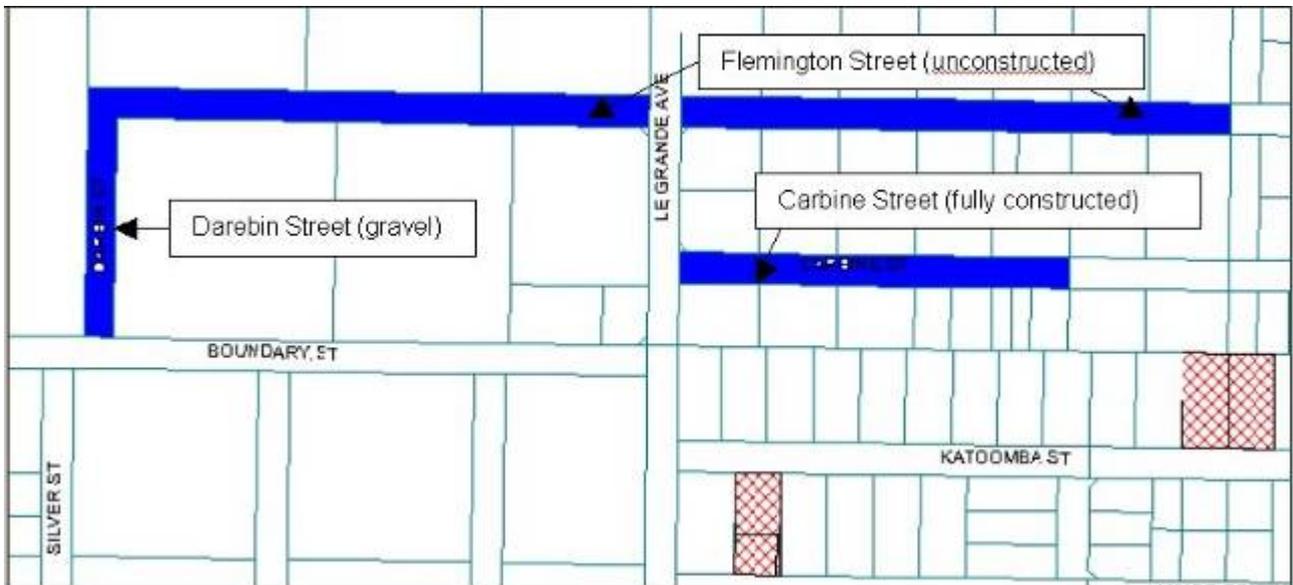


DEVELOPMENT SERVICES			
<p>PROPOSED ROAD DEDICATION - BAKER STREET, LOWER KING AFFECTING RESERVE 32523</p>			
Date: May 2007	Drawn: RJS	Scale: N.T.S	File: COA_BAK_01

DEVELOPMENT SERVICES REPORTS

11.4.4 Dedication of Roads - Darebin, Flemington and Carbine Streets, Orana

File/Ward	:	SER088 / Vancouver Ward
Proposal/Issue	:	Dedicate Private Roads as Public Roads
Subject Land/Locality	:	Darebin Street and portions of Flemington and Carbine Streets
Proponent	:	Harley Survey Group
Owner	:	Intercolonial Investment Land & Building Co Ltd
Reporting Officer(s)	:	Planning Assistant (Deb Delury)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	Dedicate Darebin Street and portion of Flemington and Carbine Streets as public roads
Bulletin Attachment	:	Nil
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.4.4 continued

BACKGROUND

1. Large tracts of land within Orana and McKail were subdivided in the early 1900's and it was not uncommon for the new titles to be created with the road reserve which provides legal access to those lots remaining in the ownership of the then subdivider. The roads, the subject of this report are privately owned by Intercolonial Investment Land & Building Co Ltd of Sydney, New South Wales. (Research has revealed this company was acquired by Mercantile Mutual in 1960, which was later acquired by ING in 1987.) All of the lots fronting these roads actually have frontage to private land. These roads act as public roads. Carbine Street is fully constructed and maintained by the City of Albany, Darebin Street is gravel and maintained by the City of Albany, Flemington Street is not yet constructed.
2. The Proponent has requested that the City of Albany initiate the process of declaring these roads as public roads. These suburbs are currently the focus of residential development and outline development plans. The Proponent, on behalf of clients, is seeking to avoid complications should subdivision occur with sole access to roads under private ownership.

STATUTORY REQUIREMENTS

3. Section 52 of the *Land Administration Act 1997* allows local government to request acquisition as Crown land, the land comprising a private road.
4. Section 56 of the *Land Administration Act 1997* also provides a mechanism for roads to be dedicated if land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years.
5. Council is required to notify the existing owner of the land of the proposed dedication, along with the neighbouring landowners and public utilities. The proposal also needs to be publicly advertised allowing persons not less than 30 days for comment or objection.

POLICY IMPLICATIONS

6. Darebin Street and part of Flemington Street are located within Town Planning Scheme 3 and zoned "Residential Development". An Outline Development Plan is required to guide development of lots within the zone.
7. The remaining section of Flemington Street and Carbine Street are located within Town Planning Scheme 1A and are zoned "Residential" with a density coding of R20 which would allow the adjacent lots to be further subdivided. The lots to the north of Flemington Street are currently reserved for "Public Use" (owned by Department of Education and Training) and "Parks and Recreation" (owned by City of Albany). There is currently a Scheme Amendment being processed to rezone these lots to "Future Urban", which will also require an Outline Development Plan to be created.

FINANCIAL IMPLICATIONS

8. Advertising costs will be met by Council from within the existing budget

DEVELOPMENT SERVICES REPORTS

Item 11.4.4 continued

9. Upon dedication as a public road, all cost and responsibility for maintenance is to be met by Council. It is to be noted that Carbine Street is already fully maintained by Council. When access to the as yet undeveloped lots is required, the developers will meet the cost of constructing or upgrading these roads.

STRATEGIC IMPLICATIONS

10. 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;

- a. *Excellent community infrastructure and services*

Mission Statement:

The City of Albany is committed to;

- b. *Sustainably managing Albany’s municipal assets*
- c. *Promoting our Community’s vision for the future*

Priority Projects:

Nil.”

COMMENT/DISCUSSION

11. The dedication of the private roads, namely Darebin Street and portions of Flemington Street and Carbine Street, to public roads is being sought to avoid potential complication should subdivision occur and sole access is required from roads under private ownership. It will bring uniformity to the road network in the area and encourage smooth development processes in the future.
12. The successors in title of the roads (Intercontinental Investment Land & Building Company) has been traced and advised of the proposed dedication through their real estate division at ING Australia Limited. To date no reply has been forthcoming. The requirement to make every effort to contact the owner has been satisfied within the required time frame.
13. The request has been publicly advertised and neighbouring property owners were advised. No submissions have been received. Contact has also been made with relevant service agencies. No objections have been raised although Alinta, Water Corporation and Telstra have advised of the assets they have within the existing roads and that access to them will need to be maintained.
14. This request is submitted for Council’s assessment and determination.

DEVELOPMENT SERVICES REPORTS

Item 11.4.4 continued

RECOMMENDATION

THAT Council:

- i) pursuant to Section 52 of the *Land Administration Act 1997*, resolves to request the Minister for Lands to acquire as Crown land that portion of Flemington Street shown on Plan 243(2) to be then dedicated as a public road; and
- ii) pursuant to Section 56 of the *Land Administration Act 1997*, resolves to request the Minister for Lands to declare that portion of Carbine Street shown on Plan 45817 and Darebin Street shown on Plan 243(2) to be a public road.

Voting Requirement Simple Majority

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR MORRIS**

THAT Council:

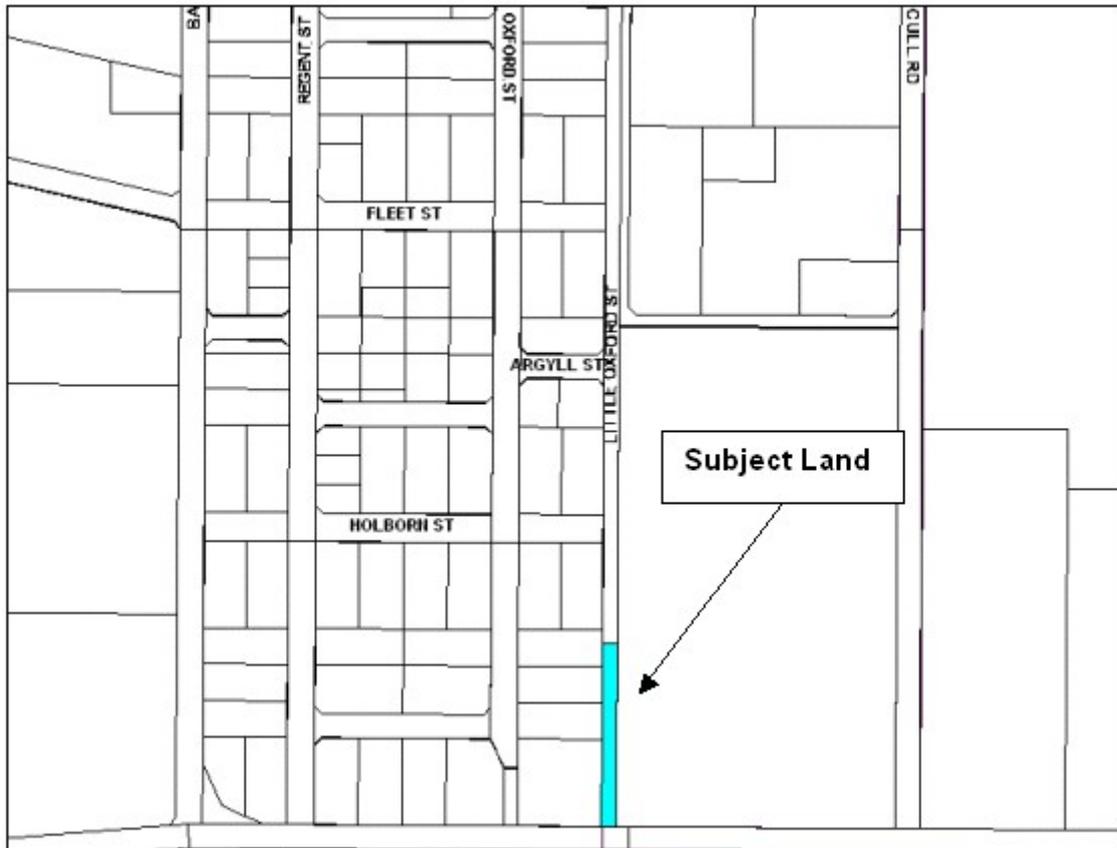
- i) **pursuant to Section 52 of the *Land Administration Act 1997*, resolves to request the Minister for Lands to acquire as Crown land that portion of Flemington Street shown on Plan 243(2) to be then dedicated as a public road; and**
- ii) **pursuant to Section 56 of the *Land Administration Act 1997*, resolves to request the Minister for Lands to declare that portion of Carbine Street shown on Plan 45817 and Darebin Street shown on Plan 243(2) to be a public road.**

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

11.4.5 Road Closure - Portion of Little Oxford Street, Gledhow

File/Ward	:	A25810 (West Ward)
Proposal/Issue	:	To close a portion of Little Oxford Street
Subject Land/Locality	:	Portion of Gledhow Locality
Proponent	:	City of Albany
Owners	:	Crown
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 24/10/06 - Item 11.1.2
Summary Recommendation	:	Close a portion of Little Oxford Street
Bulletin Attachment	:	Letters from adjacent landowners and servicing authorities
Locality Plan	:	



DEVELOPMENT SERVICES REPORTS

Item 11.4.5 continued

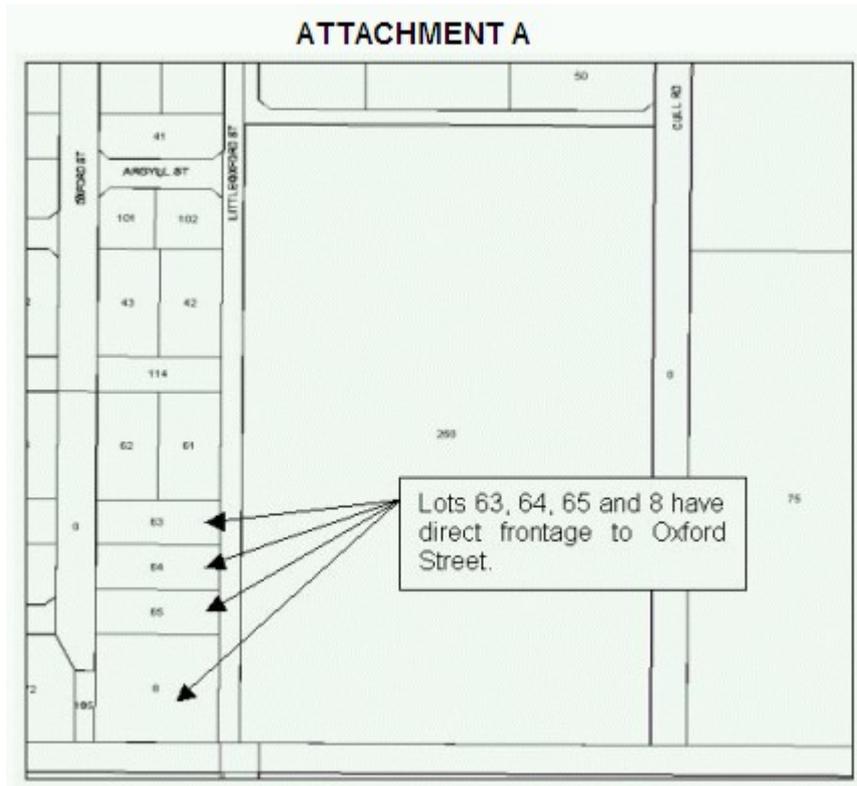
BACKGROUND

1. At it's meeting dated 24 October 2006 Council resolved the following:

“THAT Council advertise its intention to:
 - i) *revoke Town Planning Scheme No. 2 on the basis that the Scheme is outdated, and a local structure plan would provide better guidance for subdivision in the area; and*
 - ii) *close to traffic that portion of the Little Oxford Reserve, as shown in Attachment A in the officer's report either under Section 3.50 of the Local Government Act 1995 or under Section 58 of the Land Administration Act 1997.*
2. In accordance with Council's resolution, staff advertised the proposed closure to utility providers and neighbouring residents.
3. The proposal was advertised under Section 58 of the *Land Administration Act 1997*, as staff received advice from the Western Australian Planning Commission (WAPC) that closing the road to traffic only, as per Section 3.50 of the *Local Government Act 2005*, would not satisfy their concern of dual frontage to ten (10) lots in the adjoining subdivision (Lot 260).
4. During the advertising period Telstra, Alinta Gas, Western Power and the Water Corporation advised that they had no objection to the closure. No submissions from adjacent landowners were received at that time.
5. Staff have written to all landowners affected by the proposed road closure seeking their intentions in relation to purchasing either all, 50 percent or none of the road reserve adjacent to their boundary. All affected landowners have responded and are interested in obtaining either 50 percent or 100 percent of the road reserve, subject to the valuation being determined.
6. The section of road to be closed is predominantly covered in remnant vegetation and will not restrict access to existing properties.
7. The residential subdivision occurring on Lot 260 will involve the construction of a 190 metre section of Little Oxford Street, improving access for 5 lots fronting this road. Lot 61 Little Oxford Street will continue to have legal road frontage under the proposal. Lots 63, 64, 65 and 8 have direct access onto Oxford Street (refer Attachment A).
8. Given the steepness of this section of Little Oxford Street (being around 16% or 1:6), future construction of this portion of road is not considered desirable under best practice engineering standards.

DEVELOPMENT SERVICES REPORTS

Item 11.4.5 continued



STATUTORY REQUIREMENTS

9. Section 58 of the *Land Administration Act 1997* requires that the local Authority must resolve to close a road reserve only after it has been subjected to a 35 day public advertising process and Council has considered any submissions received during that period.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.4.5 continued

STRATEGIC IMPLICATIONS

12. 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

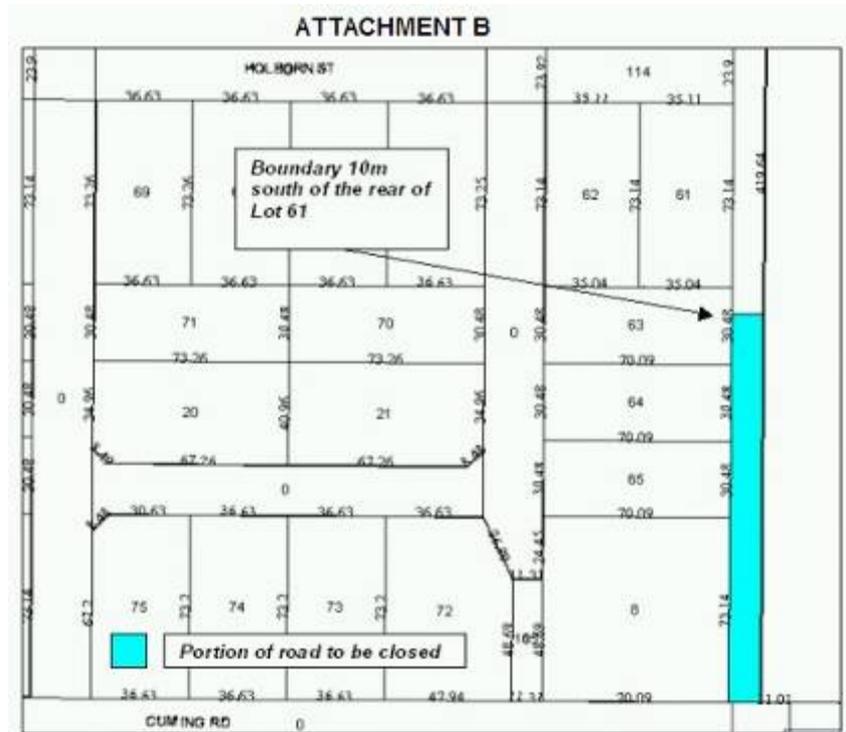
Nil.”

COMMENT/DISCUSSION

13. The road closure will ultimately ensure that the majority of residential lots created on Lot 260 Cull Road do not have dual road frontage as per the requirements of the Department of Planning & Infrastructure.
14. During advertising, no objections from the community or government agencies were received and all affected landowners have advised they are interested in pursuing possible purchase of the closed road from the State Government.
15. In order to promote regular lot sizes and conformity with a proposed boundary for a new residential lot on Lot 260 it is recommended that the portion of Little Oxford Street to be closed be modified as per Attachment B below.
16. Staff believe the road closure process should continue and the Department of Planning & Infrastructure be requested to formally close that section of Little Oxford Street.

DEVELOPMENT SERVICES REPORTS

Item 11.4.5 continued



RECOMMENDATION

THAT Council:

- i) In accordance with Section 58 of the *Land Administration Act 1997*, resolves to permanently close a portion of Little Oxford Street as per Attachment B contained in the body of the officer's report.
- ii) Request the Department of Planning & Infrastructure to formally close a portion of Little Oxford Street.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT Council:

- i) In accordance with Section 58 of the *Land Administration Act 1997*, resolves to permanently close a portion of Little Oxford Street as per Attachment B contained in the body of the officer's report.
- ii) Request the Department of Planning & Infrastructure to formally close a portion of Little Oxford Street.

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

11.5 EMERGENCY MANAGEMENT

11.5.1 Albany Local Emergency Management Committee Minutes - 26 September 2007

File/Ward	:	MAN104/All Wards
Proposal/Issue	:	Committee Items for Council Consideration.
Reporting Officer	:	Executive Director Development Services (R Fenn)
Summary Recommendation	:	That the minutes of the Albany Local Emergency Management Committee meeting held on 26 September 2007 be received
Bulletin Attachment	:	Minutes of the Albany Local Emergency Management Committee meeting held on 26 September 2007

RECOMMENDATION

THAT the minutes of the Albany Local Emergency Management Committee meeting held on 26 September 2007 be received (copy of the minutes in the Elected Member's Report / Information Bulletin), and the following recommendations be adopted:

- i) Item 12.1 New Policy for LEMC - THAT a 'Terms of Reference' be developed so as to make the Albany Local Emergency Management Committee a formal committee of Council in accordance with Section 38 of the *Emergency Management Act 2005*.
- ii) Item 12.2 Incident Control Van - THAT the Albany LEMC fully supports the concept of an 'all hazards' incident control van; and that when the vehicle is supplied an incident support unit consisting of all agencies be formed around the ICV.
- iii) Item 12.3 Wester Power Call Out Procedures - THAT the call out procedure be noted and passed around the respective agencies of the LEMC.
- iv) Item 12.4 Albany Nuclear Powered Warship Plan - THAT the Albany Local Emergency Management Committee endorses the Albany Nuclear Powered Warship Plan.
- v) Item 12.5 Annual Report 2006/07 - THAT the Albany Local Emergency Management Committee 2006/07 be accepted and forwarded to the Great Southern District Emergency Management Committee in accordance with Section 40(1) of the *Emergency Management Act 2005*.

Voting Requirement Simple Majority

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Item 11.5.1 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT the minutes of the Albany Local Emergency Management Committee meeting held on 26 September 2007 be received (copy of the minutes in the Elected Member's Report / Information Bulletin), and the following recommendations be adopted:

- i) Item 12.1 New Policy for LEMC - THAT a 'Terms of Reference' be developed so as to make the Albany Local Emergency Management Committee a formal committee of Council in accordance with Section 38 of the *Emergency Management Act 2005*.**
- ii) Item 12.2 Incident Control Van - THAT the Albany LEMC fully supports the concept of an 'all hazards' incident control van; and that when the vehicle is supplied an incident support unit consisting of all agencies be formed around the ICV.**
- iii) Item 12.3 Wester Power Call Out Procedures - THAT the call out procedure be noted and passed around the respective agencies of the LEMC.**
- iv) Item 12.4 Albany Nuclear Powered Warship Plan - THAT the Albany Local Emergency Management Committee endorses the Albany Nuclear Powered Warship Plan.**
- v) Item 12.5 Annual Report 2006/07 - THAT the Albany Local Emergency Management Committee 2006/07 be accepted and forwarded to the Great Southern District Emergency Management Committee in accordance with Section 40(1) of the *Emergency Management Act 2005*.**

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

11.6 DEVELOPMENT SERVICE COMMITTEES

11.6.1 Mt Martin Regional Botanic Park Committee Minutes - 10 October 2007

File/Ward	:	MAN072/All Wards
Proposal/Issue	:	Committee Items for Council Consideration.
Reporting Officer	:	Reserves Officer (A Bishop).
Summary Recommendation	:	That the minutes of the Mt Martin Regional Botanic Park Committee meeting held on 10 October 2007 be received
Bulletin Attachment	:	Minutes of the Mt Martin Regional Botanic Park Committee meeting held on 10 October 2007

RECOMMENDATION

THAT the minutes of the Mt Martin Regional Botanic Park Committee meeting held on 10 October 2007 be received (copy of the minutes in the Elected Member's Report / Information Bulletin), and the following recommendations be adopted:

- i) Item 3.4 - That motion 3.2 detailing the redistribution of the Mt Martin Regional Botanic Park Committee's community raised funds on the 23 August be rescinded.
- ii) Item 3.4 - That the decision to redistribute the Mt Martin Regional Botanic Park Committee's community raised funds be acknowledged and accepted.

Voting Requirement Simple Majority

**MOVED COUNCILLOR STANTON
SECONDED COUNCILLOR PRICE**

THAT the minutes of the Mt Martin Regional Botanic Park Committee meeting held on 10 October 2007 be received (copy of the minutes in the Elected Member's Report / Information Bulletin), and the following recommendations be adopted:

- i) Item 3.4 - That motion 3.2 detailing the redistribution of the Mt Martin Regional Botanic Park Committee's community raised funds on the 23 August be rescinded.**
- ii) Item 3.4 - That the decision to redistribute the Mt Martin Regional Botanic Park Committee's community raised funds be acknowledged and accepted.**

MOTION CARRIED 12-0

Corporate & Community Services

REPORTS

- R E P O R T S -

At 8.51pm, Council Officer Mr Kevin Hughes left the chamber.

12.1 FINANCE

12.1.1 List of Accounts for Payment

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

COMMENTS / DISCUSSION

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

Municipal Fund			
Cheques	Totalling		\$66,332.85
Electronic Fund transfer	Totalling	\$3,015,470.74	
Credit Cards	Totalling		\$11,702.95
Payroll	totalling		\$632,947.00
Total			<u>\$3,726,453.54</u>

- As at 1st November 2007, the total outstanding creditors, stands at \$220,335.04
- Cancelled cheques – 023549, 023567, 023568, 023569.

RECOMMENDATION

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

Municipal Fund	Totalling	<u>\$3,726,453.54</u>
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Voting Requirement Simple Majority

.....

ORDINARY COUNCIL MEETING MINUTES – 20/11/07
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.1 continued

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WALKER**

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

Municipal Fund	Totalling	<u>\$3,726,453.54</u>
-----------------------	------------------	------------------------------

MOTION CARRIED 12-0

CORPORATE & COMMUNITY SERVICES REPORTS

12.1.2 Financial Activity Statement – Month Ending (31 Oct 07)

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

COMMENT/DISCUSSION

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

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Item 12.1.2 continued

COMMENT/DISCUSSION

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

RECOMMENDATION

THAT Council note the attached Financial Activity Statement for the month ending 31 October 2007.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR BUEGGE**

THAT Council note the attached Financial Activity Statement for the month ending 31 October 2007.

MOTION CARRIED 12-0

FINANCIAL ACTIVITY STATEMENT – OCT 07

	Actual Year to Date 31-Oct-07	Current Budget Year to Date 31-Oct-07	Budget Variance
OPERATING INCOME			
Rates	17,750,075	17,639,169	110,906
Grants & Subsidies	797,278	834,626	(37,348)
Fees & Charges	4,211,559	4,261,832	(50,273)
Interest Earned	329,171	276,181	52,990
Other Revenue / Income	446,779	307,491	139,288
Net Controlled Trust Revenue	127,201		127,201
	23,662,063	23,319,299	342,764
OPERATING EXPENDITURE (excluding depreciation)			
Employee Costs	(3,862,781)	(3,863,502)	721
Utilities	(233,974)	(252,354)	18,380
Interest Expenses	(3,232)	(63,240)	60,008
Contracts, materials & other	(3,187,803)	(3,501,928)	314,125
	(7,287,790)	(7,681,024)	393,234

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

CAPITAL INCOME			
Grants & Subsidies	1,062,565	1,034,071	28,494
Contributions, Reimb & Donations, Other	3,000		3,000
Proceeds from sale of assets	504,991	500,000	4,991
Other Income	6,195		6,195
	1,576,751	1,534,071	42,680
CAPITAL EXPENDITURE			
Asset Masterplans	(1,285,517)	(1,227,922)	(57,595)
ALAC Redevelopment	(4,079,355)	(4,120,000)	40,645
Plant Replacement	(844,500)	(810,000)	(34,500)
Developers' Subdivisions			
Other Capital	(332,408)	(305,166)	(27,242)
	(6,541,780)	(6,463,088)	(78,692)
CASH FLOWS FROM FINANCING ACTIVITIES			
Loan Principal Repayment	(100,762)	(79,897)	(20,865)
Loan Principal Reimbursements	9,773		9,773
Proceeds from new loans			
	(90,989)	(79,897)	(11,092)
OTHER BALANCE SHEET ITEMS			
Change in stock position	38,134		
Change in Debtors	(4,547,558)		
Change in Creditors	(769,479)		
	(5,278,903)		
NET CASH FLOW	6,039,353		
Opening balance	17,673,710		
NET FUNDS AT BALANCE DATE	23,713,063		

Funds Summary

Municipal Account (Commonwealth Bank)	2,208,215
Reserve Account (Commonwealth Bank)	67,642
Trust Account (Commonwealth bank)	2,631,944
Fixed Term Investments (Australian Banks)	12,160,695
Financial Instruments (at June 07 Valuation)	6,644,567
Total Bank / Investments	23,713,063

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.2 continued

CITY OF ALBANY

BALANCE SHEET – 31 OCT 2007	Actual 31-Oct-07	Budget 30-Jun-08	Actual 30-Jun-07
CURRENT ASSETS			
Cash	12,826,656	1,271,680	1,574,493
Restricted cash (Trust)	2,631,944	2,146,786	2,376,093
Reserve Funds - Financial Assets	6,644,567	4,795,204	13,723,123
Reserve Funds - Other	1,609,896		
Receivables & Other	7,062,781	2,450,742	2,524,996
Investment Land	1,115,000	1,130,000	1,115,000
Stock on hand	622,792	750,000	660,926
	32,513,635	12,544,412	21,974,632
CURRENT LIABILITIES			
Borrowings	750,322	1,060,904	851,084
Creditors prov - Annual leave & LSL	1,543,516	2,051,208	1,609,095
Trust Liabilities	2,241,844	1,900,000	2,113,195
Creditors prov & accruals	2,523,158	2,784,874	3,316,038
	7,058,841	7,796,986	7,889,412
NET CURRENT ASSETS	25,454,795	4,747,426	14,085,220
NON CURRENT ASSETS			
Receivables	200,760	154,350	200,760
Pensioners Deferred Rates	258,533	274,279	258,533
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	229,630,791	257,343,029	226,276,699
	232,240,085	259,921,658	228,885,993
NON CURRENT INVESTMENTS			
Local Govt House Shares	19,501	19,501	19,501
NON CURRENT LIABILITIES			
Borrowings	19,557,787	28,746,884	19,557,787
Creditors & Provisions	194,550	230,000	234,219
	19,752,337	28,976,884	19,792,006
NET ASSETS	237,962,044	235,711,701	223,198,707
EQUITY			
Accumulated Surplus	210,933,511	212,141,863	190,676,982
Reserves	8,253,899	4,795,204	13,747,092
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	237,962,044	235,711,701	223,198,707

Item 12.1.2 continued.

MAJOR VARIANCES FROM CURRENT BUDGET – OCTOBER 2007

Other Revenue / Income

Private works income (Main Roads)	\$96,943
Offset in other operating expenditure	

Operating Expenditure

Utilities

Timing of invoices

Interest Expenses

Accrual reversals – 0607
(Accruals not used other than at year end)

Contracts, Materials, Other

Cleanaway invoice - Sept 2007 (\$ 170,000) held pending agreement on rates.

Other variances - timing issues only.

CORPORATE & COMMUNITY SERVICES REPORTS

12.1.3 Audit Committee – 18th October 2007

- File/Ward** : FIN020 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Manager – Finance (S Goodman)
- Summary Recommendations** : i) THAT the Minutes of Audit Committee meeting held on 18th October 2007 be adopted;
ii) THAT the audited financial statements for 2006/07 be accepted; and

COMMENT/DISCUSSION

That the City of Albany 2006/2007 Annual Report has been tabled at the meeting.

RECOMMENDATIONS

1. THAT the minutes of Audit Committee meeting held on the 18th October 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

.....

2. THAT in accordance with the requirements of Section 5.54 of the Local Government Act, Council accept the City of Albany Audited Financial Statements for the year ending 30th June 2007.

Voting Requirement Absolute Majority

.....

**MOVED COUNCILLOR PRICE
SECONDED COUNCILLOR MATLA**

1. **THAT the minutes of Audit Committee meeting held on the 18th October 2007 be received (copy of minutes is in the Elected Members Report/Information Bulletin).**
2. **THAT in accordance with the requirements of Section 5.54 of the Local Government Act, Council accept the City of Albany Audited Financial Statements for the year ending 30th June 2007.**

**MOTION CARRIED 12-0
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

Councillor Paver declared a financial interest in Item 12.6.1 and left the chamber at 8.53pm. The nature of the interest is that tenderer is a client of the Councillor.

12.6 RECREATION SERVICES**12.6.1 Albany Leisure and Aquatic Centre Upgrade – Public Art Acquisition**

File/Ward	: MAN 205 (All Wards)
Proposal/Issue	: Acquisition of Public Art for Albany Leisure and Aquatic Centre (ALAC) Upgrade
Subject Land/Locality	: Albany Leisure and Aquatic Centre (Barker Rd.)
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Executive Director Corporate and Community Services (WP. Madigan) Project Liaison Officer (W. Bergsma)
Disclosure of Interest	: Nil
Previous Reference	: OCM 17/10/06 - Item 12.6
Summary Recommendation	: That Council approve the appointment of the recommended Artist for installation of the Public Art for the Albany Leisure and Aquatic Centre upgrade
Bulletin Attachment	: Nil
Locality Plan	: N/A

BACKGROUND

1. At the OCM 15th August 2006 Council approved the funding proposal for the ALAC upgrade of \$14,267,000. Included in this amount was the sum of \$110,000.00 allowed for Public Art for the building.

STATUTORY REQUIREMENTS

2. The selection process conforms with Regulation 18 of the Local Government (Functions & General) Regulations 1996.

POLICY IMPLICATIONS

3. The process conforms with the City of Albany's Purchasing Policy (Tender and Quotations)

Item 12.6.1 continued.

FINANCIAL IMPLICATIONS

4. An amount of \$110,000.00 of the \$14,267,000 Budget approved for the ALAC Upgrade was allocated for Public Art.

STRATEGIC IMPLICATIONS

5. 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

6. A location within the upgrade area was identified by the Project Architect, Kim Donovan, as the most appropriate location for Public Art within the context of the building.
7. Art Consultant's Artsource were engaged to implement the acquisition process. They prepared a Design Brief in conjunction with the Architect.
8. Expressions of Interest were called for in the West Australian on 4th and 7th July 2007 and in the Albany Advertiser on 3rd and 5th July 2007. A total of twenty-three briefs were issued.
9. Thirteen Expressions of Interest were submitted and subsequently presented to a Selection Panel coordinated by Artsource.
10. The Selection Panel consisted of Council representation initially by Councillor Jan Waterman, two prominent local Artists, Sue Codee and Shaaron Du Bignon, Project

CORPORATE & COMMUNITY SERVICES REPORTS

Architect, Kim Donovan, and Project Liaison Officer ALAC Upgrade Project, Wendy Bergsma.

Item 12.6.1 continued.

- 11. The Selection Panel selected three of the Art Proposals then Artsource engaged the Artists Don Walters, Dawn and Philip Gamblen, & Mark Hewson and Raphael van der Waag, to develop their Design Concepts.
- 12. Following this expression of interest selection process, Council was briefed on the acquisition process.
- 13. The Artists proceeded to develop their Concept Designs and then presented them to a further Selection Panel. Council representation on this Panel was Mayor Milton Evans and Executive Director of Corporate and Community Services, Peter Madigan together with the local Artists and Architect from the previous Selection Panel.
- 14. From this selection process one artist/design has been recommended to be engaged to install their work at the Albany Leisure and Aquatic Centre.

RECOMMENDATION

THAT the City of Albany accepts the Design Concept of Mark Hewson and Raphael van der Waag and enters into a formal contract of \$93,000.00 Inclusive of GST, for the supply and installation of the Artworks specified in the Design Concepts.

Voting Requirement Simple Majority

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<p>MOVED COUNCILLOR WILLIAMS SECONDED COUNCILLOR WALKER</p> <p>THAT the City of Albany accepts the Design Concept of Mark Hewson and Raphael van der Waag and enters into a formal contract of \$93,000.00 Inclusive of GST, for the supply and installation of the Artworks specified in the Design Concepts.</p> <p style="text-align: right;">MOTION CARRIED 11-0</p>

Councillor Paver returned to the chamber at 8.54pm.

12.6.2 Great Southern Regional Recreation Strategy and Advisory Group Terms of Reference

File/Ward	: MAN 167 (All Wards)
Proposal/Issue	: Adoption of Terms of Reference and Regional Recreation Strategy
Subject Land/Locality	: N/A
Proponent	: Department of Sport and Recreation
Owner	: N/A
Reporting Officer(s)	: Executive Director for Corporate and Community Services (P Madigan) Manager Community Development (M Weller)
Disclosure of Interest	: N/A
Previous Reference	: OCM 20 th December 2005.
Summary Recommendation	: Council adopts the TOR and Regional Strategy.
Bulletin Attachment	: Regional Recreation Strategy Document Great Southern Regional Recreation Advisory Group Terms of Reference
Locality Plan	: N/A

BACKGROUND

1. The Great Southern Regional Recreation Advisory Group is comprised of one elected member and one staff representative the Local Governments of Albany, Broomehill, Cranbrook, Denmark, Gnowangerup, Jerramungup, Katanning, Kojonup, Kent, Plantagenet, Tambellup and Woodanilling.
2. One of the functions of the group has been to oversee the development of a Regional Recreation Strategy. The process was commenced in 2002/2003 however subject to delay, in part due to the time required for regional local governments to complete their individual strategy components
3. It is noted that the City of Albany Recreation Strategy was completed in 2001 and significant progress has been achieved since then on identified elements such as the Albany Leisure and Aquatic Centre Upgrade, Hockey Turf upgrade, regional skate facility and Centennial Park Recreation Precinct Plan. Other Albany elements were incorporated as priority projects in the City of Albany 3D Corporate Plan.
4. An initial Regional Strategy draft, received from consultants, was deemed to be overly complex and result in difficulty classifying projects with a 'Regional context'.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.6.2 continued.

5. The group resolved to abandon this draft and a working group was established to prepare a second, concise document – separate to the consultant. This new document was completed in late 2005. The original consultant was later paid out for the full contract.
6. The draft strategy addresses regional recreation issues grouped in the areas of Industry Development, High Performance Sport, Participation, People Development, Infrastructure/facilities and Management.
7. At the ordinary council meeting of December 2005 the City of Albany council resolved that it:

“Receives the Draft Great Southern Regional Recreation Strategy and gives permission for it to be advertised for public comment.”
8. The strategy was advertised for public comment in the Albany advertiser and on the City’s website. No responses were received.
9. The groups Terms of Reference were also reviewed in early 2006.
10. Concern was raised at officer level about the potential impact of the operation of the group on the City of Albany due to:
 - The GSRRAG failing to have an agreed criteria for regional ranking of Community Sport and Recreation Facility Fund Projects. The regional ranking affects the outcome in relation to major capital funding applications. Ranking the projects without criteria has the potential to result in inappropriate ranking and potential for Albany projects to be disadvantaged.
 - Comments from the GSRRAG that the City of Albany would be penalised in regional project ranking if it did not contribute 1/3 of total project cost. Given particular facility capital funding/ development issues affecting Albany and the scale of major projects, this level of contribution is not always possible.
 - Concern in relation to the GSRRAG’s management of the original regional recreation strategy consultant.
 - The new regional strategy is less comprehensive and does not identify priority regional facility development projects, as was originally intended and envisioned by the City of Albany council.
11. Given this concern, officers and the elected member continued to attend the forum, however the new regional strategy and TOR were not forwarded to the City of Albany council for formal consideration pending review of the operation of the group.

STATUTORY REQUIREMENTS

12. There are no statutory requirements in relation to this item.

POLICY IMPLICATIONS

13. There are no policy implications in relation to this item.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.6.2 continued.

FINANCIAL IMPLICATIONS

14. Future City of Albany Projects requesting financial support from the Department of Sport and Recreation Community Sport and Recreation Facility Funding will be assessed for their compliance against the adopted Regional Recreation Strategy.
15. Projects suggested by the group may require consideration of a financial commitment from the City of Albany.

STRATEGIC IMPLICATIONS

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

“Community Vision:

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

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

City of Albany Mission Statement

The City of Albany is committed to... Making a difference for Albany by ... Sustainably Managing Albany's municipal assets, Delivering excellent community services, Actively keep abreast of best practice; Respect(ing) the Communities Aspirations and resources.

Priority Projects

Nil”

COMMENT/DISCUSSION

17. Concerns were raised at the groups meetings and with the Great Southern Department of Sport and Recreation Regional Manger.
18. The following outcomes are noted:
 - Assurance was received that the regional ranking is flexible to allow both a base standard approach (i.e. priority for grassed level playing fields, multi-marked hard stand, lighting) and Regional facility approach (allows priority ranking for a facility which has a major regional draw)
 - Historical review that the City has received priority of number 1. for two projects in the past 5 years.
 - Improvements have occurred in information provided in relation to projects to be ranked regionally.
 - Indication and examples has been received in relation to the potential benefit of regional ranking – increasing the chance of success for highly ranked projects
19. Given consideration of the operation of the Group and the subject documents it is recommended that the new Terms of Reference and Regional Recreation Strategy are adopted, subject to the City of Albany retaining the right to make determination in relation to contribution toward and implementation of individual strategy projects.

CORPORATE & COMMUNITY SERVICES REPORTS

RECOMMENDATION

THAT while retaining the right of the City of Albany to make determination in relation to contribution towards and implementation of individual strategy projects, council

- i) adopts the Great Southern Regional Strategy; and
- ii) adopts the Great Southern Regional Recreation Advisory Group Terms of Reference

Voting Requirement Simple Majority

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**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR PRICE**

THAT while retaining the right of the City of Albany to make determination in relation to contribution towards and implementation of individual strategy projects, council

- i) adopts the Great Southern Regional Strategy; and**
- ii) adopts the Great Southern Regional Recreation Advisory Group Terms of Reference.**

MOTION CARRIED 12-0

12.7 VISITORS CENTRE

Nil

CORPORATE & COMMUNITY SERVICES REPORTS

12.8 CORPORATE & COMMUNITY SERVICES COMMITTEE

12.8.1 Albany Arts Advisory Committee Meeting Minutes – 10th October 2007

- 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 the 10th October 2007 be accepted.

RECOMMENDATION

THAT the minutes of Albany Arts Advisory Committee meeting held on the 10th October 2007 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

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**MOVED COUNCILLOR MORRIS
SECONDED COUNCILLOR MATLA**

THAT the minutes of Albany Arts Advisory Committee meeting held on the 10th October 2007 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 12-0

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 C07013 - Construction of Concrete Footpaths

File/Ward	:	C07013 (All Wards)
Proposal/Issue	:	Construction of Concrete Footpaths
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Contracts Administrator (W Male)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council notes that no tender for construction of concrete footpaths was received and delegates authority to the CEO to negotiate completion of works with local contractors
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. The following footpaths were identified for construction or preservation as part of the City of Albany, Pathways Construction Programme 2007/08:
 - a) Sanford Rd – 130 metres from Albany Highway down southern side of Sanford Rd.
 - b) Butts Rd – 25 metres Barnesby Drive to Baltic Ridge.
 - c) Warlock Rd – 35 metres Sibbald to Leishman Court.
 - d) Bayonet Head Rd – Existing to Outlook.
 - e) Brunswick Rd – Bridges St to 100m before Cuddihy Ave
2. Works are to be carried out as specified for each individual location according to the Programme.

STATUTORY REQUIREMENTS

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

WORKS & SERVICES REPORTS

Item 13.4.1 continued

4. 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.
5. Regulation 19 requires the CEO to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Community Vision:

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 sustainable managing Albany's municipal assets: and at all times we will respect the Community's aspirations and resources.

Priority Projects:

Nil."

COMMENT/DISCUSSION

9. A request for tenders was published in the West Australian on 19th September 2007, the Albany Advertiser and Extra on 20th and 21st September 2007. A total of six documents were issued with no documents received at the close of tenders.
10. One tender was received late and therefore could not be considered. The recommendation allows City staff to negotiate direct with contractors. Under the provisions of the Local Government Act this is permissible as a tender process, although unsuccessful, has been conducted.

RECOMMENDATION

THAT Council notes that no tenders for construction of concrete footpaths were received and delegates authority to the CEO to negotiate completion of works with local contractors.

Voting Requirement Simple Majority

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WORKS & SERVICES REPORTS

Item 13.4.1 continued

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR WOLFE**

THAT Council notes that no tenders for construction of concrete footpaths were received and delegates authority to the CEO to negotiate completion of works with local contractors.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

13.4.2 Contract C07015 – Supply of Bitumen

File/Ward	:	C07015 (All Wards)
Proposal/Issue	:	Supply of Bitumen
Subject Land/Locality	:	Nil
Proponent	:	Nil
Owner	:	Nil
Reporting Officer(s)	:	Manager City Works (M Richardson); City Works Coordinator (M Bracknell); Construction Supervisor (I Flett)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council accept the tender C07015 from Boral Resources (WA) Ltd for the Supply of Bitumen.
Bulletin Attachment	:	Nil
Locality Plan	:	Nil

BACKGROUND

1. Council contracts the supply of bitumen for a twelve-month period, for the construction of roads and sealing works. The contract is now due for renewal.

STATUTORY REQUIREMENTS

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

WORKS & SERVICES REPORTS

Item 13.4.2 continued

3. 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.
4. Regulation 19 requires the CEO to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

5. The City of Albany's Regional Price Preference Policy applies to this Item.

FINANCIAL IMPLICATIONS

6. Tenderers were required to provide a schedule of rates for their services, including mobilisation/demobilisation and inclusive of all activities required to complete works. The supply of bitumen is scheduled in the maintenance and capital works budget.

STRATEGIC IMPLICATIONS

7. 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 sustainable managing Albany's municipal assets: and at all times we will respect the Community's aspirations and resources.

Priority Projects:

Nil.”

COMMENT/DISCUSSION

8. A Request for Tenders was published in the West Australian on 3rd October 2007, the Albany Advertiser on 4th October 2007 and Albany Extra on 5th October 2007, with a closing date of 24th October 2007.
9. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for this tender is documented below:

Criteria	Weight
Cost	50
Technical Compliance & Experience	20
Reliability	20
Other Considerations	10
Total	100

WORKS & SERVICES REPORTS

Item 13.4.2 continued

10. A total six documents were issued with three submissions received at closing. Two companies claimed against the Regional Content Preference. The submission from RnR Contracting Pty Ltd was deemed non-conforming, as the company could not incorporate mobilisation/demobilisation into their schedule of rates.
11. The following table summarises the conforming submissions received: Estimated quantities are shown in brackets

Bitumen Type		Boral	Pioneer
94% 170 Class	> 9000 litres (125,000)	\$ 0.957	\$ 1.07
	< 9000 litres (10,000)	\$ 1.166	\$ 1.10
98% 170 Class	> 9000 litres (30,000)	\$ 0.957	\$ 1.07
	< 9000 litres (10,000)	\$ 1.155	\$ 1.10
Evaluation		638	524.9

12. Boral Resources (WA) Ltd provided a conforming tender with the most competitive rates. The pricing of the schedule of rates is competitive with industry standards and provides the most advantageous value for money to Council.

RECOMMENDATION

THAT Council accept the tender C07015 from Boral Resources (WA) Ltd for the Supply Bitumen.

Bitumen Type		Boral
94% 170 Class	> 9000 litres	\$ 0.957
	< 9000 litres	\$ 1.166
98% 170 Class	> 9000 litres	\$ 0.957
	< 9000 litres	\$ 1.155

Voting Requirement Simple Majority

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**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WALKER**

THAT Council accept the tender C07015 from Boral Resources (WA) Ltd for the Supply Bitumen.

Bitumen Type		Boral
94% 170 Class	> 9000 litres	\$ 0.957
	< 9000 litres	\$ 1.166
98% 170 Class	> 9000 litres	\$ 0.957
	< 9000 litres	\$ 1.155

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS

13.4.3 Contract – Supply & Delivery of Various Items of Plant and Equipment

File/Ward	:	C07002, C07007, C07010, C07016, C07017, C07019, C07021, C07022 (All Wards)
Proposal/Issue	:	Supply & Delivery of Various Plant and Equipment by Public Tender
Subject Land/Locality	:	Nil
Proponent	:	Nil
Owner	:	Nil
Reporting Officer(s)	:	Depot Services Co-ordinator (J Harbach) Contracts Administrator (W Male)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council award various tenders as per recommendations
Bulletin Attachment	:	Nil
Locality Plan	:	Nil

BACKGROUND

1. Council at its meeting held 18th June 2002, adopted the Asset Replacement Program – Plant. This strategy is reviewed on an annual basis to determine optimal replacement and maintenance of each individual item of plant. As part of this program of plant management Council’s plant replacement strategy identified several items of plant that have reached the optimum time for replacement.

STATUTORY REQUIREMENTS

2. 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 \$100,000.
3. 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 and not accept any tender.
4. Regulation 19 requires Council to advise each tenderer is writing the result of Council’s decision.

WORKS & SERVICES REPORTS

Item 13.4.3 continued

POLICY IMPLICATIONS

5. The City of Albany Regional Price Preference Policy is applicable to these items.

FINANCIAL IMPLICATIONS

6. \$777,000.00 has been allocated in the 2007/2008 budget for the purchase of these items of plant.
7. Should Council choose to purchase the recommended items at a net cost of \$692,586.66 (excluding GST), this will result in an under expenditure of \$84,413.34.

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 encouraging alternative forms of transport and implementing an effective public transport system.

Mission Statement

The City of Albany is committed to sustainably managing Albany’s municipal assets: and at all times we will respect the Community’s aspirations and resources.

Priority Projects

Nil.”

COMMENT/DISCUSSION

9. A request for tenders was published in the West Australian on 19th September 2007 and in the Albany Advertiser on 20th September 2007 with a copy in the Albany Extra on 21st September 2007 for the supply and delivery of a tandem axle two way tip truck, two front wheel assist tractors, a road sweeper, a 4WD front deck mower, a forklift, a loader and an excavator to replace Council’s current equipment.
10. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for this tender is documented below:

Criteria	% Weight
Cost	50
Relevant Maintenance and Operational Suitability	40
Reliability of Tenderer	10
TOTAL	100%

WORKS & SERVICES REPORTS

Item 13.4.3 continued

11. A total of fifty-nine specifications were issued. Tender evaluation teams were convened consisting of the depot coordinator and staff with experience in the relevant type of machinery. The following tables summarize those submissions received by the close of the tender period together with a comment on the evaluation of each tender.

C07002 – Tandem Axle Two Way Tipping Truck to replace Isuzu FVZ 1400, A47382 (P18)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST) (P18)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
Albany City Motors	\$161,978.50	\$75,614.86	\$86,363.64	570.5
WA Hino	\$153,740.00	\$81,818.18	\$71,921.82	569.5

12. For the purposes of evaluation, Albany City Motors were eligible for the Buy Local Policy and its price was reduced by 10%, which meant that the evaluated price after trade was \$77,727.
13. The Isuzu offered by Albany City Motors has a cab with an easier access for the driver and a better resale value. This type of truck has been successfully used in the past.

C07007 – Front Wheel Assist Tractor to replace Massey Ferguson Tractor, A3472 (P35)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
<u>C&C Machinery – Massey 5435</u>	\$66,800.00	\$23,000.00	\$43,800.00	558
C&C Machinery – Massey 3635	\$57,900.00	\$23,000.00	\$34,900.00	554
Howard Machinery	\$58,587.27	\$22,500.00	\$36,087.27	538.5
Farmer's Centre (1978) Pty Ltd	\$68,500.00	\$30,658.36	\$37,841.64	516
<u>CEA</u>	\$63,280.00	\$20,000.00	\$43,280.00	302

14. C&C Machinery also supplied a tender for a Kubota tractor, which did not meet the minimum specification, consequently the tender was deemed non-conforming and not evaluated.
15. The selected tractor (Massey 5435) was more expensive, however the evaluation team rated it highly as it exceeded specifications, offered electronic drive control, provided more flexibility and has a high resale value.

WORKS & SERVICES REPORTS

Item 13.4.3 continued

C07016 – Road Sweeper to replace MacDonald Johnson Sweeper, AL2189 (P73)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
Rosmech – on UD Cab/Chassis	\$274,072.00	\$100,000.00	\$174,072.00	585.5
Schwarze Industries – Model A	\$252,668.00	\$115,000.00	\$137,668.00	579.5
Rosmech – on Hino Cab/Chassis	\$279,572.00	\$100,000.00	\$179,572.00	568.5
MacDonald Johnston	\$291,493.18	\$135,000.00	\$156,493.18	560.5
Schwarze Industries – Model B	\$266,668.00	\$115,000.00	\$151,668.00	535.5

16. Depot staff, including the current sweeper operator spent considerable time assessing and testing various sweepers.
17. The preferred sweeper has a full width broom, which provides a greater and more efficient sweep with each pass; it also has greater visibility from the cabin, greater fuel efficiency and easy access for servicing.

C07017 – 4WD Front Deck Mower to replace Toro Groundmaster, A53537 (P131)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST) (P31)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
CJD Equipment	\$44,369.62	\$14,535.87	\$29,833.75	690

18. This mower meets the specified requirements and is within budget

C07019 – Forklift to replace Nissan Forklift (P2004)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
United Equipment	\$27,490.00	\$10,000.00	\$17,490.00	692.5
Allforks Australia	\$30,078.18	\$6,818.18	\$23,260.00	561.5
All Forklifts & Equipment	\$28,759.09	\$3,500.00	\$25,259.09	476

19. This forklift meets the specified requirements and is within budget

WORKS & SERVICES REPORTS

Item 13.4.3 continued

C07021 – Loader to replace Volvo L50C, A1693 (P2009)

TENDERER	PURCHASE PRICE (Exc. GST)	TRADE PRICE (Exc. GST)	PRICING AFTER TRADE (Exc. GST)	WEIGHTING
CJD Equipment – Option 2	\$173,027.27	\$50,000.00	\$123,027.27	646.5
CEA	\$184,032.00	\$52,000.00	\$132,032.00	553
Westrac	\$206,522.00	\$43,000.00	\$163,522.00	494
BT Equipment	\$191,250.00	\$43,000.00	\$148,250.00	492

20. CJD submitted a tender that did not meet the minimum specification and consequently was deemed non conforming and not considered by the evaluation team.
21. The preferred loader meets the specified requirements.

C07022 – New Excavator

TENDERER	PURCHASE PRICE (Exc. GST)	WEIGHTING
Hitachi Construction Machinery	\$218,000.00	602.5
BT Equipment	\$192,000.00	585

22. Westrac submitted a tender that did not meet the minimum specification and consequently was deemed non conforming and not considered by the evaluation team.
23. The preferred excavator has a better reach, power and its weight is within specification.
24. There is no trade in price as the current replacement backhoe is being given to the Allambie Cemetery Trust as previously resolved by Council.
25. The Tender Evaluation Team evaluated the submissions for contract C07010 for the provision of a new tractor and recommended that Council not award the tender at this time. The specifications will be reviewed and this item of plant will then be subject to purchasing by a quotation process.
26. The tenderers have been listed according to the highest weighted score and are recommended to be the most advantageous options for the change over to Council.

WORKS & SERVICES REPORTS

Item 13.4.3 continued

RECOMMENDATION

THAT Council award the following tenders:

- (i) C07002 to Albany City Motors for the Supply & Delivery of an Isuzu FVZ 1400 Auto Truck at a nett cost to Council of \$86,363.64 (excluding GST).
- (ii) C07007 to C&C Machinery for the Supply & Delivery of a Massey Ferguson 5435 Tractor at a nett cost to Council of \$43,800.00 (excluding GST).
- (iii) C07016 to Rosmech Sales & Service Pty Ltd for the Supply & Delivery of a Road Sweeper at a nett cost to Council of \$174,072.00 (excluding GST).
- (iv) C07017 to CJD Equipment Pty Ltd for the Supply & Delivery of a John Deere F1445 Mower at a nett cost to Council of \$29,833.75 (excluding GST).
- (v) C07019 to United Equipment for the Supply & Delivery of a Nissan Forklift at a nett cost to Council of \$17,490.00 (excluding GST).
- (vi) C07021 to CJD Equipment for the Supply & Delivery of a Volvo L40B Loader at a nett cost to Council of \$123,027.27 (excluding GST).
- (vii) C07022 to Hitachi Construction Machinery for the Supply & Delivery of a Hitachi ZX135US Excavator at a nett cost to Council of \$218,000.00 (excluding GST).

THAT Council not award tender C07010.

Voting Requirement Simple Majority

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Item 13.4.3 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MORRIS**

THAT Council award the following tenders:

- (i) C07002 to Albany City Motors for the Supply & Delivery of an Isuzu FVZ 1400 Auto Truck at a nett cost to Council of \$86,363.64 (excluding GST).**
- (ii) C07007 to C&C Machinery for the Supply & Delivery of a Massey Ferguson 5435 Tractor at a nett cost to Council of \$43,800.00 (excluding GST).**
- (iii) C07016 to Rosmech Sales & Service Pty Ltd for the Supply & Delivery of a Road Sweeper at a nett cost to Council of \$174,072.00 (excluding GST).**
- (iv) C07017 to CJD Equipment Pty Ltd for the Supply & Delivery of a John Deere F1445 Mower at a nett cost to Council of \$29,833.75 (excluding GST).**
- (v) C07019 to United Equipment for the Supply & Delivery of a Nissan Forklift at a nett cost to Council of \$17,490.00 (excluding GST).**
- (vi) C07021 to CJD Equipment for the Supply & Delivery of a Volvo L40B Loader at a nett cost to Council of \$123,027.27 (excluding GST).**
- (vii) C07022 to Hitachi Construction Machinery for the Supply & Delivery of a Hitachi ZX135US Excavator at a nett cost to Council of \$218,000.00 (excluding GST).**

THAT Council not award tender C07010.

MOTION CARRIED 12-0

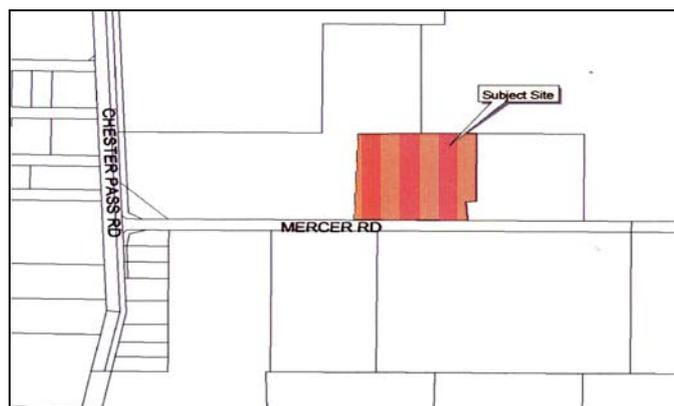
WORKS & SERVICES REPORTS

The CEO, Mr Andrew Hammond, declared an impartial interest and left the chamber at 9.01pm. The nature of interest was that the partner of the CEO works for the South Coast Natural Resource Management.

13.5 CITY SERVICES – PROPERTY MANAGEMENT

13.5.1 New Lease – City of Albany Mercer Road Former Administration Office

File/Ward	:	PRO351, A14825 (Yakamia Ward)
Proposal/Issue	:	New Lease
Subject Land/Locality	:	Lot 5 (diagram 59369) Mercer Road, Walmsley
Proponent	:	City of Albany
Owner	:	City of Albany
Reporting Officer(s)	:	Manager City Services (I Neil)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council agree to enter into a new 5 year lease with South Coast Natural Resource Management with a mutually agreed 5 year option, at a rental of \$72,000 (ex GST) per annum with CPI increases annually.
Bulletin Attachment	:	Nil
Locality Plan	:	



BACKGROUND

1. The Mercer Road Administration Office formerly occupied by the City of Albany has been untenanted since vacated by RB Films Pty Ltd, on the completion of the Lockie Leonard Television series, in August 2006.

WORKS & SERVICES REPORTS

Item 13.5.1 continued

2. Earlier this year, South Coast Natural Resource Management (South Coast NRM) approached the City with a request to investigate the possibility of taking a lease over the Mercer Road former Administration Office building and surrounding grounds.
3. The land is zoned 'Civic and Cultural'.

STATUTORY REQUIREMENTS

4. Section 3.58 (5) of the Local Government Act 1995 deals with 'Disposing of Property', which includes leasing. The Section states a requirement that public advertising be carried out prior to the agreement to a lease with any submissions received to be considered by Council.
5. However, Section 30 (c) of the Local Government (Functions and General) Regulations 1996 states that section 3.58 of the Act does not apply if:
the land is disposed of to –
 - (i) *the Crown in right of the State or the Commonwealth;*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth*

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. An independent sworn valuation carried out in October 2006 valued the building and grounds for rental purposes at \$75,000 per annum.
8. As South Coast NRM do not require a section of the old Council Chambers, a dividing wall will be built allowing the City to retain a section of the room as storage space. This section of the Chambers is currently storing gymnasium equipment from the Albany Leisure & Aquatic Centre.
9. Negotiations with South Coast NRM have continued until the present time and in recognition of the length of the lease and that the City would retain use of some of the building a rental figure of \$72,000 per annum was agreed exclusive of GST with annual Consumer Price Index (All Groups Perth) increases.
10. An amount of \$65,000 is required to bring the building up to an acceptable standard. This cost includes the replacement of floor coverings, window furnishings, internal and some external painting and some upgrading of services such as lighting, information technology cabling, water and fire hydrants, these works will be undertaken prior to the commencement of the lease.
11. The costs in the first year will be offset by rental received and will provide significant income to the City in future years.
12. All other costs involved in the development and implementation of the lease, e.g. legal fees, stamp duty etc, will be a cost to the lessee.

WORKS & SERVICES REPORTS

Item 13.5.1 continued

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 excellent community infrastructure and services

Mission Statement:

The City of Albany is committed to sustainable managing Albany’s municipal assets, delivering excellent community services and providing sound governance

Priority Projects:

Nil”.

COMMENT/DISCUSSION

14. While waiting on funding approval, prior to making the City a formal proposal, the South Coast NRM has been liaising with City staff over the past 5 months with regard to the possibility of taking a lease over the Mercer Road Administration Office building and grounds.
15. On 5th October 2007, a written offer to lease was received from South Coast NRM, accepting the proposed rental of \$72,000 in return for which the City will carry out the refurbishment of the building.
16. A portion of the building, being the far end of the former Council Chamber, not required under the lease will be separated by a timber frame wall, enabling the City to use the un-leased area as storage space. This section can be accessed by an existing external door, thereby not imposing on the lessee or the lease area.
17. The City’s access to the storage area and the dog pound located in the South East corner of the property will be protected through lease conditions.
18. The City proposes a 5-year term with a mutually agreed 5-year option.
19. The Market Valuation of \$75,000 (exclusive of GST) will be decreased to \$72,000 in recognition of the City’s requirements and use of the site. Rent will be increased by CPI (All Groups Perth), per annum with a Market Valuation carried out prior to the 5-year further term being exercised.
20. The Lessee will be responsible for minor maintenance to the building and all maintenance of the grounds and gardens. Council remains responsible for structural maintenance to the building and building insurance. Contents insurance (apart from the area retained by the City for storage) is the responsibility of the lessee.

WORKS & SERVICES REPORTS

Item 13.5.1 continued

RECOMMENDATION

THAT Council agrees:

- i) To enter into a 5-year lease with South Coast Natural Resource Management, with a mutually agreed 5 year option.
- ii) An initial rental of \$72,000 (ex GST) per annum. Rental to be increased per annum according to the movement in CPI (All groups Perth), with a market valuation carried out after 5 years if the mutually agreed option of a further term is taken up.
- iii) Council agrees to the expenditure of \$65,000 to refurbish the building, to be offset through the collection of rent.
- iv) All other costs associated with the development and implementation of the lease to be a cost to the lessee.

Voting Requirement Absolute Majority

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR PRICE**

THAT Council agrees:

- i) To enter into a 5-year lease with South Coast Natural Resource Management, with a mutually agreed 5 year option.**
- ii) An initial rental of \$72,000 (ex GST) per annum. Rental to be increased per annum according to the movement in CPI (All groups Perth), with a market valuation carried out after 5 years if the mutually agreed option of a further term is taken up.**
- iii) Council agrees to the expenditure of \$65,000 to refurbish the building, to be offset through the collection of rent.**
- iv) All other costs associated with the development and implementation of the lease to be a cost to the lessee.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

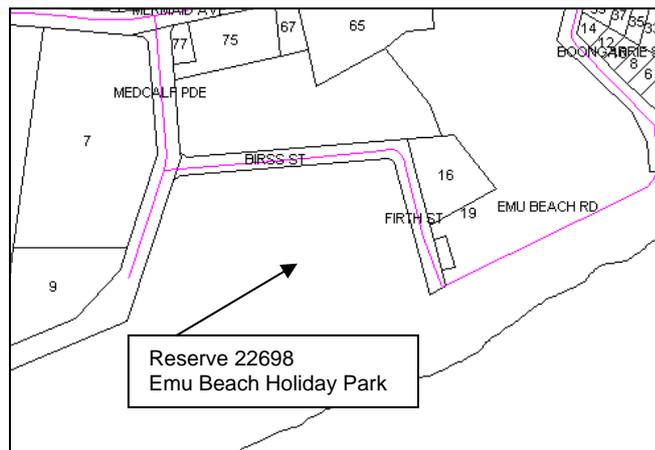
The CEO, Mr Andrew Hammond, returned to the Chamber at 9.03pm.

WORKS & SERVICES REPORTS

Councillor Williams declared an impartiality interested in Item 13.5.2 and left the chamber at 9.03pm. The natures of interest being the proponents are relatives of the Councillor.

13.5.2 Emu Beach Holiday Park

File/Ward	: PRO048 (Breaksea Ward)
Proposal/Issue	: Surrender Existing Leases and Replace with Proposed New Lease
Subject Land/Locality	: Emu Point Reserve 22698
Proponent	: DR & RL Stewart, Lessee's of Emu Beach Caravan Park
Owner	: Crown Land
Reporting Officer(s)	: Manager City Services (I Neil)
Disclosure of Interest	: Nil
Previous Reference	: OCM 18/12/01
Summary Recommendation	: THAT Council agrees to the surrender of two existing leases and replacement with a single new lease for a period of 30 years subject to conditions.
Bulletin Attachment	: Nil
Locality Plan	:



WORKS & SERVICES REPORTS

Item 13.5.2 continued

BACKGROUND

1. Emu Beach Holiday Park (the Park) is situated on Crown Land under a Management Order to the City of Albany with power to lease for up to 50 years. The Park consists of two lease areas taken at separate times with a common boundary. Both lease areas have the expiry date of 31st December 2014
2. In 1997 the Park business was purchased by DR & RL Stewart and the leases transferred to them.
3. On 30th November 2001 a letter was received from Messrs Stewart requesting an extension to the existing lease to bring the total term of the lease to 30 years. As there is no allowance in the existing lease for a further extension of time, at the OCM of 18th December 2001 Council agreed to the surrender of the existing leases and a new lease of 21 years only, subject to conditions.
4. At that time, the existing leases had a period of 13 years to run, so the overall increase in length of time of tenure would have been only 8 years and the offer was not taken up.
5. On 5th October 2007 a letter was received from David Moss & Co, Barristers & Solicitors on behalf of Messrs DR & RL Stewart requesting Council re-consider the surrender of the existing two leases and developing a new 30-year lease in their place.

STATUTORY REQUIREMENTS

6. Section 18 (1) of the Land Administration Act 1997 states that a person must not, without the prior approval in writing of the Minister for Planning assign, sell, transfer or otherwise deal with interests on crown land.
7. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal. Any submissions received must be considered at an Ordinary Council Meeting and the decision made recorded in the Minutes of that meeting.

POLICY IMPLICATIONS

8. There are no policies relating to this Item

FINANCIAL IMPLICATIONS

9. There are no financial implications relating to this Item. All costs associated with this request will be a cost to the Lessee.

WORKS & SERVICES REPORTS

Item 13.5.2 continued

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 economic growth and outstanding opportunities for our youth through dynamic promotion & marketing of Albany’s advantages and opportunities and providing a complete tourism experience.

Mission Statement:

At all times we will respect the Community’s aspirations and resources and demonstrate integrity, leadership and teamwork.

Priority Projects:

Nil.”

COMMENT/DISCUSSION

11. A Management Order issued to the City of Albany for Crown Reserve 22698 allows for a maximum lease term of 50 years. This does not imply that a lease must, or should be, for 50 years, but allows Council the opportunity to apply long term planning and development to the site. Council has the right to decide the length of a lease on Reserve 22698, up to and including the 50th year.
12. Leased areas for tourist facilities require development and maintenance in a manner that enhances the locality, attracts visitors and maintains an acceptable presence within the local residential community. Council needs to ensure the long-term development of this locality is not compromised by exceptionally long leases, however it is unrealistic to expect a leaseholder to initiate expensive improvements to non-freehold land without the security of tenure to ensure a commercially viable lease with an option of assignment.
13. Leases for commercial purposes such as tourist accommodation are generally set for a period of 21 years, however in this instance, the proponents propose to significantly upgrade and develop the Park and it’s facilities which will require considerable financial input and borrowings. It is for this reason that a request has been made for Council, to allow a 30-year lease, subject to approval by the Minister for Planning and Infrastructure.
14. Approval of a 30-year lease term in no way implies approval of the development, or of the buildings shown on the draft proposal. All planning, building and other approvals required for this project are to be gained through the appropriate channels.
15. Council’s agreement to a 30-year lease will allow the time required for the leaseholder to strategically plan and develop the leasehold upgrade and manage the repayment of the debt loading required for such a significant development.
16. Should the project not reach a satisfactory stage of substantial completion within the first 5 years, the lease will revert to 21 years as from the commencement date of the lease.

WORKS & SERVICES REPORTS

Item 13.5.2 continued

17. Under the new lease, the method of establishing rental will change from a percentage of Gross Rental Value, to a Market Valuation, to be set by a qualified independent market valuer, updated every 5th year, with Consumer Price Index increases for intervening years.
18. To allow a new lease to be developed, it will first be necessary for the two existing leases to be surrendered. It is a requirement under the Local Government Act 1995, that all disposal of property (including leasehold) is to be advertised publicly for a period of two weeks, the proponents are prepared to undertake this procedure in order to move this project forward.
19. Should submissions, either for or against, be received it is a necessity that Council consider these submissions at an Ordinary Council Meeting and the decisions made on these submissions, recorded in the Minutes of that meeting.
20. The proponent's request is that, should no submissions be received, approval be given for the surrender and the re-leasing of the land commencing from the day immediately following the date of surrender, subject to the conditions outlined in this report.
21. All costs associated with the development and implementation of the lease, such as valuations, legal fees, rates and taxes etc are an expense to the lessee.

RECOMMENDATION

THAT Council approve, subject to Ministerial Approval, the surrender of the two existing leases on Crown Reserve 22698, known as Emu Beach Holiday Park and instruct staff to implement a single lease in their place, for a term of 30 years, subject to the following conditions:

- i) The carrying out of a mandatory 2-week statewide advertising period, with any submissions received being considered by Council prior to the implementation of the new lease;
- ii) All costs associated with the lease to be covered by the Lessee;
- iii) Rental to be calculated at market valuation as set by a qualified independent market valuer, updated every 5th year, with a Consumer Price Index increase for intervening years;
- iv) All appropriate planning and building approvals being in place prior to the commencement of development; and
- v) Should the project not reach a stage of substantial completion within 5 years, the lease will revert to 21 years as from the commencement date, as per the City's leasing guidelines.

Voting Requirement Absolute Majority

.....

Item 13.5.2 continued

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PAVER**

THAT Council approve, subject to Ministerial Approval, the surrender of the two existing leases on Crown Reserve 22698, known as Emu Beach Holiday Park and instruct staff to implement a single lease in their place, for a term of 30 years, subject to the following conditions:

- i) The carrying out of a mandatory 2-week statewide advertising period, with any submissions received being considered by Council prior to the implementation of the new lease;**
- ii) All costs associated with the lease to be covered by the Lessee;**
- iii) Rental to be calculated at market valuation as set by a qualified independent market valuer, updated every 5th year, with a Consumer Price Index increase for intervening years;**
- iv) All appropriate planning and building approvals being in place prior to the commencement of development; and**
- v) Should the project not reach a stage of substantial completion within 5 years, the lease will revert to 21 years as from the commencement date, as per the City's leasing guidelines.**

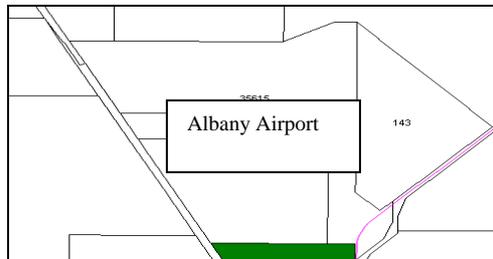
**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

Councillor Williams returned to the Chamber at 9.04pm.

WORKS & SERVICES REPORTS

13.5.3 Leases to Hire Car Companies at Albany Airport

File/Ward	: PRO184 & PRO185 (Kalgan Ward) A64802
Proposal/Issue	: New leases for Avis and Budget Rent-a-Car car rental businesses at the Albany Regional Airport
Subject Land/Locality	: 35615 Albany Highway Albany Airport
Proponent	: N/A
Owner	: City of Albany
Reporting Officer(s)	: Manager City Services (I Neil)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: Subject to any public submissions, allow staff to prepare new leases for Avis and Budget Rent-a-Car for car rentals from the Albany Regional Airport and for an appropriate number of vehicles to be kept on site.
Bulletin Attachment	: Nil
Locality Plan	:



BACKGROUND

1. On 1st December 2001 leases for a period of 5 years were agreed to between the City of Albany and Avis Albany and the City of Albany and Budget Rent-a-Car. These leases were to enable car rental businesses to operate from the Albany Airport enabling commuters to Albany access to self-drive vehicles on disembarkation at Albany Airport.
2. This service allowed a certain number of vehicles to be located at the Airport to ensure availability of vehicles at all flight times.
3. Both leases expired on 30th November 2006, however the lessee's were invited to continue their businesses on a monthly tenancy basis (as permitted under the terms of the leases) until the Business Plan for the airport was completed.

WORKS & SERVICES REPORTS

Item 13.5.3 continued

4. The current Airport Terminal refurbishment reached a suitable stage in October 2007 for Avis Albany and Budget Rent-a-Car to move into the areas allocated to them within the Terminal building. It is now desirable for all parties that new lease agreements be formalized.

STATUTORY REQUIREMENTS

5. Section 3.58 of the Local Government Act 1995 deals with the disposal of Property, including leased land and buildings.
6. Section 3.58 (3) states that a Local Government must give public notice of its intention to lease, giving details of the property and proposed disposition and inviting submissions before a specified date. Any submissions received must be considered at an Ordinary Council Meeting and the decision regarding those submissions recorded in the minutes of the meeting at which the decision was made.

POLICY IMPLICATIONS

7. There is no Policy attached to this Item

FINANCIAL IMPLICATIONS

8. There are no adverse financial implications attached to this Item. All costs associated with these leases, including solicitors' fees, valuation costs and all other costs are to be borne by the relevant lessees at the rate applicable to the City.
9. The City stands to gain in terms of rental charged for the use of the leased areas. Calculation of rental will to be determined by independent market valuation, to be carried out.

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

Mission Statement:

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

Priority Projects:

Nil.”

WORKS & SERVICES REPORTS

Item 13.5.3 continued

COMMENT/DISCUSSION

11. The Albany Airport is a major regional airport catering for visitors to Albany and the Great Southern, both business and tourist. It's location, being some considerable distance from the CBD requires servicing by transport such as taxi's and car rental companies.
12. Car rental companies with a base at the airport allow for airport customers to hire cars directly on alighting from aircraft and if required, enable them to return the vehicle to the terminal in time for their departure flight.
13. Services such as this are accepted as a normal part of the flying experience in most major centres such as Albany.
14. Leases to be for a term of 5 years, with a mutually agreed further term of 5 years.
15. It is proposed that Leases are developed allocating individual businesses a specified area of the Airport Terminal and allocated parking for storage of the vehicles required between hires'. This will ensure the availability of vehicles for hire at the airport.
16. To ensure sufficient car parking spaces are available to the general public using the airport, it is suggested that a limit be placed on the number of bays used by the hire car companies. Based on projected use and current market share the limit to be structured as follows:
 - Avis - 12 car bays
 - Budget - 8 car bays
17. This allocation is to be reviewed annually in line with the annual rental review.

RECOMMENDATION

THAT Council:

- a. Allow staff, subject to advertising and their being no submissions against the proposal, to prepare lease documentation for Avis Albany and Budget Rent-a-Car for a term of 5 years with a mutually agreed further 5 year term, for allocated areas at the Albany Airport Terminal;
- b. Leases are to include allocated parking bays; and
- c. Rental to be determine on commencement by Independent Market Valuation, with annual CPI increases for the intervening years

Voting Requirement Absolute Majority

.....

WORKS & SERVICES REPORTS

Item 13.5.3 continued

AMMENDED OFFICER RECOMMENDATION

1. THAT Council, in accordance with Section 3.58 of Local Government Act 1995, advertise its intention to enter into separate leases with Avis Albany and Budget Rent-a-Car for terms of 5 years with a mutually agreed 5 year term, for allocated areas at the Albany Airport Terminal.
2. That Council enter into separate leases with Avis Albany and Budget Rent-a-Car for terms of 5 years with a mutually agreed 5 year term, for allocated areas at the Albany Airport Terminal, subject to:
 - i) There being no submissions received as a result of advertising;
 - ii) Leases are to include allocated parking bays;
 - iii) Rental to be determined on commencement by Independent Market Valuation, with annual CPI increases for the intervening years and being subject to GST;
 - iv) All costs associated with the preparation of leases be payable by applicant; and
 - v) The Common Seal of the City of Albany be attached to all relevant documentation.

Voting Requirement Simple Majority

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WOLFE**

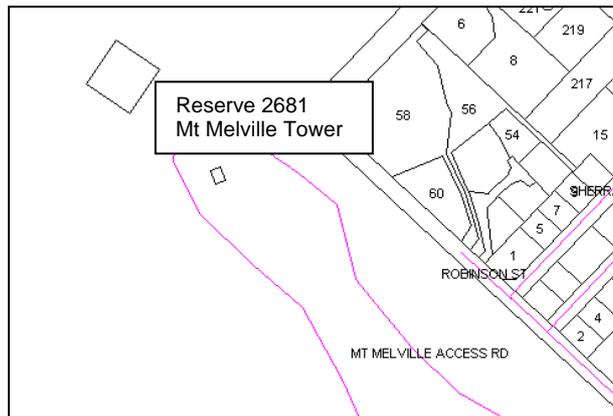
1. **THAT Council, in accordance with Section 3.58 of Local Government Act 1995, advertise its intention to enter into separate leases with Avis Albany and Budget Rent-a-Car for terms of 5 years with a mutually agreed 5 year term, for allocated areas at the Albany Airport Terminal.**
2. **That Council enter into separate leases with Avis Albany and Budget Rent-a-Car for terms of 5 years with a mutually agreed 5 year term, for allocated areas at the Albany Airport Terminal, subject to:**
 - i) There being no submissions received as a result of advertising;**
 - ii) Leases are to include allocated parking bays;**
 - iii) Rental to be determined on commencement by Independent Market Valuation, with annual CPI increases for the intervening years and being subject to GST;**
 - iv) All costs associated with the preparation of leases be payable by applicant; and**
 - v) The Common Seal of the City of Albany be attached to all relevant documentation.**

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS

13.5.4 Property Management – New Telecommunication Lease

File/Ward	: PRO362 (Frederickstown Ward)
Proposal/Issue	: To place a Broadband aerial on the Telecommunications Tower on Mt Melville Tower as well as the use of a room beneath the Tower for connected equipment.
Subject Land/Locality	: Reserve 2681 Mt Melville
Proponent	: Albany Business Telephones
Owner	: Crown Land
Reporting Officer(s)	: Manager City Services (I Neil)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: To allow Albany Business Telephones to lease space for a Broadband aerial on Mt Melville Telecommunications Tower and to include in the lease the use of an area beneath the tower for equipment for the aerial.
Bulletin Attachment	: Nil
Locality Plan	:



BACKGROUND

1. In late 2006 Council staff agreed to allow Albany Business Telephones to place an aerial on the Mount Melville Telecommunication Tower, with connecting infrastructure in the base of the Tower, on a temporary basis, to monitor the efficiency of the site for its requirements.

WORKS & SERVICES REPORTS

Item 13.5.4 continued

2. The agreement allowed a period of 12 months, after which a formal lease arrangement would be required, with Council approval if Albany Business Telephones wished to remain on the site.
3. Mt Melville tower is located on Crown Reserve 2681 and as such, the lease will require the approval of the Minister of Planning & Infrastructure.

STATUTORY REQUIREMENTS

4. Section 3.58 of the Local Government Act 1995, deals with the disposal of property. This includes disposal under a lease.

POLICY IMPLICATIONS

5. There is no policy applicable to this Item

FINANCIAL IMPLICATIONS

6. All costs associated with the development and implementation of this lease will be at a cost to the Lessee. Any costs incurred by Council will be recouped from the Lessee through Council's Recoverable Costs.

STRATEGIC IMPLICATIONS

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

Community Vision:

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

Mission Statement:

The City of Albany is committed to delivering excellent community services and at all times we will respect the Community's aspirations and resources.

Priority Projects:

Nil."

COMMENT/DISCUSSION

8. On 20th August 2007 correspondence was received from John Dent, Manager of Albany Business Telephones requesting Council agree to provide his organization with a lease for a period of 5 years with a further 5 year option.
9. The Lease would be for the space currently occupied by the company on a temporary basis on the Telecommunications Tower on top of the Mt Melville lookout. The lease would also include a small room, 4m x 1.5m located on the ground floor of the building, and used to house infrastructure and equipment connected to the aerial on the tower.

WORKS & SERVICES REPORTS

Item 13.5.4 continued

10. After discussions with Mr Dent, City staff suggest a 3 year lease with a mutually agreed further 3 year option, with an annual rental of \$1000.00 indexed to CPI for the first 3 years and a market valuation before any option is exercised. This rental is in line with similar leases already in place.
11. Albany Business Telephones are to make a commitment that its presence and equipment placed on the site will not impact on or cause interference with any other infrastructure placed on site by existing lessees.
12. As per the Local Government Act 1995, there is a requirement for all leases to be advertised with a period of 2 weeks available for public comment. Any submissions received are to be discussed at an Ordinary Council Meeting and the decision recorded in the Minutes of that meeting.

RECOMMENDATION

THAT Council allow City staff to implement a lease with Albany Business Telephones for the placement of a telecommunications aerial on the Mt Melville Telecommunications Tower and include in the lease, the use of a small 4m x 1.5m room at the base of the tower, for a period of 3 years with a mutually agreed further 3 year option, at an initial rental of \$1000 subject to annual CPI (All Groups) Perth.

Subject to:

- i) Ministerial Approval;
- ii) No submissions being received as a result of the mandatory advertising period;
- iii) Albany Business Telephones provide a commitment that its infrastructure and equipment will not impact negatively on the incumbent lessee's; and
- iv) All costs associated with the lease are met by Albany Business Telephones.

Voting Requirement Simple Majority

.....

Item 13.5.4 continued

AMMENDED OFFICER RECOMMENDATION

**MOVED COUNCILLOR MORRIS
SECONDED COUNCILLOR PRICE**

1. **THAT Council, in accordance with Section 3.58 of the Local Government Act 1995, advertise its intention to enter into a new lease with Albany Business Telephones for the placement of a telecommunications aerial on the Mt Melville Telecommunications Tower and include in the lease, the use of a small 4m x 1.5m bunker room at the base of the tower, for a term of 3 years with a mutually agreed further 3 year option.**

2. **That Council enter into a new lease with Albany Business Telephones for a term of 3 years with a mutually agreed further 3 year option, subject to:**
 - i) **There being no submissions received as a result of advertising;**
 - ii) **Subject to Ministerial Approval;**
 - iii) **The initial rental being \$1000 per annum with annual CPI increases and being subject to GST;**
 - iv) **Albany Business Telephones provide a commitment that its infrastructure will not impact negatively on the incumbent lessee's;**
 - v) **All costs associated with the lease preparation are met by Albany Business Telephones; and**
 - vi) **The common seal of the City of Albany be attached to all relevant documentation.**

MOTION CARRIED 12-0

Reason:

Executive Director Works & Services, Mr Les Hewer stated that amended recommendation was submitted to provide greater clarity.

13.6 CITY WORKS – CAPITAL WORKS

Nil

WORKS & SERVICES REPORTS**13.7 CITY WORKS – RESERVES, PLANNING & MANAGEMENT****13.7.1 Grant For Eradication of Lantana Weed**

File/Ward	:	STR004 (All Wards)
Proposal/Issue	:	Request for approval of additional grant funds to complete the eradication of Lantana weed on City of Albany managed/owned land
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Executive Support Officer Grant Funding and Finance (S Pepper)
Disclosure of Interest	:	Nil
Previous Reference	:	Nil
Summary Recommendation	:	That Council approves the grants funding of \$2,270 to complete the eradication of Lantana weed on City of Albany owned land
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. In June 2005, Council adopted an Environmental Weeds Strategy for City of Albany Reserves 2005-2010, which provides a framework to control environmental weeds in areas for which the Council is responsible.
2. There are four components to the strategy, which include priority reserves/areas and their management; specific weed programs; supporting active community groups outside priority areas; and woody weed control along rural road reserves.
3. The Australian Government has provided funds for a project, named Defeating the Weeds Menace, to assist in managing lantana, which is one of the weeds listed in Council's Strategy.
4. Staff have identified a number of small outbreaks of lantana on Council owned/managed land, and have sought funding to assist with the management and eradication of the weed.

WORKS & SERVICES REPORTS

Item 13.7.1 continued

STATUTORY REQUIREMENTS

5. Under the Local Government Act, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
 - a) is incurred in a financial year before the adoption of the annual budget by the local government
 - b) is authorised in advance by a resolution (absolute majority required) or
 - c) is authorised in advance by the mayor in an emergency

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. The cost of managing and eradicating the lantana weed has been assessed at \$4,600.
8. Under the conditions of the Queensland Government's Department of Primary Industries and Fisheries (the government body managing the funding program) grant, funding arrangements provide a maximum grant of 50 per cent of the overall project cost. The remainder of funds would be sourced from the current weeds strategy budget.

STRATEGIC IMPLICATIONS

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

“Community Vision

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

Mission Statement

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

Priority Projects

Nil.”

COMMENT/DISCUSSION

10. Staff were pro-active in contacting the Queensland government to request funds for this project. This initiative has provided Council with additional funds totalling \$2,270 that will allow weed maintenance operations to extend over a greater base.

WORKS & SERVICES REPORTS

Item 13.7.1 continued

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

RECOMMENDATION

THAT Council approves the grants funding of \$2,270 to complete the eradication of Lantana weed on City of Albany managed/owned land.

Voting Requirement Absolute Majority

.....

AMMENDED OFFICER RECOMMENDATION

THAT Council approves the expenditure of grants funding of \$2,270 for the eradication of Lantana weed on City of Albany managed/owned land.

Voting Requirement Absolute Majority

.....

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR MATLA**

THAT Council approves the expenditure of grants funding of \$2,270 for the eradication of Lantana weed on City of Albany managed/owned land.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

13.8 WORKS & SERVICES COMMITTEES

Nil

General Management Services

REPORTS

GENERAL MANAGEMENT SERVICES REPORTS

14.1 STRATEGIC DEVELOPMENT

Nil

14.2 ORGANISATIONAL DEVELOPMENT

Nil

14.3 ECONOMIC DEVELOPMENT

Nil

14.4 CORPORATE GOVERNANCE

Nil

14.5 GENERAL MANAGEMENT SERVICES COMMITTEES

Nil

15.0 ELECTED MEMBERS' REPORT/INFORMATION BULLETIN

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 MATLA
SECONDED COUNCILLOR PAVER**

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

MOTION CARRIED 12-0

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

**17.0 MAYORS REPORT
FOR ORDINARY COUNCIL MEETING - 20TH NOVEMBER 2007**

I am honoured to have been elected as the second Mayor of the City of Albany and I thank the electors who have invested their trust in me to serve the people of Albany for the next four years.

I welcome our new Councillors to the City of Albany Council and congratulate former Councillors who have been re-elected for another term. I am confident that I will be very capably supported in my position as Mayor by my Deputy Mayor, Des Wolfe, by you, my fellow Councillors and by the Executive staff of the City of Albany.

It has been a hectic month since the election on 20th October and I look forward to the challenges before me with much enthusiasm.

It is said that "continued success is a result of continued improvement". I therefore believe it is necessary to review extensively our governance systems and have a full report prepared for the January Ordinary Council meeting. I propose not to convene any concept briefing sessions until the governance system review has been undertaken.

As Mayor, it will be my very great pleasure to host Civic receptions. It has long been my concern that many members of our community have never been given the opportunity to attend Council receptions, nor do they fully understand how their Council functions, and why. I have decided to extend to each Elected member the opportunity to invite one of their constituents and a partner to civic receptions. Invitation arrangements have also been amended to include all past Mayors and Shire Presidents of the City, Town and Shire of Albany, along with MLA's and MLC's.

I have been very honoured to host and attend a number of significant events since taking up the position of Mayor.

Item 17.0 continued

Two Civic Receptions were held this month; one for Kerro's Crusade, a Motor Neurone Disease fundraising walk from Perth to Albany and one to welcome the Navy Ship HMAS Warramunga to Albany. Albany has always had a special affinity with the sea and a strong military and maritime heritage. As it has been quite awhile since the last Navy vessel visited our City, it was particularly pleasing for me to rekindle the strong relationship that Albany has always had with visiting Navy and Military units. The Ship's visit coincided with Remembrance Day and it was a privilege to have the Crew involved in our local commemorations. The feedback I have received from the Warramunga gives very high praise for the hospitality received by the Officers and Crew during their 4 day stopover in Albany.

The 5th Anniversary of the unveiling of the Ataturk Memorial Statue on the 3rd November, provided me with the opportunity to welcome a Turkish delegation from Perth, which included the Perth Consul General of the Republic of Turkey, Dr Cahit Yesertener. Albany's memorial to Mustafa Kemal Ataturk is the only full-size statue outside of Turkey. Because Ataturk is a much-revered part of Turkish culture, Albany holds a special significance to Turkish people. During my term as Mayor, I look forward to progressing the significant links between Albany and Gallipoli, especially in regards to the Anzac legend. With next year being the 70th Anniversary of the death of Ataturk, Albany will be a popular destination for Turkish people residing in, or visiting Australia.

I'm very pleased to announce that Albany was named the joint winner in the Heritage Preservation Category at the recent GWN Top Tourism Awards. The following week Albany took out Silver for tourism marketing of the 'amazingalbany' brand at the WA Tourism Awards. I congratulate our Tourism team for their hard work in successfully promoting Albany as a tourist destination.

The City of Albany, in partnership with Albany communities, hosted the Albany Community Planning Forum on Monday 5th November. Approximately 100 people attended the all day forum, which included prominent and inspiring speakers from sectors such as health, environment, community development, arts, urban planning and youth. Each sector provided background information about their fields, how they contribute to growing community spirit and community capacity and how they are inexorably linked. Participants identified what they see as being the key challenges for communities to overcome to support each of the relevant sectors. The five presentations were well informed, honest and articulate in their delivery and a testament to the exceptional resources we have in and around Albany. Facilitator, Sandra Krempl, commented that "the commitment, support and active involvement of the community through the Cultural Planning stage has been outstanding and easily one the best examples of community and council collaborations that she has engaged in within Western Australia."

On the 8th November I hosted a Group Citizenship ceremony, at which 30 candidates became new Australians. It was a great honour to have the Hon Ljiljana Ravlich MLC, the State Minister for Local Government, Multicultural Interests and Citizenship in attendance on the day. Minister Ravlich spoke of her own humble beginnings immigrating to Australia as a child from a small rural community in Croatia.

Item 17.0 continued

On the 9th November I was privileged to attend a working lunch with Premier Alan Carpenter and visiting State Ministers, where we had the opportunity to discuss some of Albany's local issues, including the Centennial Park facilities and sporting park upgrade. The Premier showed genuine interest and, I believe, has a genuine affection for Albany and a desire to see it develop to its full potential. The meeting provided me with a good opportunity to touch base with the Premier about our respective roles in government.

Finally, I would like to acknowledge and thank Deputy Mayor Des Wolfe and Councillors Chris Morris and Gordon Kidman for officiating at events over the course of this month, when my busy commitments prevented me from being in two places at one time. It is my ambition to see Councillors share some of the responsibilities of leadership in this way, so that the community can come to know and respect them for the position they hold as members of Council and also so that Councillors can become known outside of Council, within the community.

Thank you.

DRAFT MOTION

THAT the Mayor's Report dated 20th November 2007 be received.

**MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR PAVER**

THAT the Mayor's Report dated 20th November 2007 be received.

MOTION CARRIED 12-0

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

18.1 Development Services Compliance - Authorisation for Staff - Various State Government Acts

File/Ward	:	MAN052 (All Wards)
Proposal/Issue	:	To authorise staff members to carry out duties
Subject Land/Locality	:	N/A
Proponent	:	City of Albany
Owner	:	N/A
Reporting Officer(s)	:	Manager Planning & Ranger Services (G Bride)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 21/11/2006 - Item 11.2.1 OCM 20/03/2007 - Item 18.1
Summary Recommendation	:	To approve authorisations
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. Local Government officers from time to time are required to enforce statewide legislation (Acts and Regulations) on Council's behalf. Some of these Acts include the *Bushfires Act 1954*, the *Dog Act 1976*, the *Litter Act 1979*, the *Local Government Act 1995* and *Control of Vehicles (Off-Road Areas) Act 1978*.
2. In the past month the Emergency Management Coordinator (Steve Gray) and Ranger (Phil Dunkley) have resigned from their positions. Two new full time incumbents have been selected to undertake these roles, being Robert Forster (new Ranger) and Ben deVries (new Emergency Management Coordinator). Robert Forster has previously been authorised by Council within his previous role as a 'Casual Ranger (reserves)'. Nathan Tysoe has been appointed to the Casual Ranger position vacated by Mr Forster.
3. Both Ben deVries and Nathan Tysoe are required to be authorised by Council to perform their duties.

Item 18.1 continued

STATUTORY REQUIREMENTS

4. Section 9.10 of the Local Government Act 1995 stipulates that:
“The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.”
5. Should Council support the proposed authorisations, a notice is required to be published in the Government Gazette.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. Council needs to publish a notice in the Government Gazette. That cost can be accommodated within the existing budget.

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

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. The delegations will allow the new incumbents to utilise and enforce the legislation associated with their roles and responsibilities.
10. The two officers that have recently resigned need to have their authorisations cancelled as they no longer represent the City of Albany.

Item 18.1 continued

RECOMMENDATION

THAT Council:

- i) authorises Nathan Tysoe to enforce the local government responsibilities contained in the following Acts:
 - Control of Vehicles (Off-road areas) Act 1978;
 - Bush Fires Act 1954;
 - Dog Act 1976;
 - Litter Act 1979-81;
 - Part XX Local Government (Misc Provisions) Act 1960; and
 - Section 3.39(i), 9.10 and 9.16 Local Government Act 1995.

- ii) authorises Ben deVries to enforce the local government responsibilities contained in the following Acts:
 - Bush Fires Act 1954;
 - Emergency Management Act 2005;
 - Part XX Local Government (Misc Provisions) Act 1960; and
 - Section 3.39(i), 9.10 and 9.16 Local Government Act 1995

- iii) hereby cancels all authorisations for Phil Dunkley & Steve Gray.

Voting Requirement Absolute Majority

.....

Item 18.1 continued

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR MORRIS**

THAT Council:

- i) authorises Nathan Tysoe to enforce the local government responsibilities contained in the following Acts:
- Control of Vehicles (Off-road areas) Act 1978;
 - Bush Fires Act 1954;
 - Dog Act 1976;
 - Litter Act 1979-81;
 - Part XX Local Government (Misc Provisions) Act 1960; and
 - Section 3.39(i), 9.10 and 9.16 Local Government Act 1995.
- ii) authorises Ben deVries to enforce the local government responsibilities contained in the following Acts:
- Bush Fires Act 1954;
 - Emergency Management Act 2005;
 - Part XX Local Government (Misc Provisions) Act 1960; and
 - Section 3.39(i), 9.10 and 9.16 Local Government Act 1995.
- iii) hereby cancels all authorisations for Phil Dunkley & Steve Gray.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

18.2 Private Members Bill - Third Party Appeals

File/Ward	:	GOV082 (All Wards)
Proposal/Issue	:	Introduction of Third Party Appeal Rights into <i>Planning and Development Act 2005</i>
Subject Land/Locality	:	N/A
Proponent	:	Dr Janet Woollard
Owner	:	N/A
Reporting Officer(s)	:	Executive Director Development Services (R Fenn)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 20/03/07 - Item 11.3.3
Summary Recommendation	:	Provide Letter of Support
Bulletin Attachment	:	Nil
Locality Plan	:	

BACKGROUND

1. The Executive Director of Development Services advised Councillors that the City had received a letter from Dr Janet Woollard, Member for Alfred Cove. Dr Woollard advised of her intention to table before Parliament a Private Member's Bill dealing with the introduction of Third Party Appeal Rights into the *Planning and Development Act 2005*. Dr Woollard sought feedback from Local Authorities on the draft Bill "*by the end of this year so that (she) had time to make modifications with a view to introducing the Bill when Parliament resumed next year.*"
2. Councillor Paver has requested that this matter be brought before Council to allow Councillors the opportunity to debate the request and provide a suitable response to Dr Woollard.
3. At the Council meeting on the 20th March 2007, Council debated the issue of whether or not it wished to introduce a third party appeal right into the City's Community Planning Scheme. It was ultimately decided that:

"Council instructs staff;

- (1) *to utilise Clause 14 of Schedule 7 of the Planning and Development Act 2005 when drafting the Albany Community Planning Scheme, to confer upon persons aggrieved by the exercise of a discretionary power a right to apply to the State Administrative Tribunal for a review of the exercise of the power; and*
- (2) *to utilise all the means at the City's disposal, including the recourse to law, to ensure the Minister gives effect to Council's intention."*

Item 18.2 continued

4. In requesting this agenda item Councillor Paver advised of his desire for Council to;
 - i) write to Dr Woollard disclosing the existence and content of the City's resolution on this matter;
 - ii) support Dr Woollard's attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians;
 - iii) write to all Councils in Western Australia to:
 - a) urge them to support Dr Woollard's attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians;
 - b) provide them with a copy of the City's letter to Dr Woollard; and
 - c) request that copies of our letter to the Councils and to Dr Woollard be distributed to all serving Councillors.

STATUTORY REQUIREMENTS

5. The *Planning and Development Act 2005*, sets out the legal framework involved in preparing a new Town Planning Scheme. The relevant sections from that Act are;

69. General objects of local planning scheme

(1) A local planning scheme may be made under this Act with respect to any land;

(a) with the general objects of making suitable provision for the improvement, development and use of land in the local planning scheme area; and

(b) making provision for all or any of the purposes, provisions, powers or works referred to in Schedule 7.

6. Clause 14 of Schedule 7 of the *Planning and Development Act 2005* sets out matters which may be dealt with by a town planning scheme and Clause 14 of that schedule includes:

“Where a discretionary power is vested by the scheme in the responsible authority, the conferral on a person aggrieved by the exercise of a power of a right to apply to the State Administrative Tribunal for a review of the exercise of the power.”

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

Item 18.2 continued

STRATEGIC IMPLICATIONS

9. 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

10. To understand Council’s current position on third party appeal provisions, it is important to provide a short history of the event leading up to the decision in March 2007.
11. The City of Albany Town Planning Scheme 3 (former Shire) was gazetted in 1980 and it makes allowances for “*a person aggrieved by a decision of Council in the exercise of discretionary powers conferred upon it by the scheme*” to appeal that decision. The City of Albany Town Planning Scheme 1A (former Town) was gazetted in 1983 and that scheme limits appeals to “*an applicant aggrieved by a determination of the Council*”.
12. In response to the request from Council to include a third party appeal right into Scheme 1A (amendment 131) the Minister for Planning and Infrastructure advised in January 2003 that third party appeal rights will only be considered in the context of a state-wide policy. That position was further explored by Hon Paul Llewellyn in the second reading of the Planning and Development (Consequential and Transitional Provisions) Bill 2005 (Hansard from Legislative Council pgs 5998b, 6180b and 6273b) and responded to by the Hon Adele Farina on behalf of the government. In essence the Minister felt “*it is important that if we are to consider the introduction of third party rights of appeal in this state, we carefully consider the pros and cons and learn from the other states about what works and does not work, and that we consult all stakeholders before making a decision*”.

Item 18.2 continued

13. In the earlier reports to Council it was noted that, whilst Council may have the political desire to incorporate a third party appeal right into the Community Planning Scheme, it remained unclear whether the Minister for Planning and Infrastructure would support that initiative. The Council resolution passed in March 2007 reaffirmed Council's desire to pursue the introduction of third party appeal rights and identified the need to pursue legal avenues if the request to the Minister was unsuccessful.
14. The Private Members Bill foreshadowed by Dr Woollard is consistent with Council's desire to have third party appeal rights universally applied throughout the City and it responds to the Minister's expectation in that it will be a stateside solution resulting from stakeholder consultation and it will result in the pros and cons of introducing third party appeal rights being evaluated as part of the future debate on the Bill within Parliament.
15. The proposed amendment to the Act provides a superior mechanism to appeal processes to that recommended by Council within its future Community Planning Scheme in that persons who engage in the consultation process are given an automatic right of appeal. The mechanism proposed by Council required an individual to prove to the State Administrative Tribunal that they were "*a person who is aggrieved by a decision of Council*" before the Tribunal would entertain their request for a review of the decision. The draft Bill also provides that any person who "*is affected by a decision*" can apply to obtain leave from the Tribunal to also engage in a review and this second tier of potential appellants will be subjected to a more arduous task to obtain Tribunal standing.
16. The Bill, if progressed through Parliament, would have considerable impact upon the current operations of the planning team and the development industry. The proposed changes would substantially increase the extent of referrals and advertising for most applications, all approvals would be freely available for public inspection (currently not permitted under the Local Government Act) and there are additional notices to be issued, and procedures that would need to be followed, upon the completion of the assessment process.
17. It is not intended that this report provide a thorough critic of the draft Bill, as Dr Woollard appears to be seeking broad feedback on her proposal at this time. More thorough scrutiny of the draft Bill will occur during the Parliamentary debate on the Bill.

Item 18.2 continued

NOTICE OF MOTION BY COUNCILLOR PAVER

THAT Council:

- i) write to Dr Woollard:
 - a) disclosing the existence and content of the City's resolution on this matter; and
 - b) supporting her attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians; and
- ii) write to all Councils in Western Australia:
 - a) urging them to support Dr Woollard's attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians;
 - b) enclosing a copy of the City's letter to Dr Woollard; and
 - c) requesting that copies of our letter to the Councils and to Dr Woollard be distributed to all Councillors.

Voting Requirement Simple Majority

.....

OFFICER RECOMMENDATION

THAT Council write to Dr Woollard MLA, Member for Alfred Cove, advising her of Council's support to her attempts to introduce a Private Members Bill into the Western Australian State Parliament to amend the *Planning and Development Act 2005* to supply a Third Party Appeal Right for all Western Australians and that a copy of Council's resolution of the 20th March 2007 be made available to Dr Woollard.

Voting Requirement Simple Majority

.....

Item 18.2 continued

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR STANTON**

THAT Council:

- i) write to Dr Woollard:**
 - a) disclosing the existence and content of the City's resolution on this matter; and**
 - b) supporting her attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians; and**
- ii) write to all Councils in Western Australia:**
 - a) urging them to support Dr Woollard's attempt through a Private Member's Bill to secure a third party right of appeal / review for Western Australians;**
 - b) enclosing a copy of the City's letter to Dr Woollard; and**
 - c) requesting that copies of our letter to the Councils and to Dr Woollard be distributed to all Councillors.**

THAT Council write to Dr Woollard MLA, Member for Alfred Cove, advising her of Council's support to her attempts to introduce a Private Members Bill into the Western Australian State Parliament to amend the *Planning and Development Act 2005* to supply a Third Party Appeal Right for all Western Australians and that a copy of Council's resolution of the 20th March 2007 be made available to Dr Woollard.

MOTION CARRIED 12-0

18.3 Concept Briefings

File/Ward	:	MAN006 (All Wards)
Proposal/Issue	:	Review of Concept Briefings
Subject Land/Locality	:	N/A
Proponent	:	N/A
Owner	:	N/A
Reporting Officer(s)	:	Chief Executive Officer (A Hammond)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 14.2.1 - 18.05.2004 OCM 14.2.2 - 10.10.2004
Summary Recommendation	:	No Further Concept Briefings Be Convened.
Bulletin Attachment	:	N/A
Locality Plan	:	N/A

BACKGROUND

1. A memo dated 13 November 2007 was distributed to all Councilors providing that Mayor Evans has proposed that no further Council Concept Briefings be convened pending a review of the City's systems of governance.
2. Mayor Evans principal concern is the current format of briefing sessions does not conform with the Local Governments Department Operational Guidelines on Council forums.

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Item 18.3 continued.

“Community Vision:
Nil.

Mission Statement:
The City of Albany is committed to...
• *Providing sound governance.*

Priority Projects:
Nil”

COMMENT/DISCUSSION

7. An extensive review of the structure, function and operations of all Council committees/meetings/briefings etc will be undertaken in the very near future leading to a report being tabled for Council consideration in January.

RECOMMENDATION

THAT no further concept briefings be convened until a review of the City’s governance system has been undertaken.

Voting Requirement Simple Majority

.....

<p>MOVED COUNCILLOR WOLFE SECONDED COUNCILLOR PRICE</p> <p>THAT no further concept briefings be convened until a review of the City’s governance system has been undertaken.</p> <p>MOTION CARRIED 9-3</p>

19.0 CLOSED DOORS

Nil

20.0 NEXT ORDINARY MEETING DATE

Tuesday 18th December 2007, 7.00pm

21.0 CLOSURE OF MEETING

There being no further business, the meeting closed at 9.35pm.

Confirmed as a true and correct record of proceedings.



M EVANS, JP
Mayor

APPENDIX A

WRITTEN NOTICE OF DISCLOSURES OF INTEREST

Name	Item	Nature of Interest
Cr R Paver	11.1.4	Financial – Applicant is a client of Cr Paver. Extent of Interest – Cr abstained from being involved in the debate and vote.
Cr R Paver	12.6.1	Financial – Tenderer is a client of Councillor. Extent of Interest – Cr abstained from being involved in the debate and vote.
Cr N Williams	11.1.5	Impartiality – Proponents are well known to Cr Williams. Cr has worked with Dr Knight at SRMG for a length of time. Extent of Interest – Cr does not have a vested interest in this item and subsequently will take part in the debate and voting on this item.
Cr N Williams	11.1.6	Impartiality – The tenants operating the Fish Processing Operation, Trading as Great Southern Sea foods; are close friends of the Councillor. Extent of Interest – Cr is good friends with the operators' wife and is seen socially often. Cr does not have a financial interest in the operation.
Cr N Williams	13.5.2	Impartiality – The proponents are relatives of Cr Williams (Sister and Brother in Law). Extent of Interest – Cr abstained from being involved in the debate and vote.

APPENDIX B

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING

Nil

INTEREST DISCLOSED BY OFFICERS

Name	Item	Nature of Interest
Mr A Hammond (CEO)	13.5.1	Impartiality – Partner works for South Coast Natural Resource Management.

[Agenda Item 12.1 Refers]
[Council – 20th November 2007]



SUMMARY OF ACCOUNTS

Municipal Fund			
	Cheques	Totalling	\$66,332.85
	Electronic Fund transfer	Totalling	\$3,015,470.74
	Credit Cards	Totalling	\$11,702.95
	Payroll	totalling	\$632,947.00
	Total		<u>\$3,726,453.54</u>

CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling **\$3,726,453.54** which was submitted to each member of the Council on 18th September 2007 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

CHIEF EXECUTIVE OFFICER
(A Hammond)

MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling **\$3,726,453.54** which was submitted to the Council on 18th September 2007 and that the amounts are recommended to the Council for payment.

MAYOR
(M Evans, JP)