

MINUTES

**For the Ordinary Meeting of Council
Held on
Tuesday, 20 September 2011
7.00pm
City of Albany Council Chambers**

CITY OF ALBANY STRATEGIC PLAN (2011-2021)

The City of Albany Strategic Plan was adopted by Council on 16 August 2011 and is available at www.albany.wa.gov.au

The Plan states our vision and values as:

VISION

Western Australia's most sought after and unique regional city to live, work and visit.

VALUES

The values of the City of Albany apply to elected members and staff who commit to:

- Results
- Ethical behaviour
- Accountability

Leadership

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3.1 REPORT OR BUSINESS RAISED BY COUNCIL MEMBER SUBSEQUENT TO DRAFT AGENDA Nil.

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4.4 REPORT OR BUSINESS RAISED BY COUNCIL MEMBER SUBSEQUENT TO DRAFT AGENDA Nil.

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XXI. CLOSURE OF MEETING 6

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I. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 7.00PM

II. OPENING PRAYER

The Mayor read the opening prayer.

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

ITEM 2.0: RESOLUTION

MOVED: COUNCILLOR DUFTY

SECONDED: COUNCILLOR HOLDEN

- 1. THAT Standing Order 3.1 be SUSPENDED to allow recording of proceedings.**
- 2. THAT Standing Order 4.2(4)-Seating at Meetings of Council-be SUSPENDED to allow CEO Faileen James to be seated on the Mayor’s right.**

CARRIED 10-0

III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

7.01PM Councillor Leavesley

Summary of key points:

- Pleased to learn of the success of the City of Albany Band, but was disappointed at the lack of support from the Council.

7.03PM Councillor Sutton

Summary of key points:

- Assured Council and the public present that he would leave the Chamber for discussion and voting on Item 2.2, in light of perceptions of a conflict of interest.

7.04PM Councillor Dufty

Summary of key points:

- Visited Wellstead for “Conversation with the CEO”
- Some roads in the area not graded in over a year, members of the public need to report maintenance issues to the City or to their Councillor
- Attended the first Municipal Heritage meeting.

7.05PM Councillor Holden

Summary of key points:

- Recently attended the Annual General Meeting of the Bayonet Head and Lower King Progress Association, and urged new Councillors to support the Association.

7.06PM Councillor Hammond

Summary of key points:

- Foreshadowed an amendment to Item 2.2, and would like to have the matter laid on the table.

7.07PM Mayor's Report-The Mayor's report is detailed at Appendix B.

ITEM 3.0: RESOLUTION

MOVED: COUNCILLOR LEAVESLEY

SECONDED:COUNCILLOR WOLFE

The Mayor's Report be RECEIVED.

CARRIED 10-0

IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC

Nil.

V. PUBLIC QUESTION AND STATEMENT TIME

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.

7.13PM Ms Jay Klinac, Collingwood Heights

Tabled petition is detailed at Appendix B.

7.17PM Mr Trevor Hannig, Albany Soapbox Club

Summary of key points:

- Item 1.5: Uses and Design of Apex Drive for Anzac Centenary
- Thanked Council for considering the continued use of Apex Drive by the Club. He acknowledged that the Soapbox Club is a minority sport in Albany, and the Club acknowledges the mixed use of Apex Drive as the only access to what is becoming a major tourist destination in Albany.
- Club needs to keep community better informed of race days.

7.20PM Mr Rod Hedderwick, Serpentine Road

Mr Hedderwick's tabled address is detailed at Appendix B. Summary of key points:

- Addressed Council regarding differential rates on vacant land
- Acknowledged the change in GRV on vacant land

7.24PM Mr Tony Harrison, Little Grove

Summary of key points:

- Spoke in opposition to the Junkyard proposal on Ulster Road.
- Expressed concern over the external floor lighting at the Albany Entertainment Centre, which makes it difficult to see the ground on exiting the building.

7.27PM Mr Don Phillips, Frenchman Bay Road

Summary of key points:

- Asked if the \$50 Waste Levy was legal or illegal

CEO Ms Faileen James responded that the City is in negotiation with the Department of Local Government, and that legal advice received by the City advised that the Waste Levy was legal.

- Mr Phillips said that the Department of Local Government were maintaining that the Waste Levy is illegal

CEO Ms Faileen James responded that the Department of Local Government has provided the City with further information.

- Mr Philips asked if the matter had been settled

CEO Ms Faileen James responded that a definitive interpretation of the Act is not possible without a SAT hearing.

- Mr Phillips asked if the levy was found to be illegal, would ratepayers receive a refund

CEO Ms Faileen James reiterated that legal advice received by the City maintained that the Levy was legal.

7.31PM Ms Robyn Peterson, 35 Eclipse Drive, Collingwood Heights

Summary of key points:

- Addressed Council regarding Item 2.2 of the Agenda.
- Is concerned that visual amenity has been compromised, and asked if there had been a site inspection by staff or Councillors.
- Stated that Council should require landscaping to conceal the scrap heap, and a bond should be required to ensure that this was carried out.
- A site visit should have been carried out.

Executive Director of Planning and Development Services, Mr Bride, responded that the landowner had declined an invitation for a site visit.

7.34PM Mr Ross Chapman, Breaksea Crescent, Collingwood Heights

Summary of key points:

- Addressed Council regarding Item 2.2 of the Agenda. Expressed concern that the proposal could potentially affect an environmentally sensitive wetland and could be a serious fire risk to the area. May also attract vermin, with serious implications for bird life and native animals in the area
- Said that the proposal represented a significant risk of visual impact on surrounding properties, which are located in a rural residential area

7.36PM Mr Neil Smithson, Smithson Planning

Summary of key points:

- Acknowledged the dedication shown by Mayor Milton Evans to the City during his time as Mayor.
- Said that there would be challenges and opportunity ahead for the next Council

7.38PM Mayor closed the open forum.

VI. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Mayor	MJ Evans
Councillors:	
Breaksea Ward	R Hammond
Frederickstown Ward	Vacant
Frederickstown Ward	D Wellington
Kalgan Ward	C Holden
Kalgan Ward	M Leavesley
West Ward	D Wolfe
West Ward	D Dufty
Yakamia Ward	J Matla
Yakamia Ward	R Sutton
Vancouver Ward	D Bostock
Vancouver Ward	Vacant
Staff:	
Chief Executive Officer	F James
Acting Executive Director Corporate Services	P Wignall
Executive Community Services	L Hill
Executive Director Planning & Development Services	G Bride
Minutes	J Williamson
Apologies:	
Breaksea Ward	J Bostock

Two members of the media and approximately 35 members of the public were in attendance.

VII. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

ITEM 8.0: RESOLUTION

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR MATLA

THAT the minutes of the Ordinary Council Meeting held on 16 August 2011, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 9-1

Record of Vote

Against the Motion: Councillor M Leavesley

ITEM 8.0: RESOLUTION

MOVED: COUNCILLOR DUFTY

SECONDED: COUNCILLOR SUTTON

THAT the minutes of the Special Council Meeting held on 6 September 2011, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 9-1

Record of Vote

Against the Motion: Councillor M Leavesley

IX. DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest
Mayor Evans	1.1.4	Impartiality. The nature of the interest being that Mayor Evan's wife is a member of Albany Sinfonia. Mayor Evans remained in the Chamber and participated in the discussion and vote.
Councillor Leavesley	1.1.4	Impartiality. The nature of the interest being that Councillor Leavesley is a member of the Albany Club and Albany Racing Club. Councillor Leavesley remained in the Chamber and participated in the discussion and vote.
Councillor Leavesley	1.3	Impartiality. The nature of the interest being that Councillor Leavesley is a member of the Sporting Shooters Association. Councillor Leavesley remained in the Chamber and participated in the discussion and vote.
Councillor Hammond	2.2	Impartiality. The nature of the interest being that Councillor Hammond has a common business interest in an unrelated business activity with the proponent. Councillor Hammond remained in the Chamber and participated in the discussion and vote.
Councillor Sutton	2.2	Impartiality. The nature of the interest being that Councillor Sutton's brother is the proponent. Councillor Sutton has no financial interest in the timber salvage. Councillor Sutton left the Chamber and did not participate in the discussion or vote.
Councillor Wellington	16.1	Financial. The nature of the interest being that Councillor Wellington is a retailer in the City. Councillor Wellington left the Chamber and did not participate in the discussion or vote.

X. IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

19.1: McKail Street Drainage Works

In accordance with section 5.23(2)(d) of the Local Government Act 1995; being legal advice obtained, or which may be obtained by the local government, this matter will be addressed behind closed doors.

XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS

ITEM 11: RESOLUTION

MOVED: MAYOR EVANS

SECONDED: COUNCILLOR DUFTY

THAT the petition tabled by residents in opposition to the proposed Junkyard on Ulster Road be presented to the CEO.

CARRIED 10-0

XII. ADOPTION OF RECOMMENDATIONS EN BLOC

Nil.

RISK MANAGEMENT FRAMEWORK

The City of Albany Organisational Risk Management Framework, which will be used as a Reference Document for the “Risk Identification and Mitigation” Section for all Papers in the Agenda, has been previously distributed to all Elected Members.

1.1.1: SENIORS ADVISORY COMMITTEE

File Number (Name of Ward) : CR.MEE.2
Proponent : City of Albany
Attachments : Minutes of the Seniors Advisory Committee
16 June 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the minutes of the Seniors Advisory Committee.

ITEM 1.1.1: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED: COUNCILLOR DUFTY
SECONDED: COUNCILLOR MATLA**

The **CONFIRMED** minutes of the Seniors Advisory Committee meeting held on Thursday 16 June 2011, be **RECEIVED**.

CARRIED 10-0

1.1.2: AIRPORT EMERGENCY COMMITTEE

File Number (Name of Ward) : ES.MEE.5 and ES.MEE.6
Proponent : City of Albany
Attachment : Confirmed Minutes of the Airport Emergency Committee
1 June 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the minutes of the Airport Emergency Committee

ITEM 1.1.2: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY

THAT the CONFIRMED minutes of the Airport Emergency Committee meeting held on 1 June 2011 be RECEIVED.

CARRIED 10-0

1.1.3: LOCAL EMERGENCY MANAGEMENT COMMITTEE

File Number (Name of Ward) : ES.MEE.5
Proponent : City of Albany
Attachment : Confirmed Minutes of the Local Emergency Management
Committee 1 June 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the confirmed minutes of the Local Emergency Management Committee

ITEM 1.1.3: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WOLFE
SECONDED: MAYOR EVANS

THAT the CONFIRMED minutes of the Local Emergency Management Committee meeting held on 1 June 2011 be RECEIVED.

CARRIED 10-0

**1.1.4: COMMUNITY FINANCIAL ASSISTANCE AND EVENT FUNDING
PROGRAM COMMITTEE**

File Number (Name of Ward)	FM.SPO.2 (All Wards)
Proponent	City of Albany
Attachments	: <ul style="list-style-type: none">• Minutes of the Community Financial Assistance and Event Funding Program Committee Meeting – 17 June 2011• Summary of the May 2011 Community Event Financial Assistance Program assessments
Responsible Officer	: Acting Executive Director Corporate Services (P Wignall)

IN BRIEF

- Receive the minutes of the Community Financial Assistance and Event Funding Program Committee and the 2011/12 rate and lease subsidies for community and sporting organisations.

ITEM 1.1.4: COMMITTEE RECOMMENDATION 1

MOVED: MAYOR EVANS

SECONDED: COUNCILLOR MATLA

THAT the CONFIRMED minutes of the Community Financial Assistance and Event Funding Program Committee meeting held on the 17 June 2011 be RECEIVED.

CARRIED 10-0

ITEM 1.1.4: COMMITTEE RECOMMENDATION 2**MOVED: COUNCILLOR SUTTON****SECONDED: COUNCILLOR WOLFE****THAT Council ADOPT the recommended funding allocations the total of which are within budget for the 2011/2012 Community Events Financial Assistance Program:**

APPLICANT	DESCRIPTION	FUNDING REQUEST	AMOUNT FUNDED BY CITY
Nyabing Historical Society	To provide historical displays and entertainment for the current and former residents of Nyabing to celebrate its Centenary in 2012	\$10,000	Declined
Masters Swimming Albany Inc (formally Albany Aussi Masters)	City of Albany 4 klm Harbour Swim. A swim from the foreshore Boat Shed to Princess Royal Sailing Club	\$2,000	\$2,000
Men's Resource Centre	Men's Resource Centre Australia Day Fun Run and Walk	\$10,000	Declined
Albany Primary School Parents & Citizens Assoc	April 2012 will see our school celebrate its 10 year anniversary. Albany primary School has been an icon in Albany for over 100 years but our current school site is comparatively new to commemorate. We are planning a celebratory fete with present and past students	\$3,000	Declined
Albany Vintage & Classic Motorcycle Club	Vintage Motorcycle Weekend including bike display on Saturday and Annual Hill climb Event on Sunday	\$2,000	\$2,000
Albany Classic Organising Committee (via VSCCWA) Icon Event	Iconic annual "Round the Houses" Motor Event and Hill climb plus community festival over the June long weekend	\$20,000	\$15,000
Albany Apex Club	The 60th Apex Carols by Candlelight - Ellen Cove (17th December 2011)	\$6,290	\$3,700
Albany Swim Club	Albany Short Course (25m)	\$1,000	\$1,000

APPLICANT	DESCRIPTION	FUNDING REQUEST	AMOUNT FUNDED BY CITY
Albany Maritime Foundation (AMF)	Festival of the Sea highlighting the regions connection with the ocean by showcasing local seafood and produce, activities, arts and crafts in a family environment of the waterfront	\$8,800	\$8,800
**Albany Speedway Club Inc	Host a round of the World Series Sprint Cars	\$15,000	\$4,000
Albany Sinfonia Inc	Concert	\$4,000	\$4,000
Community Support Network Inc	"Wear Blue Day" 12th October 2010. Community awareness raising of prevalence and impact of anxiety and depression in the workplace and broader community	\$2,500	Declined
Youth Focus	Hawaiian Ride for Youth	\$15,000	Declined
Artsouthwa Incorporated	2011 Southern Art & Craft Trail	\$3,500	\$3,500
Great Southern District Display Committee	District Display for Great Southern at Centenary Pavilion on Claremont Showgrounds for Perth Royal Show 1st - 8th October 2010	\$2,000	\$2,000
Parker Street Project	Yearly Events Calendar	\$15,000	Declined
Albany Agricultural Society Inc	2011 Albany Show and Trade Exhibition	\$15,000	\$8,000
Perth International Arts Festival Icon Event	Great Southern Festival	\$15,000	\$15,000
Albany Horseman's Assoc	Showjumping Weekend with State qualifying events to be held at Centennial Oval	\$3,500	\$1,000
RSL Albany Sub Branch	ANZAC Day 2012		\$10,000
	TOTAL OF ALL APPLICATIONS	\$153,590	\$80,000
	TOTAL OF ICON EVENTS	\$50,000	\$30,000
	TOTAL OF APPLICATIONS LESS ICON EVENTS	\$103,590	\$50,000
CARRIED 10-0			

ITEM 1.1.4: COMMITTEE RECOMMENDATION 3**MOVED: COUNCILLOR SUTTON****SECONDED: COUNCILLOR DUFTY**

1. THAT Council **ADOPT** the recommended events, listed below, as Icon Events.
 - RSL Albany Sub Branch – ANZAC Day
 - Albany Classic Organising Committee
 - Perth International Arts Festival – Great Southern Festival
 - Albany Agricultural Society Inc – Albany Show and Trade Exhibition
2. THAT at Council's 2012/2013 Budget deliberations, Council **AGREES** to removing the above listed Icon Events from the Community Financial Events Assistance program and consider funding for these events each year along with all other expenditure allocations.

CARRIED 10-0**ITEM 1.1.4: COMMITTEE RECOMMENDATION 4****MOVED: COUNCILLOR MATLA****SECONDED: COUNCILLOR DUFTY**

THAT Council **ADOPT** the following 2011/2012 rate and lease subsidies which have been anticipated within the budget for community and sporting organisations:

2011/2012 FINANCIAL ASSISTANCE				
ASSESS	BILLING NAME	RATES	LESS DISCOUNT 2%	TOTAL SUBSIDY
A104446	SENIOR CITIZENS CENTRE	\$6,216.92	\$124.34	\$6,092.58
A116479	NORTH ALBANY FOOTBALL CLUB	\$3,403.43	\$68.07	\$3,335.36
A124369	ALBANY GIRL GUIDES ASSN	\$1,633.64	\$32.67	\$1,600.97
A130471	ALBANY MARITIME FOUNDATION	\$4,058.70	\$81.17	\$3,977.52
A133873	ALBANY ATHLETICS GROUP	\$2,268.95	\$45.38	\$2,223.57
A136225	LOWER GREAT SOUTHERN HOCKEY ASSOC	\$1,361.37	\$27.23	\$1,334.14
A136770	ALBANY GOLF CLUB	\$17,244.02	\$344.88	\$16,899.14
A140446	ALBANY MODEL RAILWAY	\$2,170.93	\$43.42	\$2,127.51
A14758	ALBANY HARNESS RACING CLUB INC	\$4,991.69	\$99.83	\$4,891.86
A14780	ALBANY ITALIAN CLUB	\$1,996.68	\$39.93	\$1,956.74
A149179	ALBANY CLUB INC (1932)	\$6,353.06	\$127.06	\$6,226.00
A155029	EMU POINT SPORTING CLUB	\$3,312.67	\$66.25	\$3,246.41
A156611	ALBANY LIGHT OPERA & THEATRE COMPANY	\$1,651.80	\$33.04	\$1,618.76
A157843	SPECTRUM THEATRE INC.	\$1,368.63	\$27.37	\$1,341.26
A161280	ALBANY BOWLING CLUB	\$2,450.47	\$49.01	\$2,401.46
A161537	ALBANY BRIDGE CLUB INC	\$2,268.95	\$45.38	\$2,223.57
A162430	JAYCEES WHALEWORLD (museum, cafe & shed only)	\$3,114.81	\$62.30	\$3,052.52
A171336	ALBANY SPRINT KART CLUB	\$899.71	\$17.99	\$881.72
A174427	ALBANY EQUESTRIAN CENTRE	\$8,032.08	\$160.64	\$7,871.44

A176287	STIRLING CLUB INC.	\$9,075.80	\$181.52	\$8,894.28
A179378	ALBANY BOATING & OFFSHORE FISHING CLUB	\$1,905.92	\$38.12	\$1,867.80
A185660	ALBANY TAOIST TAI CHI SOCIETY	\$2,271.49	\$45.43	\$2,226.06
A187399	ALBANY SPEEDWAY CLUB	\$1,296.46	\$25.93	\$1,270.53
A204721	ALBANY MODEL AERO CLUB	\$1,542.89	\$30.86	\$1,512.03
A204735	ALBANY ENTERPRISE GROUP	\$6,324.02	\$126.48	\$6,197.54
A30213	CITY OF ALBANY BAND INC	\$1,007.41	\$20.15	\$987.27
A50479	MERRIFIELD PARK TENNIS CLUB	\$2,042.06	\$40.84	\$2,001.21
A5879	LOWER KING COMMUNITY KINDERGARTEN	\$1,202.54	\$24.05	\$1,178.49
A6037	KING RIVER RECREATION CENTRE	\$2,677.36	\$53.55	\$2,623.81
A64785	SOUTH COAST COUNTRY MUSIC CLUB INC	\$760.00	\$15.20	\$744.80
A64799	RIVERVIEW COUNTRY CLUB	\$2,768.12	\$55.36	\$2,712.76
A64820	PRINCESS ROYAL SAILING CLUB	\$5,899.27	\$117.99	\$5,781.28
A64866	WA VETERAN CAR CLUB	\$2,132.81	\$42.66	\$2,090.16
A64947	ALBANY ROWING CLUB	\$2,019.37	\$40.39	\$1,978.98
A65539	GREEN RANGE COUNTRY CLUB	\$2,636.88	\$52.74	\$2,584.15
A65999	KING RIVER HORSE & PONY CLUB	\$2,450.47	\$49.01	\$2,401.46
A6791	ALBANY RACING CLUB INC.	\$3,173.44	\$63.47	\$3,109.98
A74354	SCOUT ASSOC OF WA	\$1,270.61	\$25.41	\$1,245.20
A74368	LAWLEY PARK TENNIS CLUB	\$1,633.64	\$32.67	\$1,600.97
A79732	ALBANY PLAY GROUP INCORPORATED	\$794.13	\$15.88	\$778.25
A82145	ALBANY KINDERGARTEN	\$1,429.44	\$28.59	\$1,400.85
A84446	MIDDLETON BEACH BOWLING CLUB	\$4,220.25	\$84.40	\$4,135.84
A92223	RAILWAYS FOOTBALL CLUB	\$2,949.64	\$58.99	\$2,890.64
A92354	ROYALS FOOTBALL CLUB	\$2,586.60	\$51.73	\$2,534.87
A96087	GREAT SOUTHERN SOCCER ASSOCIATION	\$2,495.85	\$49.92	\$2,445.93
A96429	TS VANCOUVER NAVAL CADETS	\$1,633.64	\$32.67	\$1,600.97
A97368	ALBANY WOMENS' INSTITUTE	\$760.00	\$15.20	\$744.80
				\$142,843.44
				CARRIED 10-0

**1.1.5: ALBANY TOURISM MARKETING ADVISORY COMMITTEE
(ATMAC)**

File Number (Name of Ward) : ED.MEE.2 (All Wards)
Attachment : Minutes of Albany Tourism Marketing Advisory Committee
Responsible Officer : Chief Executive Officer (F James)

ITEM 1.1.5: MOTION BY COUNCILLOR D BOSTOCK

MOVED: COUNCILLOR D BOSTOCK
SECONDED: COUNCILLOR LEAVESLEY

THAT this item be laid on the table.

LOST 2-8**Record of Vote**

For the Motion: Councillors D Bostock and Leavesley

Councillor Reason:

I do not accept that these minutes are a true and accurate reflection of the meeting.

ITEM 1.1.5: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WELLINGTON
SECONDED: MAYOR EVANS

That the CONFIRMED minutes of the Albany Tourism Marketing Advisory Committee (ATMAC) held on 27 April 2011 be RECEIVED.

CARRIED 8-2**Record of Vote**

Against the Motion: Councillors D Bostock and Leavesley

1.1.6: AUDIT COMMITTEE

File Number (Name of Ward) : FM.MEE.1 (All Wards)
Attachment : Confidential Audit Committee Minutes dated 28 June 2011, distributed under Confidential Cover.
Responsible Officer : Chief Executive Officer (F James)

ITEM 1.1.6: COMMITTEE RECOMMENDATION 1

That the CONFIRMED minutes of the Special Audit Committee held on 28 June 2011 be RECEIVED.

CARRIED 10-0

The following reports are classified confidential in accordance with section 5.23 of the *Local Government Act 1995*, sections:

- 5.23(2)(e): matter that if disclosed, would reveal — (ii) information that has a commercial value to a person.
- 5.23(2)(d): legal advice obtained by the local government and which relates to a matter to be discussed at the meeting.

ITEM 1.1.6: COMMITTEE RECOMMENDATION 2

MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR LEAVESLEY

THAT Council ADOPT the recommendations detailed in the Special Audit Committee minutes (AM1118847) held on 28 June 2011, being:

- Committee Recommendation Item 4.1 – Collateralised Debt Obligations

THAT Council **ENDORSE** the write-off of the four Lehman CDOs which will necessitate the inclusion in the 2011-12 Budget of a change of purpose to the following reserves:

- Planning Community Liaison (Carryover) Reserve;
- Roadworks Reserve; and
- Part of the Masterplan Funding Reserve;

in order to return reserves to cash backing.

- Committee Recommendation Item 4.2 – Waste Reserve Levy

THAT Council **ENDORSE** the application of a Waste Reserve Levy to each rates assessment in 2011-12 and that the revenue be applied to a RESERVE established for:

- The upgrade of existing waste sites to conform with State Government licence conditions;
- Rehabilitation of two waste sites prior to closure of those sites; and
- Investigation, site acquisition and site development of a future regional waste site in partnership with neighbouring shires.

CARRIED 10-0

ITEM 1.1.6: AUDIT COMMITTEE RECOMMENDATION**VOTING REQUIREMENT: ABSOLUTE MAJORITY****MOVED: COUNCILLOR HAMMOND****SECONDED: MAYOR EVANS**

Given the 2011-2012 Budget was endorsed by Council on 9 August 2011, that the Committee Recommendation detailed in the Ordinary Council Meeting and Briefing Agenda dated 20 September 2011, being:

Committee Recommendation Item 4.2 – Waste Reserve Levy

THAT Council ENDORSE the application of a Waste Reserve Levy to each rates assessment in 2011-12 and that the revenue be applied to a RESERVE established for:

- ***The upgrade of existing waste sites to conform with State Government licence conditions;***
- ***Rehabilitation of two waste sites prior to closure of those sites; and***
- ***Investigation, site acquisition and site development of a future regional waste site in partnership with neighbouring shires.***

Be WITHDRAWN**CARRIED 10-0
ABSOLUTE MAJORITY**

1.2: PLANNING AND BUILDING REPORTS

Responsible Officer : Executive Director Planning and Development
Services (G Bride)
Attachment : Planning and Building Reports August 2011

IN BRIEF

- Receive the contents of the Planning and Building Report for August 2011.

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: MAYOR EVANS
SECONDED: COUNCILLOR LEAVESLEY

THAT the Planning and Building Report for August 2011 be RECEIVED.

CARRIED 10-0

1.3: COMMON SEAL AND EXECUTED DOCUMENTS UNDER DELEGATION REPORTS

Responsible Officer(s) : Chief Executive Officer (F James)
Attachments : Common Seal Report

IN BRIEF

- Receive the Common Seal Report for August 2011, which include decisions made by Delegated Authority

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR WELLINGTON

THAT the Common Seal Report for August 2011 be RECEIVED.

CARRIED 10-0

1.4: GENERAL WORKERS UNION COLLECTIVE WORKPLACE AGREEMENT
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Summary of Key Points	: General Workers Collective Agreement for General Staff
Proponent	: City of Albany
Attachment:	: Spreadsheet regarding comparable salaries.
Responsible Officer	: Chief Executive Officer (F James)

IN BRIEF

- Negotiations for a new General Workers Union Collective Workplace Agreement have not been successful to date.
- Accordingly, the current 2007 Agreement remains in effect.
- The City has commenced formal “bargaining” under the *Fair Work Act 2009*.
- The Australian Services Union (ASU) and its members previously sought conditions equal to the City of Albany’s Outside Workers Union Collective Workplace Agreement 2011.
- The Outside Workers Union Collective Workplace Agreement 2011 and Employee Collective (Day Care) Agreement 2011 endorsed by Council in late 2010 provide very generous staff benefits which are difficult to justify in the difficult economic climate and the financial constraints many ratepayers and the City are facing.

ITEM 1.4: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR HAMMOND SECONDED: COUNCILLOR MATLA

- | |
|---|
| <ol style="list-style-type: none"> 1. THAT Council ENDORSE the CEO continuing to negotiate a new General Workers Union Collective Agreement under formal bargaining arrangements with conditions less generous than those stated in the Outside Workers Union Collective Workplace Agreement 2011 and appropriate for the current economic conditions. 2. Subject to any resolution under formal bargaining processes, that in accordance with clause 15.1.5 of the General Workers Union Collective Workplace Agreement 2007 Council ENDORSE a wage increase of 2.8% for staff employed under the General Workers Union Collective Workplace Agreement 2007 in the 2011-12 financial year. |
|---|

CARRIED 8-2

Record of Vote

Against the Motion: Councillors D Bostock and Leavesley

BACKGROUND

1. The City of Albany currently operates under three Employee Collective Agreements, namely the Outside Workers Union Collective Workplace Agreement 2011, Employee Collective (Day Care) Agreement 2011 and the General Workers Union Collective Workplace Agreement 2007.
2. The General Workers 2007 Agreement has a nominal expiry date of 30 June 2010, but continues to operate until replaced or terminated by a new Agreement.
3. The General Workers Agreement negotiations relating to changes in pay rates and other conditions have been undertaken between the (ASU), the City of Albany CEO and staff.
4. While several new terms and conditions were tentatively agreed recently between the parties, there were some terms and conditions on which agreement could not be reached.
5. On 26 July 2011 staff voted to not accept conditions proposed by the CEO.

DISCUSSION

6. When the CEO commenced employment, one of the matters the Council requested be promptly addressed was reopening the negotiations with staff on forming a new Collective Agreement.
7. In the first meeting with employee representatives the CEO advised them:
 - The City needed time to collect and compare comparative salary levels as this work had not previously been done. This work has now been done and shows that with the salary offers made to staff as part of the proposed Agreement conditions, the great majority would have been paid salaries greater than an average salary calculated across eight different entities.
 - That while prior negotiations were acknowledged, the City required compromise from staff to ensure use of ratepayers funds was fairly balanced against equitable terms and conditions of employment for staff.
8. Under the current 2007 Agreement, the ASU and employees committed to assisting the City to provide services that are responsive to the community needs and aspirations, are competitive in terms of delivery, availability and costs and lead to increased effectiveness and productivity.
9. That Agreement further states it represents the mechanism by which the City will create an organisation capable of achieving these aims, and that there is acknowledgement that change will be an ongoing process for the City. Resourcing such change will be within the logistical and financial capabilities of the City.

10. On 26 July 2011 the following terms and conditions for a new Agreement were unresolved:
 1. The City's co-contributions to superannuation, above the superannuation guarantee contribution
 2. Core business hours and period for lunchbreak
 3. The amount of paid compassionate Leave
 4. The City's offer of introducing parental leave
 5. The conversion of one weeks annual leave for three Environmental Health Officers into remuneration.
 6. What constitutes reasonable unpaid overtime by staff designated as Manager.
 7. The City's ability to require staff to take leave over the Christmas and New Year "quiet period".
 8. Matters relating to the relationship between the City and the ASU.
11. Co-contributions by the City of Albany to employee superannuation funds is a benefit approximately 45 employees covered by the City of Albany General Workers Union Collective Workplace Agreement 2007 currently have, with those employees being entitled to contribute up to 5% of their pre tax salary to their fund, matched by additional contributions by the City.
12. For the 2010/2011 financial year, the City of Albany contributed just over \$100,000 as co-contribution superannuation payments across a range of 45 employees, but mostly for staff who are at the higher classification levels. Of those employees covered by the General Workers Union Collective Workplace Agreement 2007 and contributing to this scheme, only 12 were at Level 4, or below (the lower paid levels).
13. The City's contributions on those employees' behalf are in addition to the 9% government compulsory contribution. This 9% contribution amounts to approximately \$819,000 for employees under the General Workers Union Collective Workplace Agreement.
14. Under the proposed new Agreement, to ensure no financial disadvantage to employees already taking the benefit of this condition, the City agreed to continue such co-contributions for those employees that are already members of this scheme.
15. However, the City wished to restrict co contributions for new employees and those existing employees that have chosen not to contribute to the scheme to date. The ASU and staff rejected this proposal.
16. The City of Albany's financial position cannot sustain an expansion of such generous co-contribution schemes, particularly given the number of employees covered by the General Workers Union Collective Workplace Agreement 2007 is almost 65% (FTE) of the City's entire workforce, and are the highest paid workers.

17. Between 2009-10 and 2010-11 there was an increase in superannuation co contributions of 59%. Each 10% increase in co contributions costs approximately \$18,700. Continuation of the trend established between 2009-10 and 2010-11 would incur approximately an additional \$110,000 per year.
18. Given the desire by the City to move to an increased customer service focus, the City wished to change the hours employees commence and finish work. The City believed this offered reasonable flexibility for employees, while balancing improved customer service. The City wishes to have employees commence work before 9am and not leave work before 4.30pm. These conditions contrast to the existing conditions of commencing work at a time of up to 9.30am and a finishing time as early as 3pm. The ASU and staff rejected this proposal.
19. Given the desire by the City to move to an increased customer service focus, the City also wished to change the proposed hours for taking lunch to between 11.30am and 1.30pm. The City believed this also offered reasonable flexibility for employee's lunch break period, while balancing improving customer service. These conditions contrast to the existing conditions of lunch breaks between 11.30am and 2pm. The ASU and staff also rejected this proposal.
20. The ASU and staff were also not prepared to compromise on compassionate leave benefits. The current 2007 Agreement provides employees with two paid days of compassionate leave per occasion and two additional days of paid leave for undertaking travel to the funeral of an immediate family or household member held at a place located outside the Great Southern Region.
21. The City paid \$8,472 in the 2010-11 financial year for compassionate leave to employees covered by the General Workers Union Collective Workplace Agreement 2007.
22. Of the 16 employees covered by the General Workers Union Collective Workplace Agreement 2007 who took such leave in the 2010-11 financial year, only four took leave longer than two days.
23. Given the *Fair Work Act* provides for only two days paid compassionate leave, with no allowance for travel time, and considering the history of usage of this leave, the City believed its offer of two days paid leave and two days unpaid leave for travel, was reasonable. The ASU and staff rejected this proposal.
24. In line with current societal expectations and to encourage employee retention and family equity, the City was prepared to provide paid parental leave above and beyond that offered by the Federal government scheme.
25. 234 employees would technically have had the benefit of such leave under a new General Workers Union Collective Workplace Agreement. Of those 234, 182 are less than 40 years of age and therefore more likely to use this benefit.

26. Despite the City's wish to attract and retain valued employees, and support young working families, on recommendation of the ASU, the staff rejected paid parental leave in favour of retaining other existing benefits.
27. In respect of annual leave for Environmental Health Officers, those three officers have historically been provided with an additional week of annual leave. In an effort to ensure equitable benefits across all employees and implement consistent employee leave entitlements and practices across the City, the City proposed that the three currently employed Environmental Health Officers be paid additional salary to the amount of one weeks wages plus the 17.5% loading (to ensure they are not financially disadvantaged by any change) in exchange for accepting the same annual leave conditions as all other employees.
28. Further, the Agreement enables all employees to "purchase" additional leave, and so those Environmental Health Officers who wish for an extra week of additional leave could apply for this benefit, again ensuring consistency of practice across the whole of the City. This compromise was also rejected by the ASU and staff.
29. In addition to the above, the City had agreed to provide to employees the following benefits:
1. Increased salary of \$418,000 for the 2011-12 financial year.
 2. An extra "festive day" leave amounting to \$35,000 in exchange for the ability to reduce staffing over this time.
 3. An increase in the "on call allowance" from \$40 to \$47 per occasion.
 4. An increase in the "on call meal allowance" from \$10 to \$12 per meal.
30. The City was also prepared to include in a new General Workers Union Collective Workplace Agreement a clause to the effect :
1. *Union Information.*

At engagement, the City will provide to each Employee information about joining the Australian Services Union including any application for membership form the Australian Services Union provides to the City.
 2. *(a) Subject to prior approval of the City, all meetings held on site for the purpose of employees discussion and participating in the following matters shall be paid:*
 - (i) Enterprise Bargaining;*
 - (ii) Occupational Safety and Health; and*
 - (iii) Employee Consultative Committees*
 - (b) Any Union delegate elected by employees, for the purposes of representing employees in relation to Industrial Relations, Occupational Safety and Health, Superannuation and Enterprise Bargaining shall be given reasonable **unpaid** time and access to employees to ensure proper representation, assistance in the resolution of disputes and reporting back to the employees on all relevant issues.*

31. However, the ASU officer insisted that clause 2(b) should provide **paid** time to delegates to enable them to provide representation to union members.
32. The CEO advised the ASU industrial officer during these negotiations that it was inappropriate for ratepayers' funds to be applied to supporting union delegates in their union work, and that the union should be paying for such activity from union membership fees.
33. Given the significant further global economic downturn, the "slow" economy regionally and rising household living costs prices generally (with many ratepayers doing it "tough") it is unrealistic for the ASU and staff to expect significant increases in employee benefits without the City of Albany receiving in return increases in productivity and service quality, and staff compromising to provide beneficial return to the City for its investment in staff.
34. The further recent economic downturn over the last month, affecting all economies across the globe, with the threat of recession and or prolonged slow economic growth confirms that there is not, at this time, the healthy economic environment for significant increases in employee benefits without some economic, and increased quality service, return to the City of Albany and its ratepayers.

PUBLIC CONSULTATION / ENGAGEMENT

35. Not applicable.

GOVERNMENT CONSULTATION

36. Not applicable.

STATUTORY IMPLICATIONS

37. Under section 5.23(2)(a) of the *Local Government Act 1995* Council meetings, where matters affecting employees are to be considered, may be closed to the public.

FINANCIAL IMPLICATIONS

38. While under the current Agreement (clause 15.1.3) the City has an obligation to increase staff wage rates by 2.8%, an increase somewhat higher than that which can be accommodated within the budget if there is also some converse reduction in other employee benefits.
39. The most recent economic crisis raises concerns about the City's capacity to realise its anticipated revenue as detailed in the budget. As economic conditions "tighten" and housing market activity declines, this may affect the City's realisation of Cull Road subdivision lots.
40. Discretionary spending by residents on the Arts, leisure and sport and community activities delivery may also be affected. The net result could significantly affect the City's anticipated revenue.

41. With total salaries and wages for 2011-12 at \$17.7 million (excluding on costs), the City incurring \$1.0 million in interest costs in 2011-12 on a loan balance of \$19.8 million, and the City's reserve balance being depleted over recent years (at 30 June 2007 the reserves balance was \$13.7 million but at 30 June 2011 it is projected to be \$6.5 million), the City must be extremely vigilant in its management of any proposed cost increases including staff costs.
42. The employment market for positions other than engineering professionals with resources industry experience has weakened, further supporting the City's position that generous wage increases are not necessary to attract and retain staff. For example, Qantas has stated it will shed 1,000 jobs across a number of roles, Bluescope Steel 1,000 jobs and Telstra 2,000 jobs this financial year.
43. This data is further supported by recent WALGA communication which shows it is processing high volumes of UK applicants seeking employment in Australian local governments including:
- 23 building surveyors;
 - 45 environmental health officers;
 - 80 town planners;
 - 98 engineers; and
 - 16 designers

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

44. This item directly relates to the following elements from the Strategic Plan (2011-2021):

5. Organisational performance.

The City's administration must exhibit strong accountability, transparency, effectiveness and efficiency. Planning and management of revenue, costs and the resource capability of the City is essential for financial stability.

POLICY IMPLICATIONS

45. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

46. Agree to the demands of the ASU and staff for a new General Workers Collective Agreement.

1.5: USES AND DESIGN OF APEX DRIVE FOR ANZAC CENTENARY

Land Description	: Mount Clarence Reserves – Apex Drive
Proponent	: City of Albany
Owner	: Crown Land vested in the City of Albany
Business Entity Name	: Albany Soapbox Club Association – A0780251Z Registered 25/03/2009
Attachments	: Community members feedback received
Appendices	: <ul style="list-style-type: none"> • Community members feedback received • RSL minutes extract • Mount Clarence storyboards – design proposals • Design variation quote
Councillor Workstation	: Nil
Responsible Officer(s)	: Chief Executive Officer (F James)

Maps and Diagrams:



Diagram 1 - Map showing the Avenue of Honour and Albany Soapbox Club usage of Apex Drive.

IN BRIEF

- Based on community feedback, Council is requested to consider the Albany Soapbox Club's continued utilisation of Apex Drive for its Club events.
- The Albany Soapbox Club seeks permission from the City of Albany and Police to close Apex Drive from 8.30am – 2.00pm (weather permitting) on a fortnightly basis from February through to November for Soapbox racing, with National Championships held over the Easter long weekend annually.
- There is significant investment proposed for the Albany Heritage Park, in the lead up to the Anzac Centenary 2014/15. Albany will be a key focus, attracting world-wide attention, with Mount Clarence as a significant location.
- The only vehicular access point to the Mount Clarence nodes is via Apex Drive.

20/09/2011

REFER DISCLAIMER

ITEM 1.5: ALTERNATE MOTION BY COUNCILLOR LEAVESLEY**VOTING REQUIREMENT: SIMPLE MAJORITY****MOVED: COUNCILLOR LEAVESLEY****SECONDED: COUNCILLOR D BOSTOCK**

THAT Council gives notice that the future use of Apex Drive will be restricted to access only and that Council will help facilitate the move to a new location for any sporting organisations that have previously enjoyed Apex Drive as a venue.

LOST 2-8**Record of Vote**

For the Motion: Councillors D Bostock and Leavesley

Councillor's Reason:

The Military Heritage Tourism prospect presented by the upcoming ANZAC celebrations is a once in a lifetime opportunity for our City. Intrinsic in the overall experience will be visiting the Avenue of Honour and the Desert Mounted Corps Memorial. The experience should not be compromised.

ITEM 1.5: AMENDMENT BY COUNCILLOR HOLDEN**MOVED: COUNCILLOR HOLDEN****SECONDED: COUNCILLOR HAMMOND****THAT the Responsible Officer Recommendation be amended to read as follows:**

- 1) **THAT Council AGREE to allow the continued use of Apex Drive by the Albany Soapbox Club with the following conditions:**
 - **Alternative locations be considered by the Albany Soapbox Club in consultation with the City of Albany, with a further recommendation made to Council by or before August 2013;**
 - **With the exception of the National Championship weekend, the Albany Soapbox Club allow safe access to Mt Clarence and Apex Drive by pedestrians and vehicle traffic at regular intervals during the course of events held;**
 - **The Albany Soapbox Club erect signage at either end of Apex Drive regarding events, access interval times and safety risks;**
 - **No Soapbox events to be permitted during significant Anzac commemorative periods**
 - **No Soapbox events to be permitted during major Albany visitor periods in December & January, and on days when Cruise ships are visiting Albany.**
 - **The Albany Soapbox Club indemnifies the Crown and the City of Albany for any property damage or personal injury or death caused directly or indirectly to any Soapbox event participant or spectator, as a result of usage of the City's infrastructure.**
- 2) **Council AGREE to expend \$15,102 (ex gst) of Anzac Reserve funds on the re-design of the Avenue of Honour node, to amend design elements to improve safety of Albany Soapbox Club events.**
- 3) **Council RESOLVE that this decision should not be considered as setting a precedent regarding amendment of City of Albany project design generally, or in the City of Albany's future dealings with any community groups.**

CARRIED 8-2**Record of Vote**

Against the Motion: Councillors D Bostock and Leavesley

RECOMMENDATION

ITEM 1.5: RESPONSIBLE OFFICER

VOTING REQUIREMENT: SIMPLE MAJORITY

- 4) THAT Council AGREE to allow the continued use of Apex Drive by the Albany Soapbox Club with the following conditions:
- Alternative locations be considered by the Albany Soapbox Club in consultation with the City of Albany, with a further recommendation made to Council by or before August 2013;
 - With the exception of the National Championship weekend, the Albany Soapbox Club allow safe access to Mt Clarence and Apex Drive by pedestrians and vehicle traffic at regular intervals during the course of events held;
 - The Albany Soapbox Club erect signage at either end of Apex Drive regarding events, access interval times and safety risks;
 - No road closures for Soapbox events to be permitted during significant Anzac commemorative periods
 - No road closures for Soapbox events to be permitted during major Albany visitor periods in December & January, and on days when Cruise ships are visiting Albany.
 - The Albany Soapbox Club indemnifies the Crown and the City of Albany for any property damage or personal injury or death caused directly or indirectly to any Soapbox event participant or spectator, as a result of usage of the City's infrastructure.
- 5) Council AGREE to expend \$15,102 (ex gst) of Anzac Reserve funds on the re-design of the Avenue of Honour node, to amend design elements to improve safety of Albany Soapbox Club events.
- 6) Council RESOLVE that this decision should not be considered as setting a precedent regarding amendment of City of Albany project design generally, or in the City of Albany's future dealings with any community groups.

BACKGROUND

1. In 2006, designs were developed for the Mount Clarence precinct to upgrade existing infrastructure in preparation for the Anzac Centenary in 2014/15, where Albany will be a significant place for commemorations.
2. Developed detailed designs caused Soapbox Club users concerns regarding the Avenue of Honour kerbing component. The Albany Soapbox Club are of the view that the current design would cause significant safety risks and negatively impact on their event.
3. The Albany Soapbox Club believes that the incorporation of proposed kerbing would prevent their continued use of the site.
4. Soapbox racing on Apex Drive has been in place for the past 49 years.
5. Consultations with the Albany Soapbox Club have resolved that with different designed kerbing, the area would be safer for use.
6. The Club has also requested permanent post holes be inserted to accommodate safety netting at 6m intervals along Apex Drive, to suit their event needs. These can be accommodated into the design.
7. The City of Albany has subsequently investigated a design variation quote, to amend the kerbing and associated other details, to suit multi use of the road.
8. The City of Albany has received community feedback expressing concern for the road being closed to the public, not allowing access to the iconic Desert Mounted Corps Memorial over weekend periods, due to the Albany Soapbox Club general race events.
9. Other groups also use Apex Drive throughout the year, these being the Albany Classic Car Club (June long weekend in conjunction with the Albany Classic) and Albany Vintage & Classic Motorcycle Club (November for the annual weekend hill climb events).

DISCUSSION

10. Albany Soapbox Club advises it has been looking for an alternative venue for the past five years with no success.
11. The Albany Soapbox Club currently applies for road closure permits at the beginning of each year that are approved by the Police and City of Albany, with fees of approximately \$218 per year paid to the local Police Department.
12. Apex Drive is a gazetted road and not only an entry to the memorial.
13. At present, the Albany Soapbox Club members consist of 18 families within the Albany region.
14. Over the Australian National Championship weekend (Easter period) and for the RSL Club Championship in November, the Albany Soapbox Club close the road for one to two days from 5.30am – 6.00pm. The National Championship is held on the Saturday with the

opportunity for racing to continue over the weekend should weather pose an issue to the completion of the Championship event (according to past permits).

15. In the past the City of Albany has provided support for the events through clearing the road of debris and repairing potholes for upcoming race events.
16. The Albany Soapbox Club are flexible in their event days should it be inconvenient for special events, cruise ships etc. The Club advises the City it works in consultation with the RSL regarding major events.
17. Soapbox vehicles can reach speeds in excess of 80km/ph on Apex Drive (as per documentation provided by the Club).
18. The redesign of the kerbing will incorporate mountable kerbs which would be a safer design for Soapbox racing. However this design is still not 'fit for (Soapbox race) purpose' and may encourage parking under the trees and in undesignated car park areas.
19. Volunteers from the Forts advise that negative verbal complaints are regularly received during Soapbox events, from visitors to Albany regarding the closed access to the Memorial.
20. Communications have been received objecting to the closure of Apex Drive and denying access to the Memorial for prolonged periods of time.
21. Iconic Albany vehicular events, not limited to the Albany Soapbox Club National Championship are held on Apex Drive and need to be considered when making decisions regarding this item.
22. The Albany Soapbox Club National Championship, the Classic Hill Climb event & the Albany Vintage & Classic Motorcycle Club events, attract large visitor and competitor numbers to Albany and are widely successful and a boost to the local economy.

GOVERNMENT CONSULTATION

23. N/A

PUBLIC CONSULTATION / ENGAGEMENT

24. Consultation with user groups was undertaken as part of the Mount Clarence design work. The user groups consulted included:
 - The Albany Soapbox Club
 - Albany Vintage & Classic Motorcycle Club Inc.
 - The Albany Classic Car Club
 - RSL
 - Apex Club of Albany Inc.
25. The Albany Soapbox Club does not publicly advertise road closures for general Club meetings.

****REFER DISCLAIMER****

26. The Albany Classic Car Club and Albany Vintage & Classic Motorcycle Club have advised the proposed original kerbing design will not affect their events.

STATUTORY IMPLICATIONS

27. Under section 3.50 of the *Local Government Act 1995*, the CEO is delegated the power to close any thoroughfare for the passage of vehicles wholly or partially for a period not exceeding four weeks.

STRATEGIC IMPLICATIONS

28. Strategic Plan 2011-2021

Key Focus Area - Sustainability & Development

Tourism Development

- Improve and expand tourism infrastructure and attractions
- Support large scale local events, festivals and markets to attract tourists

Key Focus Area - Community Focused Organisation

Community consultation

- Consulting with communities that will be the most impacted by Council decisions

Support for community groups

- Assist with improving access to suitable venues close to CBD that are affordable for community groups

POLICY IMPLICATIONS

29. There are no City of Albany policies that affect this item.

RISK IDENTIFICATION & MITIGATION

30. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Council approved continued use of Apex Drive by the Albany Soapbox Club may result in negative feedback from section of the community	Likely	Medium	High	Mitigation entirely dependent on Council decision.
Council refused continued use of Apex Drive by the Albany Soapbox Club may result in positive feedback from section of the community	Likely	Medium	High	Mitigation entirely dependent on Council decision.
Continued usage of Apex Drive and design changes to accommodate a single club may impact on future dealings of a similar nature when dealing with other community associations	Possible	Medium	High	Council makes it clear that its decision in this matter in no way sets a precedent for future courses of action in dealing with community associations.
A Soapbox Club and/or pedestrian or vehicle accident occurs because of unsuitable kerb design of Apex Drive.	Likely	High	Extreme	Request the Albany Soapbox Club indemnify the Council and Crown should they wish to continue utilising Apex Drive for race events. The Soapbox Club to put additional safety precautions in place, together with traffic management and safety management plans for site visitors during race events.
An alternative location cannot be sourced that is suitable for Soapbox and other vehicular events.	Possible	Medium	High	Mitigation entirely dependent on Council decision making in the longer term.

FINANCIAL IMPLICATIONS

31. The City of Albany has received a variation quote to undertake redesign of the kerbing profiles, drainage requirements and permanent post holes to enable the Soapbox Club events to continue.
32. The cost to carry out the redesign works is \$15,102.00 (ex gst) which could be funded from the Anzac Centenary Reserve account, as part of the Mount Clarence infrastructure works generally.
33. Any change in frequency of events, schedule of allocated times and required club production of safety and traffic management plans, would have cost implications for the Albany Soapbox Club and possibly other event organisers.

LEGAL IMPLICATIONS

34. Should the continuation of the usage of Apex Drive by the Albany Soapbox Club be permitted, a legal agreement indemnifying the City and Crown should be obtained.

20/09/2011

REFER DISCLAIMER

ALTERNATE OPTIONS

35. Proceed with the re-design variation, with Albany Soapbox Club annual and fortnightly meetings and championship, Albany Vintage & Classic Motorcycle Club and Albany Classic Car Club annual weekend events being permitted continued use for their events.
36. Proceed with the redesign variation, and only permit annual events by the three clubs (essentially revoking permission for the Albany Soapbox Club to use Apex Drive for their fortnightly meetings).
37. Revoke permission for the Albany Vintage & Classic Motorcycle Club and Albany Classic Car Club annual weekend events and the Albany Soapbox Club to continue to utilise Apex Drive.

SUMMARY CONCLUSION

38. The Albany Soapbox Club and other Albany vehicular events held at this location are of great importance to the community and attract large visitor numbers.
39. In the lead up to the Anzac Centenary, Albany will be a major focus for its unique cultural and military heritage, and specifically the Mount Clarence site as a component of the Albany Heritage Park concept.
40. Council needs to consider all users of the Mount Clarence area, responding to consultation and community feedback.

Consulted References	Road Traffic Act 1974 Local Government Act 1995
File Number (Name of Ward)	Frederickstown Ward
Previous Reference	Mounts Management Plan, OCM18/04/2006

REFER DISCLAIMER



Diagram 2 - The planned locations of the infrastructure upgrades to Mt Clarence, and specifically the Avenue of Honour that affects the Albany Soapbox Club.

**2.1: REVISED CITY OF ALBANY LOCAL PLANNING SCHEME NO. 1 –
ADOPTION FOR ADVERTISING**

Land Description	: All land within the City of Albany
Proponent	: City of Albany
Owner	: Various
Business Entity Name	: N/A
Attachment	: Draft Local Planning Scheme No. 1 – Text and Maps (due to size of document placed on Council's website only).
Councillor Workstation	: Draft Local Planning Scheme No. 1 – Text and Maps (Amended Version - July 2011). All Councillors are to be provided with individual electronic copy.
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

IN BRIEF

- Following adoption of the draft Local Planning Scheme No. 1 (LPS1) by the City in February 2009, the draft was referred to the Environmental Protection Authority (EPA) and Department of Planning (DoP) for assessment and comment.
- Their advice and suggestions have now been incorporated into a revised draft LPS1.

**ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WOLFE**

That Council:

- 1) **ACCEPT** the modifications undertaken to the draft LPS1 resulting from the advice/recommendations from the EPA and suggested modifications from the DoP assessment of draft LPS1.
- 2) **ADOPT** the revised draft LPS1 (Amended Version – July 2011) and resubmit it to the Department of Planning/WA Planning Commission for approval to advertise for public comment for an extended period of four months, including the advice supporting the retention of third-party appeals in the Discussion section of the report.
- 3) **ADVISE** town planning consultancies that have lodged amendments with the City within the past two years that it will formally consider imposing a moratorium on new scheme amendment requests and/or scheme amendments once approval is gained from the Western Australian Planning Commission to formally advertise the draft LPS1.
- 4) **UNDERTAKE** on approval for the draft LPS1 to be advertised for public comment, consultation tasks included within the Public Consultation/Engagement section of the report.

CARRIED 9-1

Record of Vote

Against the Motion: Councillor D Bostock

BACKGROUND

1. The draft Local Planning Scheme No. 1 (LPS1) adopted by Council at its 17 February 2009 meeting was referred to the Environmental Protection Authority (EPA) and WA Planning Commission/Department of Planning (WAPC/DoP) for assessment and approval to advertise for public comment.
2. The EPA assessed draft LPS1 and advised (3 May 2010) that the draft LPS1 did not require formal assessment and provided some advice/recommendations on certain aspects of the draft scheme. The EPA's advice/recommendations were incorporated into the draft LPS1. The revised draft LPS1 was forwarded to the EPA again in February 2011 and they advised (19 April 2011) that this revised version adequately implemented their previous advice/recommendations.
3. The DoP completed an extensive review of the draft LPS1 (October 2010) and provided some 200+ suggested modifications and requirements for discussion prior to the Scheme being approved for advertising. This required several meetings between the DoP and administration over time, with the Department providing ongoing comment on the proposed changes to the original scheme text as it was redrafted.
4. The draft LPS1 has now been revised in accordance with the EPA's and DoP's advice/recommendations. Some of the DoP's suggested modifications were not accepted by administration as discussed below. Copies of the revised draft LPS1 (Scheme Text and Maps) indicating all changes in red from the February 2009 version were provided to Councillors during the July 2011 briefings.
5. The LPS1 is the statutory document approved under the *Planning and Development Act 2005* that will be used by the City to implement the Albany Local Planning Strategy (ALPS) which defines the policy direction of the City over the next 20 years. Since its commencement in 2000, other City specific strategies such as the Albany Central Area Masterplan, Tourist Accommodation Planning Strategy, ALPS and the Activity Centres Planning Strategy etc have been completed and these have been incorporated into the draft LPS1 as required.
6. There are scheme amendments still being undertaken to the existing schemes that will also need to be included within LPS1 before it is finalised. In regards to scheme amendments, it is recommended that Council give appropriate notice to town planning consultancies that a moratorium on scheme amendments will be applied on receiving notification from the Western Australian Planning Commission that the draft Scheme can be advertised. This will ensure that those amendments not yet completed can be finalised within the timeframe of the draft LPS1 as discussed below.

DISCUSSION

7. The draft LPS1 applies to the whole of the municipality of the City of Albany and shall:
 - Assist the City implement the Albany Local Planning Strategy (ALPS);
 - Comply with the Model Scheme Text (Appendix B) of the *Town Planning Regulations 1967*;
 - Have due regard and comply with relevant WA Planning Commission State Planning Policies, Development Control Policies and Planning Bulletins;
 - Be prepared in a manner and format that satisfies the requirements of the Minister for Planning or other authorised persons.

8. The draft LPS1 comprises:
 - Scheme Text; and
 - Scheme Maps.

9. The Council in initiating the draft LPS1 at its February 2009 meeting required some modifications as follows:

'Council supports the following modification to the draft Albany Local Planning Scheme 1:

 - *At clause 5.3.4, within Table 6 area ELZ1, delete clauses 3(b) and 4.*
 - *At Table 2 within the Hotel / Motel zone, define "chalet / cottage unit" as a 'D' use.*
 - *Clause 5.3.6.1A be altered to read "Development within the Regional Centre Zone should respond to the scale and articulation of existing streets and buildings, with no development exceeding a height of three storeys (11.0m in height). Council may introduce a lesser height for parts of the zone and those areas will be defined in the Regional Centre Policy Plan referred to at subclause E."*
 - *Clause 5.3.6.1E be altered by including "building height" after "building envelopes".*
 - *Alter Map 13 to show the location of Special Use Area 1 on the northern side of Vancouver Lake and access to the area provided along the western boundary of Lot 660 La Perouse Road, Goode Beach;*
 - *At clause 4.2.4(i) add 'only' after 'purposes';*
 - *Within the definition of Showroom in Schedule 1 add, 'office equipment and supplies' after 'swimming pools';*
 - *Remove the 'hotel/motel' zoning from the former Frenchman Bay Caravan Park site and identify the land as 'special site – caravan park' with appropriate control mechanisms incorporated to reflect the current Town Planning Scheme 3 provisions.'*

10. These modifications were completed by administration and the draft LPS1 was forwarded to the EPA and DoP for assessment and approval to advertise for public comment in February 2009.

Draft LPS1 Assessment by Environmental Protection Authority

11. Initially the Department sought additional information on the draft LPS 1 (30 September 2009). The EPA then advised (3 May 2010) that the draft LPS1 did not require formal assessment under the *Environmental Protection Act 1986* and provided some advice and recommendations on the draft scheme for consideration by the City. This advice and recommendations were addressed by administration and modifications were made to the draft LPS1.

12. The modified draft LPS1 was resubmitted to the EPA in February 2011. The EPA advised (19 April 2011) that their previous advice had been adequately implemented in the modified draft LPS1 (February 2011 version). As such the requirements of the EPA have now been met, noting those matters that have not been assessed by the EPA as set out in the table below. The City will need to refer these projects to the EPA for assessment at the subsequent rezoning, structure plan or planning application stage.

Issue (Not Assessed by EPA)	Advice	City's Response
3.1 Remnant Native Vegetation	The EPA advice that the Structure Plan required for Lots 697-699 Wright Street, Lake Seppings area should ensure protection of remnant native vegetation.	The City has retained the land within the Future Urban zone in LPS1 and accepts that any future structure planning for the land shall include the requirement to protect remnant native vegetation.
3.2 Declared Rare and Priority Flora	The EPA advice that the development of this land (Lots 870 & Pt. 877 John/Morris Streets, Milpara) is still subject to the proponents completing a spring flora survey to inform the Development Guide Plan which is required to be prepared and approved by the City before subdivision and/or development may occur.	The City is still awaiting the outcomes of Amendment 285 to existing Town Planning Scheme No. 3 which seeks to rezone the above land for industrial purposes. The scheme controls contained within that amendment will be transferred to the LPS1 when gazetted. The City acknowledges the need for the proponents to complete a spring flora survey to inform the Development Guide Plan which is required to be prepared and approved by the City before subdivision and/or development may occur.
3.3 Wetlands	The EPA advice that the Structure Plan required for Lots 697-699 Wright Street, Lake Seppings area should prevent development within the wetland boundary/buffer and ensure the wetlands protection.	The City has retained the land within the Future Urban zone in LPS1 and accepts that any future structure planning for the land shall include the requirement to determine the appropriate wetland boundary/buffer and ensure its protection from development.

Issue (Not Assessed by EPA)	Advice	City's Response
3.4 All Factors – Relevant Factors to be Determined if Required	<p>The EPA advice that the decision to not formally assess LPS1 has been based on Lot 105 being retained as Parks and Recreation Reserve.</p> <p>They advise if there is any modification to this prior to gazettal of LPS1, it will warrant re-referral of LPS1 and will potentially attract the setting of a formal level of assessment.</p>	<p>The City has retained Lot 105 Frenchman Bay Road, Big Grove within the Parks and Recreation Reserve in draft LPS1.</p> <p>The City will retain the present reservation until such time as a scheme amendment or similar is completed that alters this classification (Note: a scheme amendment request to rezone the land to Residential Development was supported by the City at its March 2011 meeting).</p>
3.5 Surface Water and Groundwater Quality, Watercourse; and Separation Distances – Noise, Air Quality, Risk – Mirambeena Special Control Area 5	<p>The EPA through TPS3 Amendment 238 (January 2010) set the level of assessment for Mirambeena which included deferral of the above environmental factors. They therefore still remain 'not assessed' and the EPA expects that its advice will be addressed through scheme provisions so that a re-referral is avoided.</p>	<p>The City has included a new Schedule 11 – Industry Zone to deal specifically with specified industrial areas within the City.</p> <p>The Mirambeena Industrial Area has been removed from SCA5 and included within Schedule 11 as Specified Industrial Area 4 (IA4) including transferring the existing scheme controls accordingly.</p> <p>To reinforce the importance of those environmental factors that have not been assessed by the EPA regarding the Mirambeena Industrial Area, the draft LPS1 includes a new provision to require referral of relevant applications to the EPA for assessment and recommendation/advice.</p>

Scheme Assessment by Department of Planning

13. The DoP completed an extensive review of the draft LPS1. The majority of their suggested modifications have been incorporated. The reformatting of the text, particularly in Part 5 General Development Requirements, where provisions have now been combined and included into relevant sub-sections has improved its legibility.
14. The inclusion of the existing Special Rural (now the Rural Residential zone) and Special Residential Zones and other controls from the existing schemes will ensure continuity of these controls.

15. The major changes to the original draft LPS1 (February 2009 version) from the DoP's comments are summarised as follows:

Part 1 – Preliminary

Part 1.6 The Aims of the Scheme

- Added new aim c.1.6(p) regarding building sustainability.
- Added scheme note c.1.6 to refer to EPA assessment of ALPS.

Part 2 – Policy Planning Framework

Part 2.1 Scheme Determinations to Conform with Local Planning Strategy

- Added scheme note c.2.1 to refer to EPA assessment of ALPS.

Part 2.6 Local Planning Policies Made Under the Previous Schemes

- Added new clause c.2.6 to provide for continued operation of existing local planning policies under new scheme.

Part 4 – Zones and Use of Land

Part 4.2 Objectives of the Zones

- Changes to wording of Residential zone objectives (b)(vi) including reference to ancillary residential buildings and avoiding areas susceptible to natural hazards.
- Changes to wording of Future Urban zone objectives (e) including reference to requirement for structure planning and coordination of servicing.
- Changes to wording of Hotel/Motel zone objectives (a) to reinforce importance of tourism accommodation being developed within the zone.
- Caravan Park zone renamed to Caravan and Camping zone.
- Changes to wording of Caravan and Camping zone objective (d) to provide for incidental uses to support tourism development on the site.
- Changes to wording of Regional Centre Mixed Business zone objective (a) to simplify objective and introduce possibility of limited residential accommodation uses.
- Changes to wording of Regional Centre Mixed Business zone objective (b) to reinforce preclusion of 'Main-Street' style developments in the zone.
- Changes to wording of Regional Centre Mixed Business zone objective (g) to reinforce new uses must be compatible with existing or approved residential uses within the zone.
- Mixed Use zone renamed to Regional Centre Mixed Use zone.
- Changes to wording of Regional Centre Mixed use zone objective (b) to reinforce that retail uses are not permitted within the zone.
- Changes to wording of Neighbourhood Centre zone objectives by inclusion of new objective (c) to control net lettable floorspace within shopping centres as recommended in the adopted Activity Centres Planning Strategy.
- Minor change to wording of General Industry zone objective (b) by reinforcing the 'restriction' on retail activities to that incidental to the approved industrial function.
- Change to wording of General Industry zone objective (c) to advise buffer areas to accord with EPA's Guidance Statement No. 3 'Separation Distances between Industrial and Sensitive Land Uses'.
- Changes to wording of Light Industry zone objective (c) to reinforce the intention for the zoning of the Centennial Park area and to highlight the special matters to be addressed by proponents of residential developments.

- Minor changes to wording of Rural Residential zone objective (b) to simplify objective.
- Eco-Living zone renamed to Conservation zone to be consistent with existing scheme terminology.
- Minor changes to wording of Conservation zone objectives to simplify objectives.
- Changes to wording of Rural Small Holding zone objectives by deleting objective (c) as it is not relevant.
- Minor change to wording of Priority Agriculture zone objective (d) by deleting reference to subdivision.
- Rural Townsite zone renamed to Rural Village zone.
- Changes to wording of Rural Village zone objectives to reinforce the intention for the growth of these townsites and to highlight need for structure planning to occur before expansion will be allowed.
- Introduce new Special Residential zone and objectives (based on existing scheme terminology etc).

Part 4.3 Zoning Table

- Renamed Table 2 to Table 1: Zoning Table.
- Moved definitions for commercial vehicle, dry industry and health practitioner from the Land Use definitions to the General Definitions in Schedule 1 and deleted definitions of dry industry and serviced apartment from the Land Use Definitions in Schedule 1.
- Included land use classes within the Zoning Table for the following uses:
bed & breakfast/farmstay, boarding/guest/lodging house, camping ground, caravan park, home occupation, home office, motor vehicle repair, panel beating/spray painting, place of worship and telecommunications infrastructure.
- Not included land use classes within the Zoning Table for the following uses:
cemetery, corrective institution, funeral parlour, harbour installations, hospital, marina, owner/driver truck operator, public utility and radio/TV installation.
- Included new land use class and definition for Live/Work Units.
- Changed land use permissibility (as set out in the revised draft LPS1) for various uses generally to discretionary and advertised approval categories.
- Renamed zones to be consistent with part 4.2 modifications above.
- Added new Special Residential zone to be consistent with part 4.2 modifications above.
- Added Table Note 1 to Zoning Table to reinforce controls over land uses within the Rural Village zone in the absence of an approved Structure Plan for the townsite.

Part 5 – General Development Requirements

Part 5 reordered to place scheme provisions within similar planning areas and changes to the clauses as follows:

5.3 Environmental Provisions

Changes include:

5.3.1 Environmental Conditions

As there are no environmental conditions required to be incorporated into the Scheme, the clause has been reworded to state 'There are no environmental conditions imposed by the Minister for Environment, which apply to the Scheme' as set out in the MST.

5.3.2 Coastal Development

New clause to require the City to consider the recommendations of 'Southern Shores 2001 - 2021 - A Strategy to Guide Coastal and Marine Planning and Management in the South Coast region of Western Australia' report when assessing proposals along coastal areas.

5.3.3 Vegetation Protection

New clause (5.3.3.2) added to require protection of existing vegetation as condition of planning approval.

5.3.5 Uses Adjacent to Conservation Areas

Clause 5.3.5.2(b) changed to quantify the types of matters to be addressed through the preparation and implementation of a management plan.

5.3.6 Setbacks from Watercourses

Clause 5.3.6.1 changed to introduce criteria/reasons for requiring setbacks to watercourses as requested by the EPA.

5.3.7 Land Subject to Flooding and/or Inundation

Clauses changed to provide stronger powers to the City to prevent inappropriate development of floodways and require minimum finished floor levels etc. Data on predicted flood levels removed from clause and included within Local Planning Policy 5 Rural and Environment Policy 5E 'Development on Flood Prone Areas'.

5.3.8 Acid Sulphate Soils

Clause changed to include power for the City to require acid sulphate soil management plans as a condition of approval in an affected area in consultation with the Department of Environment and Conservation and introduced additional provisions to identify susceptible areas.

5.4 Fire Protection Provisions

Clause 5.4.1.1 changed to strengthen the City's powers to implement fire control measures including relevant Australian Standards (such as AS3959 and its successors) for building constructions where a building is to be constructed in an area at moderate or extreme risk from bush fires as detailed in an adopted Local Planning Policy.

5.5 Provisions Applicable to Particular Zones

Changes include:

5.5.1 Residential Zone

Clause 5.5.1.2 added to advise density of permitted holiday accommodation shall be the same as the designated residential density applying to the land.

5.5.2 Tourist Residential Zone

Clause 5.5.2.1(b) changed to simplify wording and advise the correct interpretation of the permitted densities for holiday accommodation and residential developments. Clause 5.5.2.2 changed to refer to City's powers to impose restrictions on the number of permanent residential accommodation permitted within the zone shall be in accordance with recommendations from an adopted Local Planning Policy or Tourism Accommodation Strategy.

5.5.3 Future Urban Zone

Clause reworded to simplify wording and reinforce the City's intention for limited uses to be approved and the land to be prevented from any inappropriate use and ensure its availability for future urban uses. Apart from home offices, all land use or development requires approval from the City and the future use and development of the land for any urban purposes shall be subject to a structure plan being prepared and adopted under the Scheme.

5.5.4 Hotel/Motel Zone

Clause 5.5.4.1 included to incorporate permitted density for developments and advise on planning requirements to increase base density. Clause 5.5.4.2 reworded to simplify wording and clarify intent is to require those design elements to be incorporated into developments within the zone.

5.5.5 Caravan and Camping Zone

Clauses changed to simplify wording and refer to City's powers to impose restrictions on the number of permanent residential accommodation permitted within the zone shall be in accordance with recommendations from an adopted Local Planning Policy or Tourism Accommodation Strategy. Clause 5.5.5.5 included to incorporate advice on permitted density for holiday accommodation uses to match number of approved caravan bays.

5.5.6 Regional Centre Zone

Clause 5.5.6.5 deleted as it repeats the powers and process for local planning policies at Part 2 of the Scheme. Clause 5.5.6.7 included to incorporate advice on permitted density for holiday accommodation uses to match residential density code of the land.

5.5.7 Regional Centre Mixed Business Zone

Clause 5.5.7.1 deleted and controls transferred to new clause 5.5.7.2 Live/Work Units. Clause 5.5.7.1 dealing with development of shops within the zone, reworded to simplify wording and introduce mandatory criteria/requirements to be met. Clause strengthens intention for large-format developments to be permitted not 'Main-Street' types. New clause 5.5.7.2 included to deal with development of residential uses within the zone and the particular controls to be imposed.

5.5.8 Regional Centre Mixed Use Zone

Title changed and clauses changed to refer to 'Regional Centre' Mixed Use zone as the zone adjoins the Albany CBD areas only.

5.5.9 Highway Commercial Zone

Clauses 5.5.9.2 and 5.5.9.3 included to require landscaping, paved accessways, loading/unloading areas and screening of open storage areas within the zone.

5.5.10 Neighbourhood Centre Zone

New clauses 5.5.10.3 - 5.5.10.6 included to require certain design elements to be incorporated into site and building designs within the zone.

5.5.11 Local Centre Zone

Clauses 5.5.11.2 - 5.5.11.4 included to require landscaping, buffer plantings and design elements to be incorporated into building designs within the zone.

5.5.12 General and Light Industry Zones

Clause 5.5.12.1 renumbered to 5.5.12.4. New clauses 5.5.12.1 – 5.5.12.3 included to reinforce requirement for planning approval within the zone and introduce new Schedule 11 'Industry Zone' to provide controls for specific industry zones in the City namely: Ardess, Pendeen, Milpara and Mirambeena. New clause 5.5.12.9 included to require industrial proposal incorporate appropriate buffer areas in accordance with EPA's Guidance Statement No. 3 'Separation Distances between Industrial and Sensitive Land Uses'. Clauses 5.5.12.8 – 5.5.12.10 deleted.

5.5.13 Rural Residential Zone

Clauses reworded to be consistent with text from existing zones. All general clauses retained in Clause 5.5.13 with specific controls for each zone contained in new Schedule 14 'Rural Residential Zone'.

5.5.14 Conservation Zone

Title changed to Conservation zone to be consistent with text from existing zones. All general clauses retained in Clause 5.5.14 with specific controls for each zone contained in new Schedule 12 'Conservation Zone Provisions'.

5.5.15 Rural Small Holding Zone

Clause 5.5.15.1(a) changed to introduce controls over number of chalet/cottage units or holiday accommodation units permitted on land within the zone. New clauses added to ensure outbuildings comply with adopted LPP. New clauses added to deal with fire protection, setbacks, fencing, clearing controls, effluent disposal, water supply and subdivision in RSH area at Mt Elphinstone, Robinson/Cuthbert and Yakamia Creek.

5.5.16 General and Priority Agriculture Zones

Clauses relating to subdivision changed to refer to LPP etc (transferred to LPP 5F Agricultural Protection and Subdivision). New clause 5.5.16.3 added to introduce controls over number of chalet/cottage units or holiday accommodation units permitted on land within the zone.

5.5.17 Rural Village Zone

New clauses relating to SP requirements and permitted land uses added.

5.5.18 Special Residential Zone

New clauses added to transfer existing scheme controls into revised draft LPS1. All general clauses retained in Clause 5.5.18 with specific controls for each zone contained in new Schedule 15 'Special Residential Zone'. New clause added advising of application requirements for proposals to include any additional land within the Special Residential zone.

5.6 Provisions Applicable to Residential Land Use and Development

Changes include:

5.6.2 Special Application of Residential Design Codes

Clauses relating to split-coding (R1/20, R5/20, R30/40 & R30/60) modified. Clause relating to multiple dwellings changed to quantify steep land. New clauses added relating to split-coding of land around CBD, split-coding of land at Lot 731 Wellington Street and Spencer Park Improvement Area (transferred from existing schemes).

5.6.4 Ancillary Accommodation

New clause 5.6.4.2 added to restrict approval to 1 ancillary accommodation unit per lot.

5.6.5 Caretaker's Dwelling

New clause 5.6.5.1 added to require planning approval for all caretaker's dwellings. New clause 5.6.5.2 added to restrict approval to 1 caretaker's dwelling per lot. Clause 5.6.5.3 modified to strengthen powers available to control and impose conditions on the development of caretaker's dwellings.

5.6.6 Relocated Dwellings

New clause 5.6.6.1 added to require planning approval for all relocated dwellings.

5.6.7 Residential Uses Adjacent to Heavy Freight Routes

New sub-clause (a) added to include option for Council to require a development to comply with requirements of the WAPC's SPP 5.4 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning'.

5.6.8 Holiday Accommodation

Clause reworded by retaining sub-clause A and deleting sub-clauses B, C, D, and E (Note: these controls have been moved to their individual zones). Clause 5.6.8.2 added to advise interpretation of the permitted density for holiday accommodation developments which is the same as the Residential Density Code for the land.

5.6.9 Potable Water Supplies

Clause reworded to include reference to obligation to connect to Water Corporation reticulated water supply network where available.

5.7 Miscellaneous Use and Development Requirements

Changes include:

5.7.1 Minerals and Basic Raw Materials Activities

New clause 5.7.1.2 added to require planning approval for all extractive industries. Clause 5.7.1.3 added to strengthen powers available to control and impose conditions on the development of extractive industries.

5.7.2 Agriculture – Intensive and Animal Husbandry – Intensive Activities

New clause 5.7.2.1 added to require planning approval for all intensive agriculture and intensive animal husbandry activities. Clause 5.7.2.2 modified to strengthen powers available to control and impose conditions on the development of intensive agriculture and intensive animal husbandry activities including requirement for Nutrient and Irrigation Management Plan (NIMP) and consultation with relevant government agencies.

5.7.3 Tree Plantation Activities

Clause 5.7.3.1 modified to require all tree plantations prepare a Plantation Management and Harvesting Plan as part of their application requirements. Clause 5.7.3.2 modified to strengthen powers available to control and impose conditions on the development of tree plantations including consideration of the plantation's proximity to remnant endemic vegetation or impacts on any existing conservation areas.

5.7.4 Home Business

Clause 5.7.3.1 modified to require planning approval for all home businesses. Existing clause deleted as it replicates the definition of a home business in the scheme. Clause 5.7.4.2 reworded to retain condition of approval for home business is not transferable upon the sale of the land etc.

5.7.5 Development of Other Structures

New clause added to deal with minor building developments such as outbuildings, carport, pergola, shadehouses, kennels, stables, fowlhouse etc. Clause enables Council the power to control and impose conditions relating to height, area, setbacks and construction materials of these structures through an adopted Local Planning Policy.

5.8 Site and Development Requirements

Changes include:

5.8.1 Vehicle Access

Clause retitled to 'Vehicle Access/Egress onto Major/Priority Roads, Road Widenings, Unconstructed or Substandard Roads and Loading/Unloading and Service Areas' and now combines several of the previous related individual clauses/controls into 1 clause. Additional subtitles added.

5.8.3 Designated Building Envelope

Sub-clause E deleted (Note: these controls have been moved to the Conservation zone).

5.8.4 Use of Setback Areas

Minor rewording to clarify intent to control uses of land within setback areas.

5.8.5 Parking Requirements

Clause retitled to 'Parking Requirements' and now combines several of the previous individual clauses/controls into 1 clause. Additional subtitles added.

5.8.6 Parking of Vehicles, Boats, Caravans and Trailers

Clauses reworded to clarify intent. Vehicles are restricted to no more than 2t unless approval to park a larger vehicle is granted by Council and sets standard requirements for any approval.

5.8.7 Site Requirements

Table reworded to ensure cross reference with other changes and clarify requirements.

5.8.8 Bin and Refuse Storage Areas

Clause reworded to include tourist uses.

5.8.9 Landscaping Requirements

Clause modified. New table advising of Landscaping Requirements created from existing Development Table including changes to cross reference with other changes. and clarify requirements

5.8.10 Landscaping of Demolished Building Sites

New clause added to require landscaping of sites when buildings are demolished in Regional Centre, Hotel/Motel and Neighbourhood Centre zones and the site will remain vacant for more than 6 months.

5.9 Structure Plans, Development Contribution Plans and Detailed Area Plans

This section has been relocated from Part 6 Special Control Areas and has been reworded to comply with the Model Scheme provisions prepared by the Department of Planning. This clause now includes provisions relating to Structure Plans, Detailed Area Plans, continued operation of existing Structure Plans, ODP's etc., and Development Contribution Areas/Plans.

Part 6 – Special Control Areas

Part 6 reworded and existing Schedule 5 deleted. Down Road relocated to Schedule 3 – Restricted Uses and Pendeen Road relocated to Schedule 11 – Industry Zone and provisions reworded to be consistent with existing controls. Long-term urban land deleted and dealt with as Future Urban zoned land. Albany Foreshore relocated to Schedule 4 – Special Use zone and existing controls transferred into scheme.

All clauses reworded to clarify intent of the controls and the requirement for planning approval to be granted for certain activities including non-habitable buildings.

Part 8 – Development of Land

Changes include:

8.2 Permitted Development

Sub-clause (a) reworded to clarify some exempted classes of development including cut/fill activity and dwellings in certain zones; where they require reduced setback from a watercourse; is in an area susceptible to acid sulphate soils or bush fire risk; or requires an on-site water supply, is an exempt advertisement or involves rural works.

Part 9 – Applications for Planning Approval

Changes include:

9.2 Accompanying Material

Sub-clause (a) reworded to include additional requirement for applications to provide plan and information and assessment of any vegetation on the site, assess the fire hazard of the site and identify any waterways or drains on or adjacent to the site. Sub-clause (c) reworded to include requirement for land capability/suitability studies may be required to support an application.

Part 10 – Procedure for Dealing with Applications

Changes include:

10.10 Appeals

Minor rewording of clause to conform to MST. Third-party appeals retained.

Schedule 1 – Dictionary of Defined Words and Expressions

Changes include:

1. General Definitions

Addition of definitions to cross reference with terms and expressions in text and to conform to MST.

2. Land Use Definitions

Addition of definitions to cross reference with all land use classes in Zoning Table and text and to conform to MST.

Schedule 2 – Additional Uses

Changes include:

- Addition of some sites to cross reference with existing approvals.
- Minor rewording of some existing sites provisions to be consistent with the existing approvals.
- Approved Development Plans to be added to final text.

Schedule 3 – Restricted Uses

Changes include:

- Numbering.
- Additional sub-clauses added to CSBP fertiliser storage site regarding site contamination investigation and remediation, hydrology and buffer to Hanrahan Road.
- Approved Development Plan for Down Road Industrial Area to be added to final text.

Schedule 4 – Special Use Zones

Changes include:

- Numbering.
- Additional sub-clauses added to Pt Lot 660 La Perouse Road in accordance with the City's decision when adopting the draft LPS1 in February 2009.
- Additional sub-clauses added to Lot 1 & 2 Frenchman Bay Road in accordance with the City's decision in November 2010.
- Added new site for the Albany Foreshore Development Area (SU15) transferred from Special Control Area 9 with existing controls transferred from adopted Structure/Precinct Plans.
- Added new site for Lots 731 & 732 Wellington Street, Centennial Park with existing controls transferred from approved amendment.
- Added new site for Lot 734 Barker Street, Centennial Park with existing controls transferred from approved amendment.
- Added new site to transfer existing scheme controls to Lot 22 Link Road, McKail.
- Added new site for existing Elleker Store.
- Added new site to transfer existing controls to Lot 7250 Gwydd Close, Elleker.
- Added new site to transfer existing controls to Lot 200 Two Peoples Bay Road, Kalgan.
- Added new site to transfer existing controls to Lot 2 Albany Highway, Drome.
- All approved Development Guide Plans to be added to final text.

Schedule 5 – Special Control Areas

Changes include:

- Renamed to Exempted Advertisements.
- Deletion of previous Schedule 5 Special Control Areas (SCA) which were transferred to Part 6.
- Replaced with table of Exempted Advertisements transferred from existing scheme/policy.

Schedule 6 – Advertisements

Changes include:

- Renamed to Form of Application for Planning Approval.
- Deletion of previous Schedule 5 Categories of Signs which have been transferred to the adopted local planning policy.
- Replaced with MST Application Form.

Schedule 7 – Form of Application for Planning Approval

Changes include:

- Renamed to Additional Information for Advertisements.
- Replaced with MST Application Form for Advertisements.

Schedule 8 – Additional Information for Advertisements

Changes include:

- Renamed to Notice of Public Advertisement of Planning Proposal.
- Replaced with MST Notice of Application Form.

Schedule 9 – Notice of Public Advertisement of Planning Proposal

Changes include:

- Renamed to Notice of Determination on Application for Planning Approval.
- Replaced with MST Determination of Application Form.

Schedule 10 – Notice of Determination of Application for Planning Approval

Changes include:

- Renamed to Environmental Conditions.
- Replaced with MST Table for Environmental Conditions.

Schedule 11 – Environmental Conditions

Changes include:

- Renamed to Industry Zone.
- Replaced with Table including Ardess, Pendeen, Milpara and Mirambeena Industrial Areas and transferred existing controls from the schemes.

Schedule 12 – Notice of Comply with Planning Approval

Changes include:

- Renamed to Conservation Zone.
- Replaced with Table for Nullaki, Rainbows End, Torbay Beach and Boolgana Court Conservation Zones and transferred any existing controls from the schemes.

Schedule 13 – Community Infrastructure Development Contribution Plans for Structure Plan Areas

New Schedule as required by MST for development contribution plans. Currently contains Bayonet Head Structure Plan area (to be completed).

Schedule 14 – Rural Residential Zone

New Schedule to include all existing special rural zones and transferred any existing controls from the schemes.

Schedule 15 – Special Residential Zone

New Schedule to include all existing special residential zones and transferred any existing controls from the schemes.

16. The above serves to highlight and summarise the major changes only. Councillors have previously been provided with a 'marked up copy' of the revised draft LPS1 with additions in red text and deletions in strikethrough text at the July briefing session.
17. In general when dealing with the EPA and DoP advice, administration sought to accommodate the modifications and suggestions wherever possible subject to it not altering the intent of the draft LPS1 adopted by the City in February 2009.

18. Modifications to the original draft LPS1 (February 2009 version) suggested by the DoP and not accepted or accepted in part by administration are summarised as follows:
- Selectively including/deleting some land use classes and definitions to cross reference the Zoning Table.
 - Retaining the existing controls for heritage protection.
 - Selectively changing some objectives for the various zones.
 - Changing some permissibility's for land use class within the various zones.
 - Retaining the MST wording for approvals and permitted development clauses.
 - Altering the wording of the appeal clause (Clause 10.10).
19. The altering of the wording of the appeal clause (Clause 10.10) to effectively remove third-party appeals was not accepted by administration as directed by Council. This matter is discussed below:

Third-Party Appeals

20. The DoP have requested that the City modify the wording in Clause 10.10 'Appeals' to reflect the MST wording. The MST wording refers to 'An applicant' rather than 'Any person' as contained in the draft LPS1 and this would therefore effectively remove the ability for third-party appeals to be lodged.
21. Administration have advised the DoP that the City does not accept their suggested modification and will retain 'Any person' with some minor rewording to more closely reflect the wording used in the MST.
22. To support the retention of the third-party appeal rights within draft LPS1, administration reviewed planning literature, articles, presentations, SAT and Town Planning Appeals Tribunal and other data and sought legal advice on the benefits and arguments against third-party appeal rights as contained within existing TPS3 (the legal advice has previously been circulated to all Councillors). The information used to provide some of the comments has been obtained from various sources including 'Third-Party Appeal Rights: Past and Future', Judge Christine Trenorden; 'Some Observations of a Practitioner Through Four Appeal Tribunal Generations', Denis McLeod (2009) given to the Town Planning Law – Past, Present and Future Conference 18/11/2009; '3rd Party Appeal – An Information Paper' Property Council of Australia (WA Division) (2001); other planning literature and Town Planning Appeals Tribunal and State Administrative Tribunal data.
23. In considering the information it should be remembered that different States maintain different types of third-party appeal rights (both within the enabling Act and some local planning schemes) and this advice is based on a summary of the City's experience (which is in a unique position in the State) having these rights within an existing local planning scheme.

24. The benefits that third-party appeal rights provide and the City's experience can be summarised as follows:

1. Improved Public Participation in Planning Decision Making

One of the benefits of the inclusion of third-party appeal rights is that it allows the community to participate more directly in the planning decision making process over time as it affects their area. This level of participation cannot be achieved through 'normal' planning consultation processes such as submissions provided during the preparation of a planning scheme and enables a more multi-level consideration of planning proposals over the expected life of a scheme (generally 5 – 10 years and frequently more).

Third-party appeal rights ensure that local stakeholders other than just the Local Government or developer participate in determining the preferred land use and development options for the local area.

Some argue that the introduction of the State Administrative Tribunal (SAT) and the powers available under their Act sufficiently allows for other interested parties to participate in appeals. Whilst SAT have shown a willingness to allow third-parties to participate in appeals and will consider a wider range of community views in determining appeals than perhaps has occurred in the past, it does not improve participation in the plan making process. It is not the same as having the third-party appeal rights drafted directly into the LPS1 which clearly states the intention of the City and provides the maximum opportunity for community participation.

2. Better Decision Making

Third-party appeal rights facilitate improved public participation which generates a more diverse range of views for consideration on a planning proposal. The ability to consider a wider range of stakeholder views will inevitably improve the quality of the decision.

A third-party appeal that leads to changes in the original decision shows the positive benefits to the ability for members of the community to appeal to the independent State Administrative Tribunal, rather than the right being enjoyed by just the applicant.

3. Good Governance

Third-party appeal rights contribute to greater transparency by increasing public participation and scrutiny of planning decisions which improves overall governance. It provides a significant and effective deterrent to potential for collusive behaviour between parties.

The inclusion of the existing appeal clause is important as it represents a significant improvement to present MST wording in terms of providing for greater transparency in land use planning decision making.

4. The Interest of Third-Parties

Many developments have impacts well beyond the development site and the applicant is not the only stakeholder affected by a planning decision. To that end, third-party appeal rights enable the legitimate interests of surrounding and affected landowners of an area to participate in the decision making process.

To date, SAT has accepted all third-party appeals within the City which indicates that they accepted the appellants had a legitimate right for their views to be heard on the proposal. No appeal has been struck out due to the SAT deciding the appellants were being vexatious or had not shown an acceptable connection to the proposal and/or there was insufficient planning merit to warrant a review.

5. City of Albany's Experience

The introduction of appeal rights under planning schemes dates from 1983 when the then *Town Planning and Development Act 1928* was amended to introduce a general ability for 'applicants' to appeal against discretionary decisions made by Local Government. Prior to that, it was essentially the responsibility of the person drafting a particular town local planning scheme to include an appropriate appeal clause.

The former Shire's Town Planning Scheme No. 3 was gazetted in February 1980 which is the only operative scheme within the City with the specific third-party appeals. The Scheme Report prepared to support the Scheme Text does not indicate the reasons for the wording of the existing clause. The retention of these rights was most recently considered and supported by the City in March 2007 (Item 11.3.3) during the drafting of LPS1 where it was resolved:

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.*

Within the City, the use of third-party appeals has been positive with very limited numbers over the life of Scheme No. 3 and the decision on the appeal has mostly resulted in a variation of a development approval or to alter the conditions to address a concern and prevent adverse impacts from occurring within the area. This outcome in itself shows the benefits of a more open planning system, where an independent review can be sought that can incorporate this local knowledge into land use planning decision making processes.

The City has not been faced with any known abuse of the third-party appeal rights over the life of Scheme No. 3. Protection against future abuses rests with the State Administrative Tribunal (SAT), who can strike out any proceeding that it believes to be:

- (a) frivolous, vexatious, misconceived or lacking in substance;
- (b) being used for an improper purpose; or
- (c) otherwise an abuse of process.

25. The arguments against third-party appeal rights and the City's experience can be summarised as follows:

1. Fear Use of Third-Party Appeal Rights to 'Open the Floodgates' or as a 'Second Bite of the Cherry'

Some developers fear the inclusion of third-party appeal rights allows the community to lodge appeals that might have little merit or be considered vexatious and which cause delays in the development proceeding that increases the overall costs of the development and affects project viability.

This has not been the City's experience with appeals against its decisions which are summarised in the following table:

No.	Citation	Appellant	Appeal Outcome
1	[2000] WATPAT 12	Friends of the Bibbulman Track & Ors	Appeal dismissed. City's decision affirmed.
2	[2001] WATPAT 10	H Buttfield & Ors	Appeal allowed. City's development approval for firewood cutting/storage set aside, application refused.
3	[2003] WATPAT 142	Bennett Range Pastoral Pty Ltd & PA Albiol	Leave to appeal granted.
4	[2004] WATPAT 32	B Kennedy	Appeal allowed. City's development refusal set aside, application for oversized outbuilding approved subject to conditions.
5	[2004] WATPAT 109	Bennett Range Pastoral Pty Ltd & PA Albiol	No data available.
6	[2004] WATPAT 194	PR & CA Cox	Appeal allowed. City's refusal for reduced setback set aside.
7	[2005] WASAT 112	RJ Dekker	Appeal dismissed. City's refusal for reduced setback affirmed.
8	[2006] WASAT 97	Ridgecity Holdings Pty Ltd	Leave to amend plans granted.
9	[2006] WASAT 187	Ridgecity Holdings Pty Ltd	Appeal dismissed. City's development refusal affirmed.
10	[2007] WASAT 27	R Thurecht	Appeal allowed. City's development refusal set aside, application for oversized outbuilding approved subject to conditions.
11	[2008] WASAT 211	PF Morgan	Appeal allowed. City's development refusal set aside, application for motorcycle training

No.	Citation	Appellant	Appeal Outcome
			approved subject to conditions.
12	[2008] WASAT 251	HJ Smith, DM Burke and JM Smith	Appeal allowed in part. City's development refusal set aside in part, refusal of application for retaining wall affirmed and application for boat ramp is approved subject to conditions.
13	[2009] WASAT 38	PB Atwell	Proposed use is not capable of being approved. City's development refusal affirmed.
14	[2009] WASAT 45	R & R Stewart	Appeal dismissed. City's development approval affirmed, condition of approval modified.
15	[2009] WASAT 73	K Wignall	Appeal dismissed. City's development refusal affirmed. Orders for unauthorised outbuilding to be demolished affirmed.
16	[2011] WASAT 85	DG Curlewis & Ors	Currently progressing. Final hearing to be held in late September 2011.

From the above simple analysis (July 2010), there has only been 3 third-party appeals (highlighted above) lodged against the City's decisions which represents approximately 19% of all appeals over a scheme that was introduced in 1980 and has been subject to some 300 amendments.

Whilst the types of third-party appeal rights varies across different States in Australia, this figure is significantly lower than the 32% of total appeals lodged in Victoria (during 2007 – 2008) and is consistent with the 16% of total appeals lodged in South Australia (during 2008 – 2009). Whilst the number of appeals will inevitably fluctuate, from the table above, the City has not been required to deal with an increased number of appeals due to the existence of the third-party appeal rights.

Of the decisions made on third-party appeals, the City's decisions have been affirmed in 1 matter; set aside in 1 matter; with the other still pending (for No. 20 Grove Street West, Little Grove). The small amount of data showing an existing 50/50 ratio on outcomes of third-party appeals within the City does not allow any detailed interpretation. It certainly does not support the contention that inclusion of the term 'Any person' in the appeal clause represents an 'opening of the flood gates' for third-party appeals.

Some developers comment that third-party appeals allow a 'second bite of the cherry' for an objector to developments when the land has been properly zoned and the use and development is consistent with applicable planning laws. The experience of the City does not support this view.

2. Delays and Costs of Third-Party Appeals

The introduction of third-party appeal rights may result in delays to the commencement of projects and increase associated costs. The data available shows that the average time from lodgement to finalisation of a third-party appeal ranged from 14 – 19 weeks in Victoria (2002/2003 – 2007/2008) and 16 – 23 weeks in South Australia (2004 – 2009). Of the data available for the City, the average time from lodgement to finalisation of applicant appeals ranges from 8 – 44 weeks with an average of 25 weeks. The limited amount of data on third-party appeals shows that the average time from lodgement to finalisation of the third-party appeals in the City ranged from 20 – 32 weeks (average 26 weeks).

The SAT has a more informal, no-costs approach to deal with appeals than is evident in other jurisdictions and this minimises the delay and cost associated with appeals generally (and by inference third-party appeals) where mediation results in many appeals being determined as a result and therefore avoiding full hearings etc.

The costs to the City associated with defending a third-party appeal do not differ from those required to defend an applicant appeal.

It is accepted that developers risk delays through the appeal process which can lead to project costs increasing. It is also clear that the majority of appeals within the City are lodged by developers as applicants rather than third-parties and that the average time for determining an appeal does not differ greatly. The ability of either party to appeal under the various legislation available in Australia gives rise to the potential for delays rather than any right specifically provided to a third-party.

3. Abuse of Third-Party Appeal Rights and Heightens Uncertainty in Planning

Objectors to third-party appeal rights often cite the opportunity for ‘meddlers’ to use the powers to frustrate a particular development from proceeding, even when there are no planning grounds or other public interest justification to support the appeal.

The use of third-party appeal rights within the City is limited and has by all accounts been effective as it has led to either a variation or reversal of the original decision. The decision of the Tribunal to overturn the original decision in itself shows that the third-parties had shown sufficient merit in their case.

The City is aware of other appeals lodged where there has either been insufficient interest shown by the appellant or the appellant might have sought a ‘secret’ hearing (such as without the proponents being present or refusing to provide the respondent with the details of the appeal) and the appeal has been subsequently been withdrawn and/or ceased which is proper.

As stated above, protection against future abuses of third-party appeals rests with the SAT. The notion that third-party appeal rights will heighten uncertainty in planning decision making is also misleading. A development compliant with the planning codes and policies etc for the area; properly designed; and having no adverse impact on the neighbours or amenity of the area should not be concerned with any third-party appeal rights.

In summary, whilst there is not a lot of data currently available to the City, the data available does show there is nothing to fear from third-party appeals or their impacts. The City has had these third-party appeal right powers in an existing local planning scheme for over 30-years and they have not led to any of the problems identified by the objectors occurring.

The DoP/WAPC have not provided any specific reasons justifying the removal of the third-party appeals, other than it is not consistent with the MST clause. Administration is unaware of any SPP or similar policy/practice note prepared by the DoP/WAPC that supports their position or the removal of the wording 'Any person'. Given this, there appears to be no reason why the City cannot maintain the present appeal clause in draft LPS1.

Moratorium

26. Administration also recommends that the City advise the planning industry that a moratorium on new scheme amendments and scheme amendment requests will be considered upon the WAPC granting its consent to advertise the draft LPS1. This would enable those amendments that are already in the system to be completed and incorporated into the new scheme.
27. There is no benefit in the City accepting and commencing a scheme amendment or scheme amendment request when it is likely that it would not be completed in time for the finalisation of the new scheme. If an amendment is not completed in time for the gazettal of the new scheme, the proponents would be required to complete a new scheme amendment under the new scheme, unless the Minister was to invoke certain powers under the Act and direct the City to modify its scheme.
28. At the time of writing this report, there are 3 scheme amendment requests and 20 scheme amendments (6 for TPS1A and 14 for TPS3) still in process as set out in the following tables:

Scheme Amendment Requests

Location	Purpose
Catalina & Chester Pass Roads, Lange	To facilitate the development of a Discount Department Store
Lower Denmark Road, Elleker	Rural to Residential
La Perouse Court, Goode Beach	Rural to Special Use

Scheme Amendments to TPS1A

No.	Location	Purpose
177	Emu Point ODP	Future Urban to Residential and Parks & Recreation Reserve
176	n/a	Amend Future Urban Zone
162	Hardie Road, Spencer Park	Clubs and Institutions to Residential
161	Central Area	Amend R-Codes
159	Katoomba Street, Orana	Parks & Recreation Reserve to Residential
149	Flemington and Abercorn Street, Orana	Public Purpose and Parks and Recreation to Residential

Scheme Amendments to TPS3

No.	Location	Purpose
309	Bon Accord Road, Kalgan	Rural to Special Rural
308	Cosy Corner, Kronkup	Rural to Special Rural
307	Swan Point/Nanarup Roads, Swan Point	Rural to Special Rural & Special Residential
304	Rufus Street, Milpara	Residential Development to Special Residential
302	Rowney Road, Robinson	Modify Subdivision Guide Plan
300	Federal Street, McKail	Rural to Special Residential
299	Chester Pass Road, King River	Rural to Special Rural
298	Terry Road, Walmsley	Rural to Residential Development
297	Rocky Crossing Road, Warrenup	Rural to Special Residential & Parks and Recreation
295	Frenchman Bay Road, Frenchman Bay	Parks and Recreation to Residential Development
294	Rocky Crossing Road, Warrenup	Special Rural to Special Residential
293	McBride & Karrakatta Road, Goode Beach	Modify Subdivision Guide Plan
275	Pine Rise, Kalgan	Special Use to Special Rural
266	Frenchman Bay Road, Robinson	Rural to Residential Development

29. Those amendment proposals that are affected by any moratorium may also be provided as submissions on the draft LPS1 when being advertised. This would enable these planning proposals to be considered during the process of finalising the draft scheme.
30. The time for commencement of any moratorium is entirely for the City to determine. Administration recommends that it commence when the scheme is approved for advertising by the Minister. Given the expected timeframe for the processing of the draft LPS1 including the advertising, consideration of submissions, completing modifications to text/maps and approval by the City/DoP and Minister is approximately 12 months, this should allow time for those affected amendments to be completed.

GOVERNMENT CONSULTATION

31. The revised draft Scheme Text and Maps have been referred to the EPA and DoP for assessment and comment and administration have met with these agencies on numerous occasions since February 2009 to discuss their requirements and provide responses to their suggestions for the draft LPS1.
32. The EPA has advised that the revised draft LPS1 has adequately implemented their previous advice and recommendations.
33. Following consideration of this revised draft LPS1, the DoP will then prepare a report for consideration by the WA Planning Commission and Minister for Planning on the appropriateness of the scheme and whether to give or withhold consent for the scheme to be advertised and with or without modifications.
34. The DoP (Great Southern Office) has provided verbal advise that the revised draft LPS1 has adequately implemented their suggested modifications and changes on the initial draft LPS1 excepting the wording of the appeal clause (discussed above).

PUBLIC CONSULTATION / ENGAGEMENT

35. Upon acceptance by the Minister or authorised person, the draft LPS1 is required to be advertised for public comment for a minimum period of 3 months. As the likely timeframe for public consultation is during the Christmas/School breaks which are a typically busy time in the City, Council may consider extending the advertising period by a month accordingly.
36. Given the importance of ensuring effective opportunity for the community to review the draft LPS1 and contribute submissions, administration recommends the City undertake additional tasks during the submission period including:
- Public displays are held in locations around the City.
 - Public information sessions are held in locations around the City.
 - Information pamphlets be prepared and distributed to residents to inform them of the preparation of the new scheme and their opportunity to comment.
 - Inclusion of regular press articles summarising aspects of the draft scheme using press and radio outlets.
 - 1-on-1 meetings with targeted stakeholder groups such as Albany Port, Progress Associations, Speedway, Heritage Groups, etc.

STATUTORY IMPLICATIONS

37. The preparation of all local planning schemes is governed by the *Planning and Development Act 2005* and associated *Town Planning Regulations 1967*.
38. The following table provides a summary of the processes and progress for preparing the new planning scheme (with the existing progress status highlighted):

No	Task	Progress to Date
1	Initiate the draft LPS1	February 2009
2	Forward draft LPS1 to EPA and DoP/WAPC for assessment and comment	February 2009
3	EPA determine if draft LPS1 requires formal or informal environmental review	EPA does not require formal assessment (May 2010) with advice and recommendations provided. Final modifications agreed (April 2011).
4	DoP provide comments and suggested modifications on LPS1	Final modifications agreed (May 2011). Third-party appeal rights retained in revised draft LPS1.
5	Revised draft LPS1, incorporating suggested modifications, adopted by City	expected September 2011
6	Forward draft LPS1 to DoP/WAPC for approval to advertise	expected September 2011
7	Minister for Planning grants approval for draft LPS1 to be advertised for public comment	expected December 2011
8	Draft LPS1 advertised for public comment for 3-months (4	expected December 2011 –

No	Task	Progress to Date
	months recommended to cater for Christmas Period)	April 2012
9	City considers submissions and recommends modifications to draft LPS1 as a result of submissions received	expected June 2012
10	City refers draft LPS1, submissions and recommendations to DoP/WAPC for consideration and final approval	expected June 2012
12	Minister approves new LPS1 subject to modifications	expected August 2012
13	LPS1 gazetted and existing town planning schemes revoked	expected August 2012

STRATEGIC IMPLICATIONS

39. The recently adopted City of Albany Strategic Plan (2011-2021) states under the Key Focus Area of *'Sustainability and Development'* the following community priorities in relation to this item:

"Single Town Planning Scheme

Amalgamate Town Planning Scheme 1A and Town Planning Scheme 3 into one definitive plan that includes:

- A. Greater flexibility in housing options so there is greater property diversity;*
- B. An increase in mixed use developments and dwellings, particularly in the CBD;*
- C. Clearly defined "rules" and then ensure consistent application;*
- D. Streetscape development guidelines for private development projects and a streetscape master plan for the City;*
- E. Definitions of the type and location of future residential housing;*
- F. High density housing of up to three levels in approved areas to reduce urban expansion;*
- G. Restrictions to development in prime locations and in accordance with a coastal policy;*
- H. Protection of natural reserves;*
- I. Flexibility for development in key tourism areas;*
- J. The establishment of green belts around Albany;*
- K. A requirement for developers to turn drainage basins into living streams or parks;*
- L. Strategies to prevent urban sprawl;*
- M. Strategies to retain prime agricultural land."*

40. The following comments are made in relation to the above:

- A. The new scheme proposes the split-coding of suitable residential areas around the City to encourage a diversity of lot sizes and dwelling types. The recent review of the R-Codes by the WAPC, which is used by all local governments to control residential developments within the State, will also enable a greater diversity of housing over time to be achieved (including aged persons accommodation).
- B. The new scheme creates a specific mixed use zone for areas around the CBD.
- C. The new scheme (based on the Model Scheme Text) has been drafted to clearly define the 'scheme rules' in plain English. The new scheme combines 5 existing schemes operating in the City and will ensure that all applications are assessed against a common set of criteria and dealt with in a consistent manner.

- D. The new scheme maintains the City's current requirement to require the preparation and implementation of building and streetscape development guidelines when necessary. This requirement may be triggered by topography, transport, landscape, heritage or streetscape issues that necessitate the preparation of these guidelines.
 - E. The new scheme supports the outcomes of the Albany Local Planning Strategy and has included some of the areas of land identified within ALPS within appropriate residential or future urban zones. As with greater flexibility, the incorporation of split-coding of suitable residential areas around the City and review of the R-Codes will encourage a greater diversity of lot sizes and dwelling types.
 - F. Common with some of the other outcomes, the reduced lot sizes expected from some of the split-coded areas and review of the R-Codes will encourage a greater diversity of dwelling types, including grouped and multiple dwellings.
 - G. The new scheme includes the requirement that in assessing any land use or development proposals in the vicinity of the coast, the Local Government shall have due regard to State Planning Policy 2.6 (State Coastal Policy) and "*Southern Shores 2001 - 2021 - A Strategy to Guide Coastal and Marine Planning and Management in the South Coast Region of Western Australia*".
 - H. The new scheme includes requirements to protect natural areas (both public and private) through scheme reservation through to planning controls that can be imposed on individual proposals.
 - I. The new scheme has introduced several zones including tourist residential, regional centre, hotel/motel, caravan and camping and agriculture zones to control tourism developments within the City. In conjunction the Scheme incorporates the key recommendations from the Tourism Accommodation Planning Strategy.
 - J. The new scheme requires the protection of conservation areas including coastal/rivers, topography/vegetation to create green-spines or ecological corridors between significant natural areas.
 - K. The new scheme requires all development incorporate water sensitive urban design principles and best management practices which would include the design of some drainage basins into landscape features.
 - L. The new scheme supports the outcomes of the Albany Local Planning Strategy and has only included certain areas within appropriate residential or future urban zones to assist/control development fronts and discourage urban sprawl.
 - M. The new scheme has introduced a specific priority agriculture zone to assist with the aim of retaining prime agricultural land within the City for food production.
41. The completion of a new planning scheme for the City, based on the strategic land use direction promoted in ALPS, and which consolidates the various existing planning schemes will assist the City deliver on its strategic plan for Albany.

POLICY IMPLICATIONS

42. Council has recently reviewed its planning policies and has adopted a Local Planning Policy Manual. On gazettal of the Scheme a review of the policy framework and how such policies will support the new Planning Scheme will need to be undertaken.

RISK IDENTIFICATION & MITIGATION

43. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Revised draft LPS1 not adopted by Council. This would result in the City continuing to utilise the present multiple and dated schemes.	Possible	Medium	High	Mitigation entirely dependent on Council.
WAPC grants consent to advertise the Scheme, but with a modification that requires the removal of all references to third party appeals. If this occurs it has the potential to delay the advertising of the Scheme, especially if Council is not prepared to undertake the modifications.	Possible	Medium	High	On the basis of previous Council decisions staff have prepared a list of reasons why third-party appeal provisions should be maintained in the City's combined scheme, and it is recommended that this information is forwarded to the WAPC to adequately convey the City's position on this issue.

FINANCIAL IMPLICATIONS

44. The costs to undertake the liaison with agency staff and reporting on suggested modifications and completing accepted modifications and the completion of the revised draft scheme text and maps has been undertaken by the Directorate using existing staff resources within existing budget lines.

45. The City 2011/12 includes an amount of \$20,000 to undertake consultation on the draft LPS1. This will be used to complete the tasks identified in the Public Consultation/Engagement section above.

LEGAL IMPLICATIONS

46. Administration has been requested by the DoP staff to remove third-party appeal rights from the draft scheme. Staff have not agreed and maintained that its inclusion reflects previous decisions of the City and continues the existing powers available under Town Planning Scheme 3. The Minister for Planning will ultimately determine the appropriateness of the scheme, including the retention of these appeal rights.

ALTERNATE OPTIONS

47. Council has the following options in relation to the revised draft scheme:

Option A

To accept the revised draft (in part or whole).

Option B

To defer consideration of the revised draft (in part or whole).

Option C

To seek additional information or discussions with the EPA/DoP.

Option D

To not adopt the revised draft.

48. It is recommended that Option A (i.e. the revised draft LPS1 be accepted in whole) be adopted and resubmitted to the WAPC/Minister accordingly.

49. If Option D is pursued, Council's support for the original draft LPS1 (from February 2009) would remain in place. This version is not acceptable to the EPA or DoP without modifications.

SUMMARY CONCLUSION

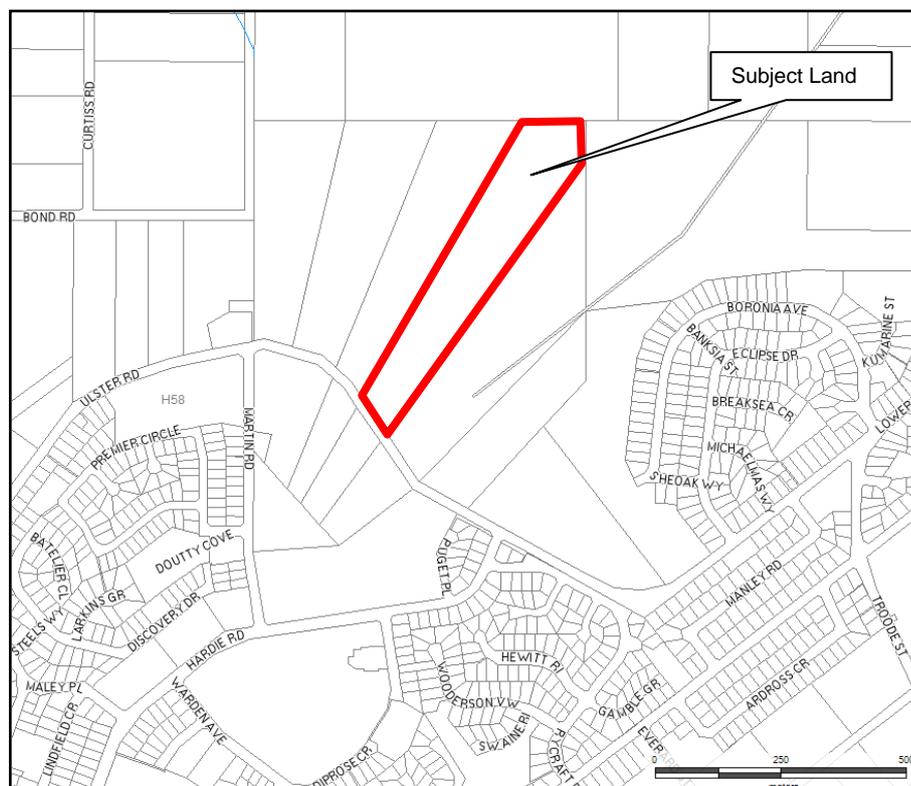
50. It is recommended that Council adopts draft Local Planning Scheme No. 1 to provide a contemporary framework for the ongoing development of the City.

Consulted References	Draft Local Planning Scheme No. 1 <i>Planning and Development Act 2005</i> <i>Town Planning Regulations 1967</i>
File Number (Name of Ward)	LP.PLA.8 (All Wards)
Previous Reference	OCM 11/4/00 Item 12.1.14 OCM 5/9/00 Item 11.3.1 OCM 16/1/07 Item 11.3.3 OCM 20/3/07 Item 11.3.3 OCM 17/02/09 Item 11.6.1

2.2: DEVELOPMENT APPLICATION – JUNK YARD (TIMBER SALVAGE ONLY) – 235 – 239 ULSTER ROAD, COLLINGWOOD HEIGHTS

Land Description	: 235-239 Ulster Road, Collingwood Heights
Proponent	: G Sutton
Owner	: G & V Sutton
Business Entity Name	: Nil
Attachments	: Application for Planning Scheme Consent
Appendices	: Copies of Submissions
Councillor Workstation	: Yakamia Creek Flood Study 2001 (Plans)
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- The proponent seeks consent to receive and store timber from building demolition on 235-239 Ulster Road, Collingwood Heights. The timber would be processed, graded and sorted on site for sale and re-use. Lower quality wood would be used for fence posts, railings and pallets with the excess used for firewood.
- The activity is proposed to be located within the floodplain of the Yakamia Creek. The location for the timber stockpiles together with the associated infrastructure, have floodwater capacity implications for the drainage system.
- Objections have been received from the community and government agencies primarily based on the impact on flood flows as well as implications of the junk yard use.

8.23PM Councillor Sutton left the Chamber after declaring an impartiality interest in this item.

ITEM 2.2: PROCEDURAL MOTION BY COUNCILLOR HAMMOND

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR DUFTY

THAT this matter be laid on the table for a further month to allow the City to make further enquiries.

CARRIED 5-4

Record of Vote

Against the Motion: Councillors D Bostock, Holden, Leavesley and the Mayor

RECOMMENDATION

ITEM 2.2 RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ISSUE a Notice of Planning Scheme Refusal for a 'Junk Yard (Timber Salvage Only)' at 235 – 239 Ulster Road, Collingwood Heights, due to the following reasons:

- A. The proposed development is located within the Flood Way of the Yakamia Creek and therefore does not meet Clause 5.4 of Town Planning Scheme No.3 (Matters to be considered) as the proposed development is subject to a flooding risk and is not supported by consulted state government agencies.
- B. The proposed development is located within the Flood Way of the Yakamia Creek and therefore does not meet Council's Policy 5E – Development in Flood Prone Areas. The nature of the proposal and its associated infrastructure would likely disrupt and reduce the floodwater capacity of the natural drainage system and is likely to give rise to increased flood risk upstream.

BACKGROUND

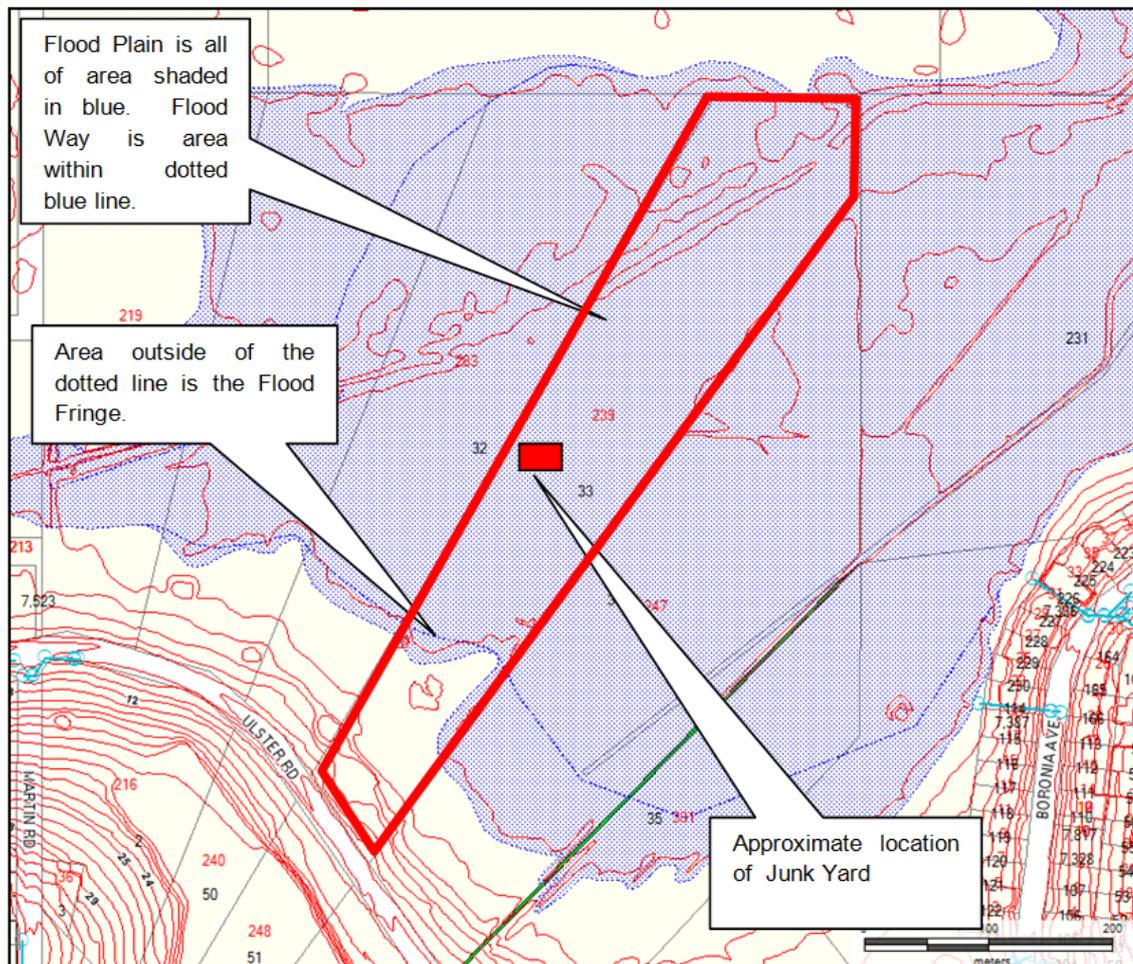
1. The subject site is around 7.75ha in area and is zoned 'Rural' under Town Planning Scheme No. 3. It is located on the north side of Ulster Road opposite St Joseph's College. The land is low lying and the flood way of the Yakamia Creek extends over the site from the north as far as 150m from the Ulster Road boundary. The flood fringe area extends over more of the site in a couple of places.
2. Both the flood way and flood fringe as a whole are known as the 'flood plain'. The floodplain is representative of the extent of flooding that would be caused in a 1 in 100 year storm event. Whilst the floodway is not suitable for development, the flood fringe can be developed subject to limited filling above the 1:100 flood level.

3. A Junk Yard is defined in Town Planning Scheme 3 as '*Land used for the collection, storage, abandonment or sale of scrap metal, building materials, waste paper, rags, bottles or other scrap materials or goods, or used for the collecting, dismantling, storage, salvaging or abandonment of buildings, automobiles or other vehicles or machinery or for the sale of parts thereof*'. The proposal has been classified as a junk yard limited to timber salvage only.
4. The Junk Yard land use is an 'AA' use in the rural zone, which is a use that is not permitted unless planning consent is granted by Council after a period of public consultation and advertising.
5. This application is referred to Council in accordance with the Planning Processes Guidelines as the use class of Junk Yard can only be considered by Council.

DISCUSSION

6. The proponent seeks planning scheme consent for the use of part of his land as a Junk Yard, specifically for timber salvage. The application has arisen primarily as a result of the re-development of the Albany Regional Hospital whereby significant amounts of timber from demolished buildings (roof frames etc) were sorted by the demolition contractor and identified for disposal at landfill. The proponent negotiated for the delivery of the timber (several truckloads) onto the subject site.
7. The proponent intends to sort and grade the wood according to its quality for re-use. The timber would then be processed (de-nailed, etc) and stacked neatly in close proximity to the delivered unsorted stockpiles. The processed wood would not be used for any manufacture onsite, but sold to a retailer. It is envisaged that the best quality lengths of timber would be used for such things as furniture making with the lower grade timber used for fence posts, railings and pallet manufacture. Off-cuts and other scraps would be sold for firewood and retailed by the truck load from the subject property.
8. This operation is proposed to be conducted approximately 300m into the site away from Ulster Road and would require construction of an access road (haul road) and turning area for the trucks delivering and collecting the timber. No buildings are proposed with the storage and processing activity intended to be undertaken in the open air. Although it is proposed to be carried out without significant alteration to the site, it is likely that due to the site conditions some isolated filling would be needed to raise the level of the land to keep the area dry during winter and to accommodate access by vehicles, particularly for moving and loading timber onto trucks. According to spot height levels taken from the *Yakamia Creek Flood Study 2001* (prepared by the then Water and Rivers Commission) the area designated for the timber stockpile and access is at a level of approximately 2.3 metres AHD which is 700mm lower than the boundary of the floodplain/fringe, which sits at around 3 metres AHD on the subject site.
9. Although the current intended source of timber is from the demolition of the Albany Hospital, the proponent has requested a permanent approval to permit ongoing activity that may take advantage of other timber demolition material in the future. He has confirmed that he will not accept or deal with chemically treated timber.

10. The Department of Environment & Conservation (DEC) only have an interest in the operation if the use involves chemically treated timber or the volume of material exceeds 500 tonnes per annum. The proposal complies with these requirements and could be conditioned accordingly.
11. The Department of Water has objected to the proposal given the operation will be located within the floodway of the Yakamia Creek (refer to the map below). This has been relayed to the proponent and he has been requested to reconsider the location, moving it closer to Ulster Road to the higher portion of the lot out of the flood way. The proponent does not wish to relocate the operation out of the designated flood way.



12. With regard to the submissions from the public, many of these raised the same concerns to those expressed by the Department of Water. Several submissions refer to other items being placed on the site such as unsightly car bodies and general junk/rubbish, however such comments are not relevant to the proposal, and were raised due to misconceptions associated with the term 'Junk Yard'. The proposal is for timber salvage only.

13. Although a full list of concerns is outlined in Paragraph 22, the major concerns raised by the public included:
- the storage of chemically treated timber and resultant environmental concerns via contamination;
 - the future expansion of the stockpiled areas outside of those areas identified on the site plan;
 - the height of stockpiles and the visual impact from the surrounding residential area which overlook the floodplain (parts of Spencer Park and Collingwood Heights); and
 - truck movements involving dust, noise and traffic safety concerns on Ulster Road.
14. In relation to the above concerns it is anticipated that these issues can be adequately controlled through the application of planning conditions. A condition restricting the use to untreated timber would address possible contamination concerns. Likewise restricting the areas used for storage to stated dimensions and setting a maximum height would control and minimise visual amenity and landscape impact concerns. With controlled or limited stacks of wood and the one person operating nature of the proposal, it would have minimal impact when assessed against the overall size of the lot and would not necessarily be discernable or distinguishable from other rural type activities. The hours of operation and days when activity is permitted could also be controlled by condition.
15. The traffic impacts associated with the proposal primarily relate to the suitability of access from Ulster Road by trucks and or other vehicles delivering and collecting the timber. The City's Works and Services Department have reviewed the proposal and are satisfied that suitable sight lines for exiting vehicles would exist and that the crossover and access driveway can be suitably upgraded to meet relevant standards. It is envisaged that the frequency of deliveries would be insignificant and is unlikely to pose any adverse impacts on Ulster Road traffic.
16. The significant issue raised in the majority of responses, including those from statutory bodies is the location of the proposal within the flood way. Such a location is unsuitable for this type of activity due to high possibility of inundation rendering access and use of the land problematic during significant stormwater events. If approved in this location, this is likely to result in a request for further filling of the land to maintain access and keep the operation above sub-surface water levels. According to the Department of Water such filling would have significant impacts on the drainage system water flows and floodwater storage capacity of the flood plain. In extreme events it is also likely any timber stored onsite could move or be washed away creating potential hazards offsite.
17. Given the location of the proposed timber salvage yard, inclusive of access and parking within the flood way staff are of the opinion that the proposal should be refused. However, should the proponent reconsider its location outside of the flood way, the proposal could be considered acceptable subject to appropriate conditions.

GOVERNMENT CONSULTATION

18. The proposal was referred to the Department of Water and the Department of Environment and Conservation.
19. The Department of Water objected to the proposal being within the flood way and was concerned that the bulky nature of the timber storage would constitute an obstruction to flood flows and exacerbate the impact of flooding upstream of the site.
20. The Department of Environment and Conservation raised concerns over the development being within the flood plain of Yakamia Creek, however they advised that provided the timber being processed is not chemically treated and is less than 500 tonnes per year, they have no direct interest.

PUBLIC CONSULTATION / ENGAGEMENT

21. A standard consultation letter was sent to surrounding landowners as well as a sign being placed on the road verge outside the site and an advertisement being placed in the Public Notices section of the Albany Advertiser.
22. A total of 27 responses were received from members of the public and surrounding landowners. Three of these raised no objections, one gave comment without expressing a particular opinion and the remaining twenty-three raised the following objections/issues/concerns:
 - The land should be considered as Special Rural, not Rural. A Junk Yard is not permitted in Special Rural areas.
 - Impact on views.
 - Increased noise from this site.
 - What will the impact be on the wildlife of the flood plain and wetland?
 - Ulster Road would need widening to accommodate increased vehicle use.
 - Reduce property values in the area.
 - This is a residential area, not industrial.
 - Possible pollution/contamination of the wetland and Yakamia Creek system.
 - Heavy truck movements, including being in close proximity to the schools.
 - Detrimental to visual amenity with unsightly piles of scrap, flood lighting, fencing and barking guard dogs.
 - Road safety and poor access arrangements.
 - Amenity of residential properties in the vicinity.
 - Concerns of this activity being within the floodplain.
 - In a flood situation the open stored timber would be carried off into Oyster Harbour.
 - Not attractive for visitors driving around town.
 - Such a use should be on a sealed drainage system to prevent runoff. The ongoing monitoring of such a system would become a Council obligation.
 - Regulated hours would be required to give local residents some peace at weekends.
 - The site may be an attractive playground for children.

- An approval would lead the way to an expectation to expand the business in the future.
- This is incompatible with the existing low-key activities on surrounding lots.
- The land either side of the creek should become a riparian park for the enjoyment of future generations, not this.
- The noise from machinery will cause more stress to the dogs at the kennels making them bark more.
- The timber is proposed stored on the grass, but may in the future be requested to be on a hard surface. The fill required and works for this would have a significant impact on the water dynamics.

STATUTORY IMPLICATIONS

23. A 'Junk Yard' is an 'AA' use within the Rural zone of Town Planning Scheme 3 (ie. a use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 5.1.4).

24. Clause 5.4 of the Scheme details the matters to be considered by Council and states:

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

- (i) the compatibility of a use or development with its setting;*
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- (n) the preservation of amenity;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) 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;*
- (q) 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;*
- (y) any relevant submission received on the application;*

- (z) *the comments or submissions received from any authority consulted under clause 5.1A;*
- (zb) *any other planning consideration the Council considers relevant.*

STRATEGIC IMPLICATIONS

- 25. The land is identified in the Albany Local Planning Strategy as 'Regional Reserve' noting that the subject site is part of the Yakamia Creek flood plain.
- 26. This item relates to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Sustainability

Community Priority

Adopt "Green City" principles

Proposed Strategies

Reduce the amount of landfill waste by allowing the use of recycled/second hand building materials in new homes.

POLICY IMPLICATIONS

- 27. Policy 5E of the City's Local Planning Policy Manual titled 'Development in Flood Prone Areas' is relevant to the proposal.
- 28. Whilst the Policy is broad in nature it notes that in areas subject to periodic inundation or flooding, that development should:
 - 1) *Prevent disruption to the natural drainage system or the modification of the flood levels that would be experienced within the drainage system;*
 - 3) *Maintain the natural ecological and drainage function of the area to store and convey stormwater and floodwater within the watercourse, drainage system or floodplain;*
- 29. This proposal does not meet these policy requirements as the proposed junk yard is within the mapped floodway as determined through the *Yakamia Creek Flood Study 2001*.

RISK IDENTIFICATION & MITIGATION

30. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
The development within the Flood Way may be prone to inundation in severe storm events and cause an obstruction which could exacerbate the impact of flooding upstream.	Possible	Major	High	Entirely dependent on Council.

FINANCIAL IMPLICATIONS

31. The appropriate planning fee has been paid by the proponent and staff have processed the proposal within existing budget lines.

LEGAL IMPLICATIONS

32. Should Council follow the recommendation and refuse the proposal, the proponent has the ability to seek review of Council's decision at the State Administrative Tribunal. Such an appeal would be a Class 1 appeal which does not involve legal representation, and therefore such costs would be mainly staff time.

ALTERNATE OPTIONS

33. Council could determine that the location and type of proposal is acceptable and would not have a significant impact of flood flows and cause an obstruction during severe storm events. However, in arriving at that decision, Council must be mindful of the consequences, including the possibility of future requests for filling the land to protect the activity from potential flood water. Such additional changes to the ground level could have a significant impact on surrounding landowners in terms of floodwater capacity and visual/landscape amenity impact.

34. Should Council wish to approve the proposal as submitted and allow the development within the designated flood way the following alternate motion could be considered by a Council member:

That Council issue a Planning Scheme Consent for a 'Junk Yard (Timber Salvage)' at 235-239 Ulster Road, Collingwood Heights subject to the following conditions:

- A. *The approval is for the collection, storage, abandonment or sale of timber only;*
 - B. *The business should not employ more than 2 persons not members of the proponent's household;*
 - C. *The timber stored on the site shall not be chemically treated;*
 - D. *The timber is to be stored within the stockpile areas identified on the site plan submitted with the application for planning scheme consent;*
 - E. *The height of the timber stockpiles shall not exceed 3 metres in height;*
 - F. *No manufacturing (processing) of the timber is to occur on site, except for the removal of nails and sorting of timber without the prior approval of Council;*
 - G. *The crossover and access is to be upgraded prior to the operation of the use to the satisfaction of the Council.*
 - H. *The operating hours associated with the use, inclusive of deliveries and sale of salvaged timber, shall be limited to Monday to Saturday 8am to 6pm with no trading on Sundays.*
35. A decision to approve the proposal may set a precedent for future decision making on these types of applications in known flood ways.

SUMMARY CONCLUSION

36. This application is for a Junk Yard, limited to timber only, whereby the timber from building demolition would be stockpiled, processed and graded for re-use. It is intended that only timber that has not been chemically treated would be received onsite. The activity would be a singular person operation utilising a small portion of the 7.75ha site.
37. Given the scale of the operation and restrictions applying to timber only, the activity and use is considered acceptable subject to the application of several planning conditions. The intended location is however entirely located within the floodway of the Yakamia Creek. Accordingly, the use and its associated infrastructure in this location raises significant concerns regarding water flows in the flood plain and the flood water capacity of the drainage system.
38. Staff are of the opinion that the proposal is unacceptable in its current location and recommends the application be refused.

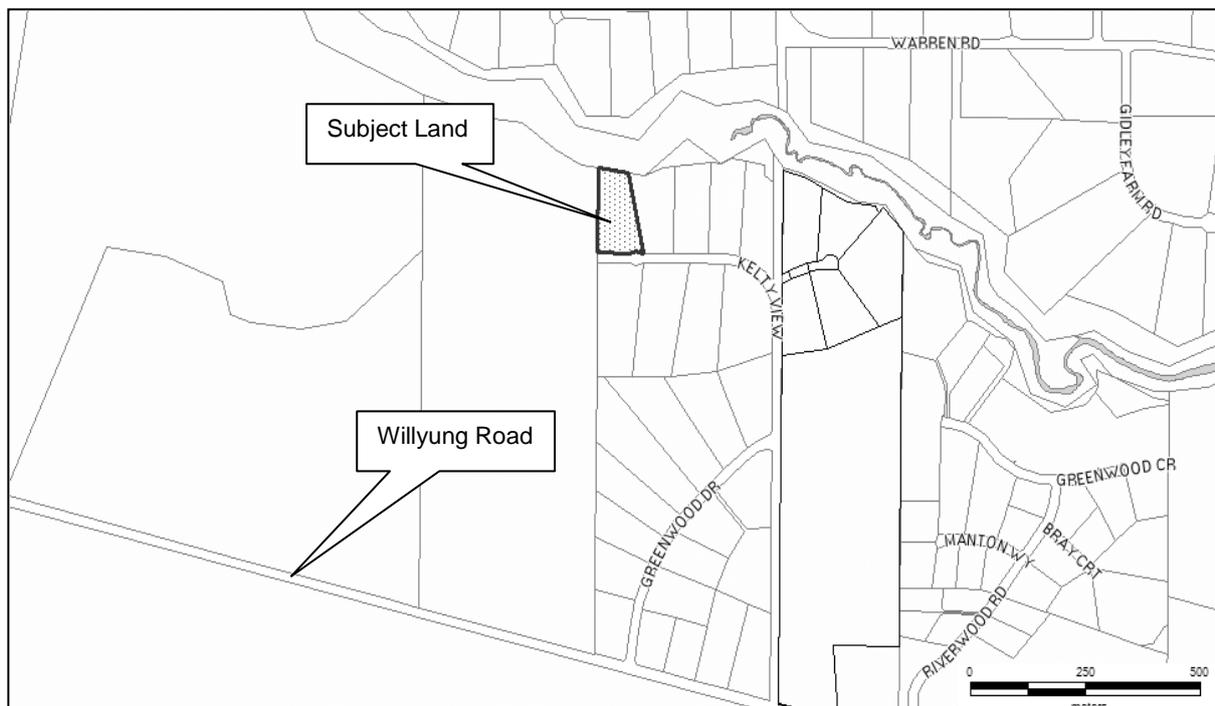
Consulted References	Town Planning Scheme 3 Yakamia Creek Flood Study
File Number (Name of Ward)	A67452 (Yakamia Ward)
Previous Reference	Nil

Councillor Sutton returned to the Chamber. Councillor Sutton did not participate in the discussion or vote.

**2.3: DEVELOPMENT APPLICATION – OVERSIZE OUTBUILDING,
KELTY VIEW, WILLYUNG**

Land Description	: (Lot 421) No. 60 Kelty View, Willyung
Proponent	: S & J Carman
Owner/s	: S & J Carman
Business Entity Name	: N/A
Attachment(s)	: Letter of justification : Site Plan / Elevations / Floor Plan : Neighbour Submissions
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- A development application has been received for an Oversize Outbuilding at Lot 421 Kelty View, Willyung.
- As the application fails to comply with the acceptable requirements of Council's Outbuildings Policy the proposal has been sent to Council for a determination.

ITEM 2.3: ALTERNATE MOTION BY COUNCILLOR DUFTY

**MOVED: COUNCILLOR DUFTY
SECONDED: COUNCILLOR SUTTON**

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for an ‘Oversized Outbuilding’, inclusive of a side setback relaxation, at Lot 421 Kelty View, Willyung subject to the following conditions:

- 1) The proposed outbuilding being clad in factory applied colour finished sheet metal.**
- 2) The outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation.**
- 3) All runoff from impervious surfaces being contained within the property and disposed of to Council’s satisfaction.**

LOST 4-6

Record of Vote

For the Motion: Councillors Dufty, Sutton, Hammond and Bostock

RECOMMENDATION

**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS
SECONDED: COUNCILLOR WELLINGTON**

THAT Council resolves to ISSUE a Notice of Planning Scheme Refusal for an oversized Outbuilding at Lot 421 Kelty View, Willyung due to the following reasons:

- 4) The outbuilding does not comply with the floor area restrictions contained within the City of Albany’s Outbuildings Policy.**
- 5) The proponent has not demonstrated that ‘exceptional circumstances’ exist to justify a relaxation of Council’s policy.**
- 6) The outbuilding fails to comply with the acceptable boundary setbacks, as per clause 6.2 of the provisions for Special Residential Area No.11.**

CARRIED 6-4

Record of Vote

Against the Motion: Councillors Dufty, Hammond, Bostock and Sutton

BACKGROUND

- 1. This application is for an extension to an existing domestic outbuilding, located at Lot 421 Kelty View, Willyung. The extension does not comply with Councils Outbuilding’s Policy. The subject site is 1.4003 hectares in area and is zoned “Special Residential (Area No.11)” under Town Planning Scheme No. 3 (TPS 3).**

2. Council's Outbuilding's Policy sets the permitted development criteria for outbuildings according to the zone and site area. For the subject land the following provisions apply:

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined all outbuildings)	Special Requirements
Special Residential Zone (Lots greater than 4000m ²)	4.2 metres	4.8 metres	150m ²	Refer relevant planning scheme requirements for siting and materials.

3. Although the Outbuilding's Policy allows acceptable variations to the wall heights of outbuildings, which can be dealt with under staff delegation subject to an application for Planning Scheme Consent, the Policy states;

"For all other variations of the Outbuilding Policy the applicant shall demonstrate exceptional circumstances as to why the policy should be relaxed, with the proposal being presented to an ordinary meeting of Council".

DISCUSSION

4. The proponent seeks Planning Scheme Consent for a variation of the Outbuilding's Policy in respect of the maximum floor area allowed for outbuildings on the site. The maximum floor area for all combined domestic outbuildings on the site is restricted to 150m². The existing outbuilding is 130.0032m² in area and the proposed extension is 65.1168m² in area (dimensions 12.24m x 5.32m) bringing the combined floor area to 195.12m², therefore requesting a variation of 45.12m² to the policy.
5. The outbuilding is proposed to be finished in colorbond with the colour chosen being "wilderness" (green).
6. The proponent has advised that they require the additional floor area for the following reasons:
- He is an ex-furniture maker, and still makes furniture as a hobby occasionally, and to safely use the machinery/tools (panel saw, buzzer, thickness etc) requires a large area.
 - He requires additional storage space for members of the family.
 - He requires extra floor space to store and park vehicles such as standard cars, camper trailer motorbike and classic cars.
 - He restores classic vehicles (copy of justification is attached to this report).
7. The proponent has stated that due to the size of the lot (1.4003 hectares) they believe the floor area requirements should be based on the Special Rural zone requirements. The subject lot size is above the average Special Residential lot size and is typical of the Special Rural zone. It should be noted that if the zoning of the site was Special Rural the floor area restriction is 200m² (proposed floor area is 195.12m²).

8. The proponent is also requesting a side setback relaxation, the provisions of “Special Residential (Area No.11) require a setback of 15m from boundaries. The existing outbuilding is 15m from the boundary however with the extension the outbuilding is proposed to be 9.68m from the eastern boundary (relaxation of 5.32m). Clause 6.3 of the provisions for the area states;

“Council may approve a lesser boundary setback if Council is of the opinion that (i) the topography or shape of the lot, or natural vegetation on it, makes it desirable to alter this provision and (ii) that the location of the building or structure will not detract from the environmental quality of the area or from the amenity of existing or future residence on adjoining lots. Council may require hydrological testing for footings and alternative wastewater effluent disposal systems.”

The affecting neighbour was consulted and raised no objection to the relaxation. The outbuilding is sufficiently setback from all other boundaries.

9. In all other respects, the proposed outbuilding complies with the Outbuilding’s Policy and the provisions of “Special Residential (Area No.11) under TPS 3.

GOVERNMENT CONSULTATION

10. No government consultation was required.

PUBLIC CONSULTATION/ENGAGEMENT

11. The application was referred to nearby landowners for comment as a relaxation to the Outbuilding’s policy. In closing of the advertising period one submission was received advising no objections to the application.

STATUTORY IMPLICATIONS

12. As the land is zoned “Special Residential (Area No.11) under TPS 3, the proposed outbuilding is permissible under the Scheme.
13. The Outbuilding’s Policy is a town planning scheme policy adopted under the Scheme. Clause 6.9.4 of TPS 3 states;
- a) *A Town Planning Scheme Policy shall not bind the council in respect of an application for Planning Consent, however, it may require the council to advertise its intention to relax the provisions of the policy once 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 submission lodged, before making its decision.”*

14. Clause 5.16 of Town Planning Scheme No. 3 allows Council to grant a relaxation to a scheme standard. In this case the Scheme requires a side setback of 15 metres and the proponent has proposed a reduced side setback of 9.68 metres. The neighbouring landowner affected by the proposed relaxation was consulted and no objection has been received. All processes have been followed, inclusive of neighbor consultation, to allow Council the ability to approve the side setback relaxation as per Clause 5.16 should it wish to do so.

STRATEGIC IMPLICATIONS

15. This item relates to the following elements of the City of Albany Strategic Plan (2011 2021):

Key Focus Area

Organisational Performance

Community Priority

Policy and Procedures

Proposed Strategies

- Develop clear processes and policies and ensure consistent, transparent application across the organisation.
- Regularly review all policies in consultation with community and key stakeholders.

16. The last major review of the Outbuilding's Policy was undertaken in July last year in liaison with shed builders throughout the Great Southern Region. Since this review was undertaken, no applications for outbuildings have been presented to Council with the exception of this application; all other proposals have complied with this Policy.

POLICY IMPLICATIONS

17. Council's Outbuildings Policy states that Planning Scheme Consent is only required where the criteria of the policy cannot be complied with (with the exception of the acceptable variations to the wall heights). Any variations to the policy require the proponent to demonstrate "exceptional circumstances" as to why the policy should be relaxed, with the proposal being presented to an ordinary meeting of Council.
18. The aim of the Outbuilding's Policy is to achieve a balance between providing for various legitimate storage needs of residents whilst minimising any adverse impacts outbuildings may have on neighbouring properties, the street, the neighbourhood or locality, or the City.
19. The Policy allows Council to consider applications outside the guidelines where "exceptional circumstances" apply and provided the aim of the policy is not compromised. Staff consider that the storage of tools/machinery, cars (both standard and classic), camper trailer and motorbike does not classify as "exceptional circumstances".

RISK IDENTIFICATION & MANAGEMENT

20. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Council's support for the proposal could create a precedent for other applications and devalue the policy.	Likely	Minor	High	Should Council support the proposal, it should consider whether the policy should be reviewed to accommodate similar applications.

FINANCIAL IMPLICATIONS

21. The proponent has paid the appropriate fee as per the Planning Fees Schedule adopted by Council.

LEGAL IMPLICATIONS

22. If Council refused the application, the proponent would then be entitled to seek a review of that decision with the State Administrative Tribunal. Such an appeal would be a Class 1 appeal which does not involve legal representation, and therefore costs would be mainly staff time.

ALTERNATE OPTIONS

23. Council has the option to grant planning scheme consent for the oversize outbuilding outside of its policy parameters and in doing so grant its consent to relax the side setback

SUMMARY CONCLUSION

24. The proponent proposes to construct an extension to an existing outbuilding in the front (south-eastern corner) of the site, requesting a side setback relaxation from the eastern boundary and a floor area relaxation under Council's Outbuilding's Policy.
25. A 45.12m² relaxation is sought for the maximum floor area requirement of 150m² under Council's Outbuilding Policy, therefore proposing an outbuilding 195.12m² in area (almost a one third increase in the allowable floor area).
26. The City of Albany has some of the most generous outbuilding sizes compared to other Local Governments within the State. Although only one requirement of the policy is requested to be varied, supporting this application could encourage further applications for oversize outbuildings on surrounding properties and could be used to set a precedent within Special Residential areas.

27. Staff consider that the proponents reasoning for the additional floor area is not considered “exceptional circumstances” and approval for applications of this nature would have the effect of undermining the policy. For these reasons, staff recommend the proposal not be supported.

Consulted References	Council's Outbuilding's Policy Town Planning Scheme No. 3
File Number (Name of Ward)	A186559 (Kalgan Ward)
Previous References	Nil

4.1: LIST OF ACCOUNTS FOR PAYMENT

Appendices : List of Accounts for Payment
Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

ITEM 4.1: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WOLFE

The list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 25 August 2011 totalling \$4,129,993.80 be RECEIVED.

CARRIED 10-0

BACKGROUND

- Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

DISCUSSION

- The table below summarises the payments drawn from the municipal fund during the month of August 2011. Further details of the accounts authorised for payment by the Chief Executive Officer is included within the Elected Members Report/Information Bulletin.

Municipal Fund

Trust	Totalling	\$5,820.95
Cheques	Totalling	\$50,591.16
Electronic Fund Transfer	Totalling	\$2,777,343.21
Credit Cards	Totalling	\$4,755.44
Payroll	Totalling	\$1,291,483.04
	TOTAL	<u>\$4,129,993.80</u>

- As at 25th August 2011, the total outstanding creditors, stands at **\$433,128.84** and made up follows:

Current	\$ 434,282.24
30 Days	-\$142.37
60 Days	\$120.00
90 Days	-\$1,131.03
TOTAL	\$433,128.84

- Cancelled cheques – 27482 – replacement cheque 27530 issued – incorrect name details on original cheque.

STATUTORY IMPLICATIONS

5. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
6. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
7. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 25 August 2011 has been incurred in accordance with the 2011/2012 budget parameters.

POLICY IMPLICATIONS

9. The City's 2011/2012 Annual Budget provides a set of parameters that guides the City's financial practices.

SUMMARY CONCLUSION

10. That list of accounts have been authorised for payment under delegated authority.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.2: FINANCIAL ACTIVITY STATEMENT – 31 AUGUST 2011

Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

IN BRIEF

- Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 August 2011.

ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR MATLA

The Financial Activity Statement for the period ending 31 August 2011 be RECEIVED.

CARRIED 10-0

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 August 2011 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Performance, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$100,000 are reported to Council.

“Please note that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”

6. STATEMENT OF FINANCIAL ACTIVITY – AS AT 31 AUGUST 2011

	Actual Year to Date 31-Aug-11	Current Budget Year to Date 31-Aug-11	Current Budget vs Actual Variance	
REVENUE				
Operating Grants, Subsidies and Cont	759,843	681,662	78,181	√
Fees and Charges	6,044,350	2,079,519	3,964,831	√
Interest Earnings	123,006	149,460	-26,454	X
Other Revenue	158,427	107,958	50,469	√
	7,085,626	3,018,599	4,067,027	
EXPENDITURE				
Employee Costs	2,251,906	2,502,763	-250,857	√
Materials and Contracts	1,418,700	2,375,405	-956,705	√
Utility Charges	199,931	212,924	-12,993	√
Interest Expenses	-29,140	-28,492	-648	√
Insurance Expenses	315,982	407,711	-91,729	√
Other Expenditure	278,232	218,530	59,702	X
Depreciation	1,895,727	1,968,848	-73,121	√
	6,331,338	7,657,689	-1,326,351	
Adjustment for Non-cash Revenue and Expenditure:				
Depreciation	-1,895,727	-1,968,848	73,121	
CAPITAL REVENUE				
Non-Operating Grants, Subsidies and Cont	873,562	694,748	178,814	√
Proceeds from asset disposals	141,541	621,252	-479,711	X
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	0	0	0	
Transfers from Reserves (Restricted Assets)	4,855,084	2,871,520	1,983,564	
	5,870,187	4,187,520	1,682,667	
CAPITAL EXPENDITURE				
Capital Expenditure	246,412	1,472,647	-1,226,235	√
Repayment of Loans	15,144	15,144	0	
Transfers to Reserves (Restricted Assets)	3,721,855	2,049,349	1,672,506	
	3,983,411	3,537,140	446,271	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	6,916,392	6,916,392	n/a	
LESS Net Current Assets Year to Date	37,150,614	30,510,349	n/a	
Amount Raised from Rates	-25,697,431	-25,613,819	-83,612	

* √ Is higher than expected revenue or lower than expected expenditure

* X is lower than expected revenue and higher than expected Expenditure

7. CITY OF ALBANY – NET CURRENT ASSETS – AS AT 31 AUGUST 2011

	Actual 31-Aug-11	Draft 30-Jun-11
NET CURRENT ASSETS		
Composition of Net Current Asset Position		
CURRENT ASSETS		
Cash - Unrestricted	7,711,982	6,635,802
Cash - Restricted	5,162,335	6,493,081
Receivables	30,650,219	1,997,562
Inventories	4,308,533	4,327,632
Total Current Assets	47,833,069	19,454,077
LESS: CURRENT LIABILITIES		
Payables and Provisions	5,520,120	6,044,604
	42,312,949	13,409,473
Less: Cash - Restricted - Trust	(1,113,183)	(1,310,700)
Less: Cash - Restricted - Reserves	(4,049,152)	(5,182,381)
NET CURRENT ASSET POSITION	37,150,614	6,916,392
NET CURRENT ASSETS PER BALANCE SHEET	34,127,876	5,011,739
Difference	(3,022,738)	(1,904,653)
Difference Represented by:		
Restricted Cash (Trust)	1,113,183	1,310,700
Reserve Funds - Financial Assets	1,054,480	1,054,480
Reserve Funds - Other	2,994,672	4,127,901
Self Supporting Loans (part of Receivables and Other)	5,162,335	6,493,081
Less:		
Borrowings	7,123,031	7,138,175
Trust Liabilities	1,062,042	1,259,559
Difference	(3,022,738)	(1,904,653)

**8. CITY OF ALBANY – STATEMENT OF FINANCIAL POSITION – AS AT
31 AUGUST 2011**

	Actual 31-Aug-11	Draft 30-Jun-11
CURRENT ASSETS		
Cash - Municipal	7,711,982	6,635,802
Restricted cash (Trust)	1,113,183	1,310,700
Reserve Funds - Financial Assets	1,054,480	1,054,480
Reserve Funds - Other	2,994,672	4,127,901
Receivables & Other	30,650,219	1,997,562
Investment Land	3,523,483	3,523,483
Stock on hand	785,051	804,150
	47,833,069	19,454,078
CURRENT LIABILITIES		
Borrowings	7,123,031	7,138,175
Creditors prov - Annual leave & LSL	2,305,700	2,381,578
Trust Liabilities	1,062,042	1,259,559
Creditors prov & accruals	3,214,420	3,663,026
	13,705,193	14,442,338
NET CURRENT ASSETS	34,127,876	5,011,739
NON CURRENT ASSETS		
Receivables	77,272	77,272
Pensioners Deferred Rates	370,759	370,759
Investment Land	2,220,758	2,220,758
Property, Plant & Equip	81,408,029	81,799,478
Infrastructure Assets	179,617,251	180,952,960
Local Govt House Shares	19,501	19,501
	263,713,570	265,440,728
NON CURRENT LIABILITIES		
Borrowings	12,626,394	12,626,394
Creditors & Provisions	464,911	464,911
	13,091,305	13,091,305
NET ASSETS	284,750,141	257,361,163
EQUITY		
Accumulated Surplus	261,940,376	233,418,169
Reserves	4,035,131	5,168,360
Asset revaluation Reserve	18,774,634	18,774,634
	284,750,141	257,361,163

**9. STATEMENT OF COMPREHENSIVE INCOME (BY NATURE OR TYPE) – AS AT
31 AUGUST 2011**

	YTD Actual 2011/12	Budget-Total 2011/12	Draft 2010/11
INCOME			
Rates	25,697,431	25,619,665	24,114,001
Grants & Subsidies	675,896	2,710,582	3,476,115
Contributions. Reimb & Donations	83,948	349,697	1,195,224
Fees & Charges	6,044,350	13,327,249	7,654,237
Service Charges	206	0	3,741,095
Interest Earned	123,006	697,000	1,003,752
Other Revenue / Income	158,221	617,625	860,474
	32,783,056	43,321,818	42,044,898
EXPENDITURE			
Employee Costs	2,251,906	16,948,783	15,327,595
Utilities	199,931	1,319,732	1,518,243
Interest Expenses	(29,140)	1,042,761	1,114,199
Depreciation on non current assets	1,895,727	11,817,938	11,302,261
Contracts & materials	1,418,700	12,973,799	11,268,273
Insurance expenses	315,982	584,845	543,500
Other Expenses	278,232	223,994	1,071,629
	6,331,338	44,911,852	42,145,700
Change in net assets from operations	26,451,719	(1,590,034)	(100,801)
Grants and Subsidies - non-operating	873,562	6,770,372	9,180,800
Contributions Reimbursements and Donations - non-operating	0	3,148,907	1,071,312
Profit/Loss on Asset Disposals	63,697	(905,815)	386,244
Cash Backing of Reserves	0	718,230	0
Fair value - Investments adjustment			0
	27,388,978	8,141,660	10,537,555

10. PORTFOLIO VALUATION – MARKET VALUE – AS AT 31 AUGUST 2011

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Jun-11	Market Value Jul-11	Market Value Aug-11	Latest Monthly Variation
MUNICIPAL ACCOUNT							
CBA	27/07/2011	1,000,000	5.79%	1,000,000			
Bankwest	8/07/2011	1,500,000	5.45%	1,500,000			
NAB	20/08/2011	1,544,652	4.00%	1,544,652	1,544,642	0	
				4,044,652	1,544,642	0	n/a
RESERVES ACCOUNT							
No funds currently invested				0	0	0	
COMMERCIAL SECURITIES - CDOs (New York Mellon)**							
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	4	4	4	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	10	10	10	0
Beryl (AAAGlogal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
		2,118,046		315,144	315,144	315,144	0
COMMERCIAL SECURITIES - CDOs - Other							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	144,500	144,500	144,500	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	0	0	0	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,750	68,750	68,750	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	123,000	113,760	113,760	0
		1,324,656		336,250	327,010	327,010	0
PORTFOLIO TOTAL				4,696,046	2,186,796	642,154	0

Notes ** These CDO's have been the subject of a Court Ruling in the United States Bankruptcy Court (as advised in a memorandum from the Executive Director Corporate and Community Services). The ruling has the potential to significantly impact the valuations for these CDOs. However, until the US Court and the English Court have worked together to reconcile their opposing rulings, it is unlikely that the City will receive any revised valuations.

11. FINANCIAL RATIOS - AS AT 31 AUGUST 2011

CITY OF ALBANY FINANCIAL RATIOS		30 Jun 10	30 Jun 11	31 Aug 11	Benchmark
Liquidity Ratios					
	Current Ratio ¹	73.7%	223.9%	346.4%	>100%
	Untied Cash to trade creditors Ratio ²	19.7%	320.3%	539.1%	>100%
Financial Position Ratio					
	Debt Ratio ³	11.2%	9.5%	8.5%	<100%
Debt Ratios					
	Debt Service Ratio ⁴	11.1%	5.2%	0.0%	<10%
	Gross Debt to Revenue Ratio ⁵	63.2%	47.4%	60.3%	<60%
	Gross Debt to Economically Realisable Assets ⁶	26.2%	19.3%	16.0%	<30%
Coverage Ratio					
	Rate Coverage Ratio ⁷	58.5%	102.6%	78.3%	>33%
Effectiveness Ratio					
	Outstanding Rates Ratio ⁸	3.7%	2.7%	110.5%	<5%

1. This ratio focuses on the liquidity position of a local government
2. This ratio provides an indication of whether a local government has sufficient unrestricted cash to pay its trade creditors..
3. The ratio is a measure of total liabilities to total assets or alternatively the number of times total liabilities are covered by the total assets of a local government. The lower the ratio of total liabilities to total assets, the stronger is the financial position of the local government.
4. This ratio measures a local government's ability to service debt (principal and interest) out of its available operating revenue. The ratio is below expected 30 June levels due to small debt repayments year to date.
5. This ratio measures a local government's ability to service debt in any given year out of total revenue.
6. This ratio provides a measure of whether a local government has sufficient realisable assets to cover its total borrowings.
7. The Coverage Ratio measures the local governments dependence on rate revenue to fund its operations. The higher the ratio, the less dependent a local government is on grants and external sources to fund its operations.
8. The Effectiveness Ratio measures the effectiveness of a local governments with the collection of it's rates. It would be expected to be above 5% at this time of the year, as rates have only just been issued, but reduce steadily over the next few months, to below the benchmark at 30 June.

STATUTORY IMPLICATIONS

12. Section 34 of the Local Government (Financial Management) Regulations 1996 provides:
- I. *A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
 - a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - b) *budget estimates to the end of the month to which the statement relates;*
 - c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relate*
 - d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) *the net current assets at the end of the month to which the statement relates.*
 - II. *Each statement of financial activity is to be accompanied by documents containing –*
 - a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in sub regulation (1)(d); and*
 - c) *such other supporting information as is considered relevant by the local government.*
 - III. *The information in a statement of financial activity may be shown –*
 - a) *according to nature and type classification;*
 - b) *by program; or*
 - c) *by business unit*
 - IV. *A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –*
 - a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - b) *recorded in the minutes of the meeting at which it is presented.*

FINANCIAL IMPLICATIONS Expenditure for the period ending 31 August 2011 has been incurred in accordance with the 2011/12 proposed budget parameters. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

13. VARIANCES TO BUDGET IN EXCESS OF \$100,000 - AS AT 31 AUGUST 2011

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD Percentage Variance	Variance Ticks	Comments
<u>OFFICE OF THE CEO</u>								
132650. Subdivision Land Sales	(2,000,000)	(2,000,000)	(333,200)	(80,705)	(252,495)	-76%	x	Cull Rd development continues to be offered for sale. Only one sale completed in 2011-12.
Total OFFICE OF THE CEO	(2,000,000)	(2,000,000)	(333,200)	(80,705)	(252,495)	-76%		
DIRECTOR CORPORATE								
103430. Major Plant-P/Loss Sale of Assets	1,267,411	1,267,411	211,150	39,189	171,961	81%	✓	Timing - only one plant item disposed of year to date. Cull Rd development continues to be offered for sale. Only one sale completed in 2011-12.
125430. Sale Land P/Loss	2,496,899	2,496,899	415,984	0	415,984	100%	✓	
148230. Passenger Vehicles-P/Loss Sale of Asset	1,053,522	1,053,522	175,516	38,655	136,861	78%	✓	
Total DIRECTOR CORPORATE	4,817,832	4,817,832	802,650	77,844	724,806	931%		
DIRECTOR WORKS & SERVICES								
134850. Asset Funding - Regional Road Group	(894,607)	(894,607)	0	(340,293)	340,293	100%	✓	Timing - income is budgeted for October.

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD Percentage Variance	Variance Ticks	Comments
135540. Commercial Vehicles (Utes) Purchase	1,100,000	1,100,000	366,668	0	366,668	100%	✓	Timing - no new ute purchases have been made.
138070. Waste Minimisation Contract	2,363,896	2,363,896	393,826	168,022	225,804	57%	✓	Subject to 10/11 end of year accrual adjustments. Timing issue.
141350. Path Funding - Grants	(1,079,467)	(1,079,467)	(179,840)	0	(179,840)	-100%	✗	Waiting for funding approval and disbursement.
141650. Commercial Vehicles Proceeds	(550,000)	(550,000)	(183,334)	0	(183,334)	-100%	✗	Timing - no commercial vehicles sold as yet.
144450. State Black Spot Funding	(123,714)	(123,714)	0	(111,392)	111,392	100%	✓	Balance of 10/11 funding (\$93 000) not received until 11/12. Subject to end of year accrual adjustments, and no major projects yet commenced for 11/12.
149940. Asset Preservation	3,195,730	3,195,730	122,240	(11,178)	133,418	109%	✓	
150140. Drainage Construction	1,175,070	1,175,070	124,320	21,528	102,792	83%	✓	Few of the major projects budgeted for 11/12 have commenced.
151640. Pathway Construction	1,498,497	1,498,497	249,650	121,592	128,058	51%	✓	Waiting for final funding approval. No major projects commenced.
167640. Peace Park	990,214	990,214	164,970	3,784	161,186	98%	✓	As funding is received, project costs will align to budget timing.
Total DIRECTOR WORKS & SERVICES	7,675,619	7,675,619	1,058,500	(147,937)	1,206,437	397%		

POLICY IMPLICATIONS

14. The City's 2011-12 Annual Budget provides a set of parameters that guides the City's financial practices.
15. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

16. POTENTIAL VARIANCES IN EXCESS OF \$100,000 AS AT 31 AUGUST 2011

Issue	Comments
<ul style="list-style-type: none"> <li data-bbox="236 293 630 360">• Guest Town Royal Show - Expenses <li data-bbox="236 427 571 495">• Beaufort Rd Drainage Rectification 	<p data-bbox="695 293 1460 394">The scope, size and cost of the guest town project has grown. During the 1st quarter review, funds will need to be reallocated to allow for this increase.</p> <p data-bbox="695 427 1422 528">Unbudgeted drainage rectification works to commence. Funds will be redirected and allocated in the 1st quarter budget review.</p>

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.3: VODAFONE HUTCHINSON AUSTRALIA PTY LTD – NEW LICENCE – PORTION OF RESERVE 2681 MOUNT MELVILLE

Land Description : Lot 1469 on Plan 219955 and being the whole of land contained in Certificate of Title Volume 3136 Folio 355 – Reserve 2681 Serpentine Road, Mount Melville

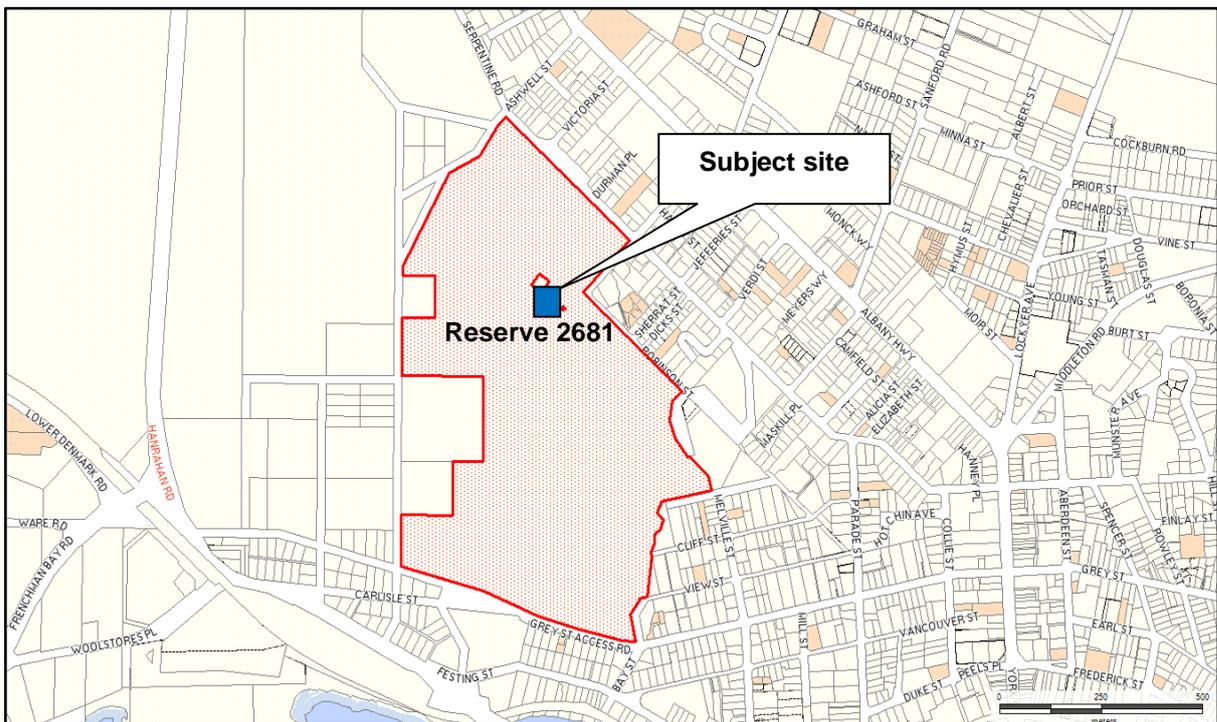
Proponent : Vodafone Hutchinson Australia Pty Ltd

Owner : Crown

Attachment(s) : Nil

Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

Maps and Diagrams



IN BRIEF

- Vodafone Hutchinson Australia Pty Ltd request a new licence on portion of Crown Reserve 2681 for the purpose of continuing the Paging Satellite System.
- Licence term being three years with an option for two further three year terms.
- Approval will allow Vodafone Hutchinson Australia Pty Ltd to continue servicing current paging service clients such as Hospitals, Emergency Services, Trades and Corrective Services.

RECOMMENDATION

ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR DUFTY

THAT the request from Vodafone Hutchinson Australia Pty Ltd for a new licence on portion of Crown Reserve 2681, Serpentine Road, Mount Melville be APPROVED subject to:

1. Licence term being three years with an option for two further three year terms.
2. Licence commencement date being retrospective from 1 June 2011.
3. Licence rental being determined by a current market valuation provided by an independent Certified Practising Valuer.
4. Licence rent reviews being every three years by market valuation with Consumer Price Index applied for intervening years.
5. Licence area being 0.36 square metres.
6. Licence purpose being a Paging Satellite System.
7. Licensee will not impact on or cause interference to any other user of telecommunications equipment or any other infrastructure or persons or service within or outside of the Mount Melville Lookout telecommunication facility.
8. All relevant approvals including *Aboriginal Heritage Act 1972* and *Native Title Act 1933* being obtained.
9. Under Section 18 of the *Lands Administration Act 1997*, the Minister for Land's consent is obtained.
10. Section 3.58 of the *Local Government Act 1995* advertising requirements being met.
11. All costs associated with the operations and maintenance of the licence area to be payable by the proponent.
12. All costs associated with the development, execution and completion of the Deed of Licence are met by the proponent.
13. Licence being consistent with Council Policy – Property Management – Leases.

CARRIED 10-0

BACKGROUND

1. The City of Albany owned JA Barnesby Memorial Lookout with telecommunication tower located on Reserve 2681 is commonly referred to as the Mount Melville Lookout or the Spark Plug.
2. Reserve 2681 is under a Management Order H603437 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of "Public Park and Telecommunications" for any term not exceeding twenty one years and subject to the consent of the Minister for Lands.
3. Reserve 2681 an area of 54.185 hectares is located at Lot 1469 Serpentine Road, Mount Melville.

4. In 1996 the former Town of Albany granted a new licence to Tarossa Pty Ltd trading as Microelectronic Technical Services over portion of Crown Reserve 2681 on the Mount Melville Lookout telecommunication facility for the purpose of a Paging Satellite System.
5. Upon expiry of that licence in 2001 the City of Albany (at its OCM 5 June 2001 Item 12.2.3) granted a further new licence to Tarossa Pty Ltd over the existing area for same purpose of a Paging Satellite System .
6. Upon expiry of that licence in 2006 the City of Albany (at its OCM 19 September 2006 Item 13.5.2) granted a further new licence to Tarossa Pty Ltd over the existing area on the Mount Melville Lookout telecommunication facility for the same purpose and for another 5 year term commencing 1 June 2006 and expiring on 31 May 2011 with a rental of \$1000.00 plus GST per annum.
7. In February 2011, the City contacted Tarossa Pty Ltd advising that the licence was due to expire on 31 May 2011. In response Mr Ted Kutrzyk, Director of Tarossa Pty Ltd trading as Microelectronic Technical Services advised they would not be seeking to renew the licence as they have been managing the licensed site for Vodafone Hutchinson Australia Pty Ltd.
8. Mr Ted Kutrzyk further advised that Microelectronic Technical Services have been contracted by Vodafone Hutchinson Australia Pty Ltd to provide annual maintenance and ongoing support to the equipment installed at the Mount Melville facility.
9. A request has since been received from Vodafone Hutchinson Australia Pty Ltd for a new licence over the existing 0.36 square metre area currently occupied on the Mount Melville Lookout telecommunication facility.
10. Council has at present the following licences and leases at the Mount Melville Lookout telecommunication facility:

	Licensee/Lessee	Term	Rent per annum
1.	Albany Business Telephones	3 years with option for a further 3 year term	\$2,000.00 plus GST
2.	Belcap Investments Pty Ltd	5 years with option for a further 5 year term	\$1,350.00 plus GST
3.	Fire & Emergency Services	5 years with option for a further 5 year term	\$10.00 plus GST
4.	Optus Mobile Pty Ltd	5 years with option for 3 further 5 year terms	\$1,345.50 plus GST
5.	Vodafone Network Pty Ltd	5 years with option for 3 further 5 year terms	\$1,416.21 plus GST
6.	Water Corporation	5 years with option for 3 further 5 year terms	\$1,200.00 plus GST

11. Together with the proposed Lessee, Vodafone Hutchinson Australia Pty Ltd, the above Licensees and Lessees are using the two utility rooms located on the ground floor of the facility to capacity.

DISCUSSION

12. The Mount Melville telecommunication tower was constructed by Optus Mobile Pty Ltd on top of the City owned Mount Melville Lookout in 1995. Upon completion, the ownership of the telecommunication tower was transferred to the City of Albany (formerly Town of Albany) with the agreement that all new requests by a third party to use, enter or install equipment on the tower will be presented to Optus Mobile Network Pty Ltd for consent (which approval shall not be unreasonably withheld).
13. Optus Mobile Network Pty Ltd advise they have no objections to the Vodafone Hutchinson Australia Pty Ltd licence request given the equipment is existing and has been operating on at the site since 1996.
14. Vodafone Hutchinson Australia Pty Ltd equipment consists of a transmitter box which is approximately a metre in height, 500mm in width and 200mm in depth and a 2.5 metre wide folded dipole antenna.
15. Vodafone Hutchinson Australia Pty Ltd provides a commitment that all equipment will be maintained in accordance with the manufacturer's specifications and will not impact or cause interference to any other user of telecommunications equipment or any other infrastructure or persons or service within or outside of the land area.
16. In Australia, Vodafone is operated by Vodafone Hutchinson Australia Pty Ltd, a 50:50 joint venture between Vodafone Group Public Limited Company and Hutchinson 3G Australia.
17. All costs associated with the operations, ongoing maintenance and repairs of its equipment and power usage will be met by Vodafone Hutchinson Pty Ltd.
18. The new licence will be negotiated in line with Council Policy – Property Management – Leases.

GOVERNMENT CONSULTATION

19. Under Section 18 (1) of the *Land Administration Act 1997* the Department of Regional Development and Lands has been consulted and in-principle Minister for Land's consent has been provided to the proposed Deed of Licence on Crown Reserve 2681.
20. The licence request will be referred to both the South West Aboriginal Land and Sea Council and the Department of Indigenous Affairs for any considerations under the *Native Title Act 1993* and the *Aboriginal Heritage Act 1972* respectively.

PUBLIC CONSULTATION / ENGAGEMENT

21. Section 3.58 of the *Local Government Act 1995* requires there to be local public notice of the proposed licence inviting submissions from the public, for a period of 2 weeks. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.

22. The proposed new licence will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

23. Section 18 (1) of the *Land Administration Act 1997* states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on Crown land.
24. As this is Crown land, under Management Order H603437 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Public Park and Telecommunications”, Minister for Land’s consent will be required.
25. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
26. As this is Crown land, the licence request will be referred to both the South West Aboriginal Land and Sea Council and the Department of Indigenous Affairs for any considerations under the *Native Title Act 1993* and the *Aboriginal Heritage act 1972* respectively.
27. Under the City’s Town Planning Scheme 1, the subject land is zoned “Parks and Recreation”. A telecommunication facility is an approved use in accordance with the Scheme.

STRATEGIC IMPLICATIONS

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

Priority Goals and Objectives:

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

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

POLICY IMPLICATIONS

29. Council adopted a Property Management – Leases Policy in 2008. This Policy aims to ensure that all requests for leases/licences, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
30. The operational guidelines used to apply the Policy for Commercial leases/licences include the following:
- Commercial leases/licences on Crown Reserve require preliminary approval from the Minister for Lands prior to agreement to lease/licence.
 - Rental to be set using market valuation at intervals of five years unless otherwise agreed to by Council.
 - Rental increments for intervening years to be set by applying Consumer Price Index, All Groups (Perth).

- Rental Agreements involving third parties are to have prior Council approval.
- Lessees must have business insurance, public liability and workers compensation insurances as minimum.

31. The recommendation is consistent with Council Policy – Property Management – Leases.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Rating	Mitigation
New licence not approved - paging service not available to paging customers	Unlikely	Minor	Low	Seek to negotiate terms to Council satisfaction Collaborate closely with Vodafone Hutchinson Pty Ltd to ensure mutually agreeable outcomes
New licence not approved - no rental	Unlikely	Insignificant	Low	Seek to negotiate terms to Council satisfaction Collaborate closely with Vodafone Hutchinson Pty Ltd to ensure mutually agreeable outcomes Seek alternate Licensee as last resort

FINANCIAL IMPLICATIONS

32. All costs associated with the development, execution and completion of the new licence documentation including but not limited to legal, advertising and survey will be borne by the proponent, Vodafone Hutchinson Pty Ltd.
33. The licence rental will be determined by a current market valuation provided by an independent Certified Practising Valuer.
34. The licence rental will be directed to COA 140530 Income – Misc Commercial.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

35. Council has the following options in relation to this item, which are:
- a. Approve Vodafone Hutchinson Pty Ltd request for a new licence on Mount Melville Lookout telecommunication facility on portion of Crown Reserve 2681 for purpose of a Paging Satellite System.
 - b. Decline the request.
36. Should Council decline the request, Vodafone Hutchinson Pty Ltd will be required to remove their equipment and return the site to its original condition.
37. Council could then invite expressions of interest to licence a portion of area on the Mount Melville Lookout telecommunication facility.
38. Vodafone Hutchinson Pty Ltd would have to find an alternate location should they wish to continue providing the paging service.

SUMMARY CONCLUSION

39. Given Council has previously approved the licence purpose and associated equipment, the benefit of the paging service being provided to the Albany community at no cost to Council, the Vodafone Hutchinson Pty Ltd request for a licence on the Mount Melville Lookout telecommunication facility located on portion of Crown Reserve 2681 for the continued purpose of a Paging Satellite System for a term of three years with an option for two further three year terms is recommended.

Consulted References	<ul style="list-style-type: none">• Council Policy – Property Management – Leases• <i>Local Government Act 1995</i>• <i>Land Administration Act 1997</i>
File Number (Name of Ward)	PRO381 (Frederickstown Ward)
Previous Reference	OCM June 1996 OCM 05 June 2001 Item 12.2.3 OCM 19 September 2006 Item 13.5.2

5.1: CONTRACT C11004 – PROVISION OF SECURITY SERVICES

Proponent : City of Albany
Owner : City of Albany
Responsible Officer : Chief Executive Officer (F James)

IN BRIEF

- Contract C11004 – Provision of Security Services be AWARDED to Southcoast Security Service for a two year period, with a mutually agreed continuance, on date of award, for a further two years.

**ITEM 5.1: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE
SECONDED: MAYOR EVANS**

THAT Council ACCEPT the Tender from Southcoast Security Service and award contract C11004 for the provision of security services for a period of two years, with provision for a mutually agreed continuance option, for a further two years.

CARRIED 10-0

BACKGROUND

1. Due to the expiry of the current Security Services contract, tenders were called for the provision of security services for a period of three years plus a two year extension. The major components of this service are a night watch patrol of City of Albany buildings and the opening, closing and securing of public toilets.

DISCUSSION

2. Tenderers were asked to provide a monthly breakdown of costs for the provision of a night watch service for 17 City of Albany facilities, and to open, close and secure 16 public toilets and amenities, plus an additional schedule of rates for alarm and emergency call-outs, and cash collection services.
3. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below:

Criteria	% Weight
Cost	40%
Relevant Experience	20%
Key Personnel skills and experience	20%
Reliability	20%
TOTAL	100%

REFER DISCLAIMER

4. Tenders from a total of five service providers were received. Three companies claimed against the City of Albany's Regional Price Preference Policy.

Tenderer	Local Preference Qualification
Southcoast Security Service	Yes
Navedad Protection	No
Webset Security	No
Fortitude Security	Yes
Cobbsec	Yes

5. The following table details the evaluation score applicable to each submission.

Tenderer	Total Evaluation Score
Southcoast Security Service	834.0
Navedad Protection	579.2
Webset Security	-133.2
Fortitude Security	686.4
Cobbsec	144.0

6. The evaluation panel independently scored the tenderers submissions before jointly determining the final scores. On the basis of the total evaluation score which considered the tender evaluation criteria of cost, relevant experience, key personnel skills, and reliability, the most suitable company is considered to be Southcoast Security Service.

GOVERNMENT CONSULTATION

7. Nil.

PUBLIC CONSULTATION / ENGAGEMENT

8. A request for tenders was published in the West Australian on 6 July 2011 and in the Albany Weekender on 7 July 2011.

STATUTORY IMPLICATIONS

9. Regulation 11 of the *Local Government (Functions and General) Regulations 1996 (Regulations)* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$250,000.
10. Regulation 18 of the Regulations 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.
11. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

STRATEGIC IMPLICATIONS

12. This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Organisational Performance

Community Priority

Policy and Procedures

Proposed Strategies

Develop clear processes and policies and ensure consistent, transparent application across the organisation.

POLICY IMPLICATIONS

13. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.

RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Non compliance with contract or business failure	Unlikely	Medium	Medium	General conditions of contract allow for contract termination on the basis of failure to supply services

FINANCIAL IMPLICATIONS

15. Each City of Albany facility maintains individual budgets for the provision of security services with the tendered price being shared across the organisation. Each directorate will provide for the security services applicable in their budgets.
16. The value of this tender is in excess of \$250,000 and therefore the approval is referred to Council for consideration and award.

LEGAL IMPLICATIONS

17. Legal implications are addressed in the City of Albany General Conditions of Contract which form part of the tender documents.

ALTERNATE OPTIONS

18. Council can accept or reject the tenders as submitted.

SUMMARY CONCLUSION

19. On reviewing the submissions the evaluation team assessed Southcoast Security Service as being the most suitable tenderer across the evaluation criteria in terms of cost, level of service, available resources, experience, and reliability.

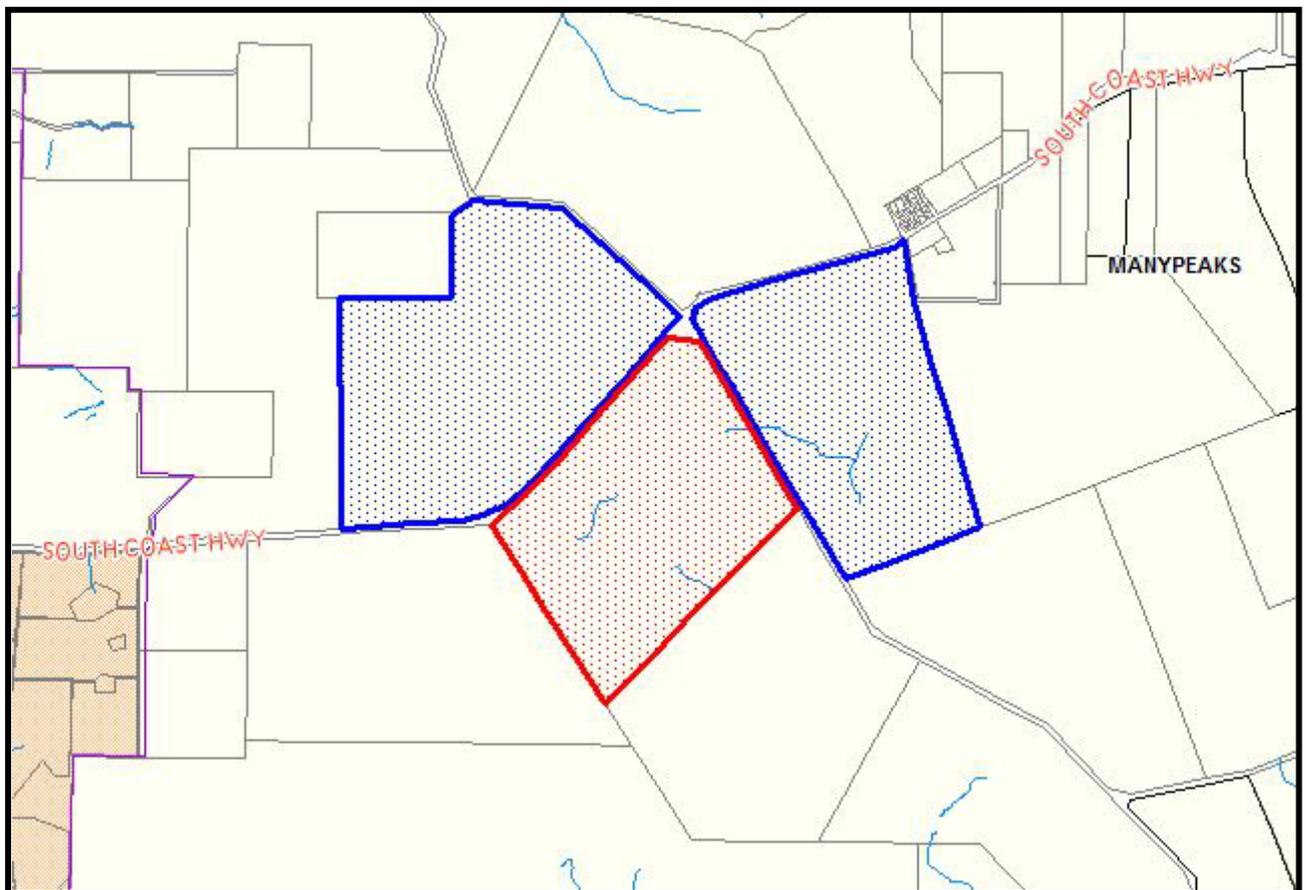
****REFER DISCLAIMER****

Consulted References	Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing (Tenders & Quotes) Council Policy – Buy Local (Regional Price Preference)
File Number (Name of Ward)	C11004 (All Wards)
Previous Reference	OCM 17/06/08 Item 13.4.1

5.2: SOUTH COAST HIGHWAY – MAIN ROADS WA LAND REQUIREMENT FOR ROAD WIDENING

Land Description	: Lots 5292, 5294 & 5298 South Coast Highway, Manypeaks
Proponent	: Main Roads WA
Owner	: F & G Mountford (Lot 5294) J & J Geddes (Lot 5298) B Critchison (Lot 5292)
Attachments	: 3 x Land Requirements Plan (produced by Main Roads WA – Drawings 201101-075, 201101-076, 201101-077)
Responsible Officer(s)	: Chief Executive Officer (F James)

Maps and Diagrams:



IN BRIEF

- Council is requested to consider the proposal by Main Roads WA to widen portion of South Coast Highway to accommodate reconstruction works in the 2011/12 summer. A resolution of Council is required for the land acquisition and road dedication provisions of the *Land Administration Act 1997*.

**ITEM 5.2 RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR MATLA**

THAT Council:

- i) **SUPPORTS** the proposal by Main Roads WA to acquire land from Lots 5292, 5294 & 5298 South Coast Highway, Manypeaks (as depicted in Drawings 201101-075, 201101-076-1 and 201101-077) to allow the widening of South Coast Highway, on the condition that Main Roads WA fully complies with the Taking by Agreement provisions of section 168 of the *Land Administration Act 1997*;
- ii) **SUPPORTS** the action by Main Roads WA to seek approval of the Minister for Lands, under section 56 of the *Land Administration Act 1997*, to dedicate the land to be taken for road widening as a public road;
- iii) **INDEMNIFIES** the Minister for Lands, on behalf of Main Roads WA, from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and
- iv) **REQUIRES** that Main Roads WA indemnify the Council against all costs and charges, including any claims for compensation that may arise, associated with this dedication action.

LOST 4-6

BACKGROUND

1. Main Roads WA has sought Council's support to take land from three properties near the Manypeaks town site for inclusion in the road reserve for South Coast Highway to accommodate reconstruction works in the summer of 2011/12.
2. Main Roads WA has requested that Council provide an appropriate resolution for the road dedication, in order to satisfy the requirements of the *Land Administration Act 1997*.
3. Main Roads WA have indicated that it will indemnify Council against all costs and charges that relate to the dedication action.

DISCUSSION

4. Main Roads WA have advised that the works on this section of South Coast Highway are necessary for the following reasons:
 - a) This section of road is currently substandard and in poor condition, creating safety concerns;
 - b) The road does not currently have the strength required to carry the current level of traffic using the highway;
 - c) Drainage of the road needs to be improved, as water is pooling on the highway, creating a hazardous surface. In order to achieve this, the highway is to be raised 0.5m and wider embankments are required.

****REFER DISCLAIMER****

- d) The intersection of Homestead Road, Fish Track Road and South Coast Highway currently has poor sight lines. This intersection will be realigned to improve sight lines and access/egress onto the highway; and
 - e) This section of the Highway only has a trafficable surface of 9.5m, whereas the standard is 11m and it will be widened to meet this safety requirement.
5. Lots 5292 and 5294 South Coast Highway are pastoral leases. This does not alter the requirements for Main Roads WA to negotiate a Taking by Agreement with the leaseholders to acquire land for road widening purposes.

GOVERNMENT CONSULTATION

6. The proposal was discussed with officers at the Department for Regional Development and Lands to clarify the appropriate legislative processes that must be observed. The Department verbally confirmed that Main Roads WA does not have any power to comply with the provisions of Section 56 of the *Land Administration Act 1997* with respect to road dedication and the Council must do this on behalf of Main Roads WA. However, Main Roads WA is responsible for all the consultation, costs and charges associated with this action.
7. No other consultation with government agencies has occurred on this matter, however the road widening will be taken by way of the subdivision process administered by the Western Australian Planning Commission.

PUBLIC CONSULTATION / ENGAGEMENT

8. No public consultation on this proposal is required under the statutory provisions, other than with the affected landowners. Main Roads WA, as the body progressing the land acquisition, road widening and road dedication processes, will be responsible for negotiation with all affected landowners.

STATUTORY IMPLICATIONS

9. Section 56 of the *Land Administration Act 1997* allows the dedication of land as a road. In doing so, the Local Government must indemnify the Minister for Lands against any claim for compensation.
10. Section 168 of the *Land Administration Act 1997* sets the procedure for acquiring land for public works through a Taking by Agreement. Part 10 of the Act states that every person having an interest in land taken under the Act is entitled to compensation.
11. The creation of a road occurs through the subdivision process detailed under Part 10 of the *Planning and Development Act 2005*. Section 168 of this Act states all land shown on a diagram or plan of survey of a subdivision shown as a new road or road widening will be dedicated as a road.

STRATEGIC IMPLICATIONS

12. This item directly relates to the following elements of the City of Albany Strategic Plan 2011-2021:

Key Focus Area

Lifestyle and Environment

Community Priority

Road Improvements

Proposed Strategies

Advocate to Main Roads for improvements to South Coast Highway.

POLICY IMPLICATIONS

13. There are no policy implications relevant to this item.

RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Council does not approve request for a road dedication resolution.	Unlikely	Minor - The Main Roads managed road would remain in a substandard state with drainage and safety concerns.	Low	Council supports Main Roads WA request and comply with the provisions of the <i>Land Administration Act 1997</i> to permit the road works to occur.

FINANCIAL IMPLICATIONS

15. Beyond staff time involved in organising the land matters, there are no financial implications relevant to this item, as all costs associated with the land acquisition, road widening, road dedication and any subsequent claims for compensation are to be borne by Main Roads WA.

LEGAL IMPLICATIONS

16. The widening of South Coast Highway will ensure that there is sufficient road reserve available to undertake the proposed works on land legitimately reserved for this purpose.

ALTERNATE OPTIONS

17. Council can:

- a) Decline the request and the South Coast Highway near Many Peaks will remain as is;
or
- b) Support the request to allow for the road widening and road dedication to improve drainage and safety in the area.

SUMMARY CONCLUSION

- 18. The proposed widening of South Coast Highway will be undertaken to facilitate roads works to improve the safety and standard of this section of the highway. Main Roads is negotiating with the affected landowners to secure the taking of the land by agreement and will be responsible for all administrative costs and processes to create the wider road reserve.
- 19. Council's resolution is sought to comply with the provisions of the *Land Administration Act 1997* relative to the dedication of this land as a road reserve as Main Roads WA do not have any powers under this Act.

File Number (Name of Ward)	:	RD.DEC.2
Previous Reference	:	No previous references

5.3: SUPPORT ALBANY PORT AUTHORITY PROPOSAL FOR DETOUR FOR BRIDGE OVER RAIL PROJECT

Land Description	:	Princess Royal Drive
Proponent	:	Albany Port Authority
Attachments	:	Nil
Responsible Officer(s)	:	Chief Executive Officer (F James)

IN BRIEF

- Albany Port Authority seeks support from the City of Albany to detour traffic to enable the construction on Princess Royal Drive over the woodchip railway line.

ITEM 5.3 RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR WOLFE
SECONDED: MAYOR EVANS

That Council **SUPPORT** the Albany Port Authority's Option 1 by requesting the Minister for Transport and the Minister for Regional Development and Lands to work with WestNet Rail to evaluate the real costs and planning requirements of the required temporary rail crossing to facilitate a detour.

CARRIED 10-0

BACKGROUND

1. The Albany Port Authority seeks support from the City of Albany for the adoption of planning measures required to create a detour for traffic to enable the construction of a bridge on Princess Royal Drive over the woodchip railway line at the eastern end of the Port area.

DISCUSSION

2. This report provides the concept outline of a proposal in order to achieve a decision on the matter.
3. The Albany Port Authority's proposal is as follows:

Proposal. Albany Port Authority seeks support from the City of Albany for the adoption of planning measures required to create a detour for traffic to enable the construction of a bridge on Princess Royal Drive over the woodchip railway line at the eastern end of the Port area.

Issue. The project to deliver the bridge on Princess Royal Drive within Albany Port, to take road vehicles over the woodchip rail siding is being progressed to provide uninterrupted access to berth 7 for Southdown Joint Venture (the "Grange" Project).

There would be benefits for all other users of the road (apart from berth 7 users) including users of the boardwalk who are trying to access the eastern port area at times when woodchip trains are arriving at or departing from the port i.e. with a bridge there would be no blocking of Princess Royal Drive by trains.

The proposed timing of the start of the construction of the bridge is early 2012 and last for between 3 and 6 months. A detour around the site would be required to enable port traffic to continue to access the eastern area of the port while construction is proceeding.

Planning undertaken by the Port for the project has identified two viable options for a detour.

Options for detours:

- Option 1: A new temporary road alignment around the north of the site which would cross the railway line immediately east of CBH; and
- Option 2: Access via Brunswick Road east (which would require re-opening of Brunswick Road where it is currently blocked at the port boundary).

Advantages and Disadvantages

Option 1

Advantages

- Only changes to traffic flow paths are in the immediate vicinity of the site;
- No requirement for heavy articulated vehicles to “break down” before accessing the port area;

Disadvantages

- Significant costs would be charged by WestNet Rail for design and installation of a temporary rail crossing (including boom gates and flashing lights);
- Likely that costs of improvements to the CBH private rail crossing would be charged to the Port although technically the Port has no responsibility for private rail crossings;
- Port would not have control of a major expenditure item thus raising the risks of cost overrun for the project;
- Project may become unviable for reasons of cost;
- Possible interruptions to train traffic during construction;
- Dust nuisance during summer months;

Option 2

Advantages

- costs correspond to budget and the Port would have a larger degree of control over the outcomes;
- traffic volumes using the detour would be low (approximately 100 Vehicles per day according to City traffic counts);
- carting of spoil from the decommissioned reservoir on Mt Clarence to the waste disposal site by contractors on behalf of the Water Corporation in 2009, which involved far higher numbers of vehicles than this proposal, is a good example of how a similar issue was managed and that project was carried out successfully;

Disadvantages

- traffic would use City road network between Residency Road (or Bolt Terrace) and the port area;
- heavy vehicles would drive along residential and city centre roads;
- heavy vehicles with more than one trailer would have to “break down” on Hanrahan Road before accessing the Port – this would result in the requirement for two or three vehicle movements by some vehicles;

****REFER DISCLAIMER****

In the case of **Option 1**, there are safety concerns raised by WestNet Rail and CBH relating to a second rail crossing located close to the existing CBH private rail crossing and any new rail crossing would involve considerable expense in the form of barriers and/or flashing lights (including significant electrical controls).

In the case of **Option 2** there would be community concern about heavy (or any) vehicles using Brunswick Road East since it has effectively operated as a cul-de-sac since being physically (not formally) closed in the early 1980's.

The expected construction time would be 3 to 6 months depending on final design details and weather, therefore the proposal would be to re-open the road for between 3 and 6 months for all traffic that requires access to the port's eastern-area; thereafter there is a strong case that the road should remain open for the purposes of access of emergency vehicles only.

Since the Option 2 detour has considerable technical and commercial advantages for the Port compared to the Option 1 detour, the Port would prefer to adopt Option 2.

Significance of Bridge to Port Development

The importance of the Bridge Over Rail project to the Port cannot be overstated.

The drivers for the project are the Southdown Magnetite Project, the Woodchip industry that uses rail transport, the requirement to develop infrastructure to increase rail transport capacity within the port and to facilitate infrastructure that would enable future developments to proceed such as a new rail alignment around the northern side of CBH (for future bauxite, kaolin and or magnetite exports) and a rail loop to allow all trains entering the port area to unload and depart the port without having to shunt and turn around.

GOVERNMENT CONSULTATION

4. No government consultation has been conducted at present.

PUBLIC CONSULTATION / ENGAGEMENT

5. Adoption of Option 2 will require thorough consultation with affected residents.

STATUTORY IMPLICATIONS

6. Nil.

STRATEGIC IMPLICATIONS

7. This item directly relates to the following elements of the City of Albany Strategic Plan 2011-2021:

Key Focus Area

Sustainability and Development

Community Priority

Regional local government partnerships

Proposed Strategies

Hold consultations with regional local governments as to their needs regarding services and infrastructure within the City of Albany.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

9. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
If detour proposal one is not supported by WestNet, negative effect on residents and CBD business owners.	Unlikely	Medium	Medium	Support the Port Authorities request to request the Minister for Transport and the Minister for Regional Development and Lands to work with WestNet Rail.

FINANCIAL IMPLICATIONS

10. Beyond staff time involved in organising the land matters, there are no financial implications relevant to this item.

LEGAL IMPLICATIONS

11. There are no legal implications related to this item.

ALTERNATE OPTIONS

Council can chose to either support or decline the Albany Port Authority's proposal in total or in part as detailed in the Responsible Officer's Recommendation.

SUMMARY CONCLUSION

Option One is the preferred as it has minimum impact on residents and business owners.

File Number (Name of Ward)	:	GR.LRL.1
Previous Reference	:	Nil

XIV. MOTIONS WITH NOTICE**14.1: MOTION WITH NOTICE BY COUNCILLOR WOLFE – ROADS TO RECOVERY PROGRAM****ITEM 14.1: MOTION BY COUNCILLOR WOLFE****MOVED: COUNCILLOR WOLFE****SECONDED: COUNCILLOR SUTTON**

That the Mayor, on behalf of Council, writes to the Federal Government and relevant State and Federal parliamentarians to:

- 1. Recognise the successful delivery of the Roads to Recovery Programme by local government since 2000;**
- 2. Continue the Roads to Recovery Programme on a permanent basis to assist local government meet its responsibilities of providing access for its communities;**
- 3. Continue the Roads to Recovery Programme with the current administrative arrangements;**
- 4. Provide an increased level of funding under a future Roads to Recovery Programme that recognises the shortfall of funding on local roads of \$1.2 billion annually.**

CARRIED 10-0**Councillor's Reason:**

The current Roads to Recovery Programme will cease in June 2014. This is an important and popular Federal programme that provides funding directly to local government to address the road infrastructure backlog on local roads and has been very gratefully received by local government and local communities.

Local government's analysis shows that the backlog of needs on local roads remains high and is now about \$1.2 million annually. The size of this backlog means that there is no possibility of local government being able to address the roads needs with their limited funding base.

It is critical to secure the future of the programme to safeguard Councils' ability to maintain their road networks.

The Australian Local Government Association will be launching local government roads to Recovery campaign at the 2011 National Local roads and Transport Congress being held in November 2011.

This campaign needs the support of every Council prior to the launch.

Responsible Officer's Comment (F James)

Councillor Wolfe's motion is supported by the Chief Executive Officer.

XV. MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

XVI. URGENT BUSINESS TO BE APPROVED BY DECISION OF THE MEETING

16.1: MOTION BY COUNCILLOR WOLFE - EXTENDED TRADING HOURS WITHIN THE CITY OF ALBANY

9.04PM Councillor Wellington left the Chamber after declaring a financial interest in this item.

ITEM 16.1: MOTION

Voting Requirement: Absolute Majority

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR LEAVESLEY

THAT Item 16.1 be ACCEPTED as an urgent item.

**CARRIED 9-0
ABSOLUTE MAJORITY**

ITEM 16.1: MOTION BY COUNCILLOR WOLFE

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR MATLA

THAT the application for extended trading hours on 28 October 2011 be APPROVED.

CARRIED 9-0

Councillor's Reason:

In order to promote trade and to display Albany as a vibrant tourist destination, the National Retail Association, with the support of the ACCI, requests extended trading hours for general retail shops.

The application is for extended trading hours on Friday 28 October 2011 from 9am to 6pm (Queens Birthday).

This proposal would affect all retailers covered under the Retail Trading Hours Act within the municipality of Albany. It will not be compulsory for retailers to trade on this day.

Approval would benefit trade and tourism.

The Albany Chamber of Commerce and Industry is representative of the affected segment of the population and supports the proposal.

Minister of Commerce consent will need to be sought once Council support has been given prior to the extended trading hours being applied on the suggested date. Given the need for Ministerial consent, this matter cannot await consideration at the 11 October 2011 OCM.

There is a precedent for a temporary extension of this nature in relation to gazetted public holidays in Albany.

9.05pm Councillor Wellington returned to the Chamber. Councillor Wellington did not participate in the discussion or vote.

16.2: MOTION BY COUNCILLOR WELLINGTON – ANZAC CENTENARY-INFRASTRUCTURE PROJECTS

ITEM 16.2: MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR WELLINGTON

SECONDED: MAYOR EVANS

THAT Item 16.2 be ACCEPTED as an urgent item.

**CARRIED 10-0
ABSOLUTE MAJORITY**

ITEM 16.2: MOTION BY COUNCILLOR WELLINGTON (As Chair of the Audit Committee)

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WELLINGTON

SECONDED: MAYOR EVANS

THAT Council:

- 1. Support the infrastructure developments for Mount Clarence and Mount Adelaide, formally named the Albany Heritage Park, in preparation for the Anzac Centenary and commemorative period from 2014 – 2019.**
- 2. As a partner in the Albany Centenary of Anzac Alliance, and as agreed by the Audit Committee on 13 September 2011, request the CEO to:**
 - Prepare the tender brief for the Anzac Centenary infrastructure projects;**
 - Progress approvals from the WA Heritage Council, SWALSC, DIA and RDL in preparation for the projects.**

CARRIED 10-0

Councillor's Reasons:

The City of Albany and Returned & Services League formed the Albany Centenary of Anzac Alliance (ACAA) in 2009 to plan the Anzac Centenary in 2014/15 where Albany will attract national attention.

There is significant infrastructure investment proposed for Mounts Clarence and Adelaide, with a total investment indicated at \$18.5 million.

The timeframe for infrastructure construction is now critical. A tender for consultant services for detailed design and superintendent functions must be awarded early November 2011 at the latest to meet construction timeframes. Accordingly, this matter cannot be held over for consideration to the October 2011 Ordinary Council Meeting.

XVII. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.

Nil

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

Nil

XIX. ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC

19.1 McKail St Drainage Works

ITEM 19.1: RESOLUTION

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR LEAVESLEY**

THAT the meeting move behind closed doors to discuss Item 19.1.

CARRIED 10-0

ITEM 19.1: RESOLUTION

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR WELLINGTON**

THAT Standing Orders 5.7- Order of Call in Debate, be SUSPENDED to allow discussion.

CARRIED 10-0

ITEM 19.1: RESOLUTION

**MOVED: COUNCILLOR WELLINGTON
SECONDED: MAYOR EVANS**

THAT Standing Orders 5.7-Order of Call in Debate, be RESUMED.

CARRIED 10-0

ITEM 19.1: RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR WELLINGTON

THAT Council:

- **APPROVE** the inclusion of the McKail St drainage works into the 2011/12 capital works program.
- **APPROVE** the reallocation of \$75,000 from job number 8361-Lower King Road to pay for these works.

**CARRIED 10-0
ABSOLUTE MAJORITY**

XX. NEXT ORDINARY MEETING DATE

Tuesday 11 October 2011 at 7pm.

XXI. CLOSURE OF MEETING

There being no further business the Presiding Member declared the meeting closed at 9.20PM.

(Unconfirmed Minutes)

Milton J Evans JP
MAYOR

APPENDIX A

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

Meeting Date	Item Number	Details/Status
15/06/2010	15.2.3	Lot 5 Rufus Street - Claim for Subdivision Design Changes. CEO LIAISING WITH LAND OWNER/DEVELOPER REGARDING POSSIBLE SOLUTIONS.
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. REQUIRES FURTHER CONSIDERATION BY COUNCIL PENDING THE COMPLETION OF THE AIRPORT MASTERPLAN/BUSINESS PLAN.
15/02/2011	4.11	Padre White Lookout Project. CEO to undertake further investigation of this project, including detailed budget analysis for project scope and provide further advice to council. AWAITING ANZAC ALLIANCE PROGRESS.
19/04/2011	4.7	Audit Committee Recommendations. That Council request the Chief Executive Officer to further review the investment of Surplus Funds Policy through the Finance Strategy Committee, prior to recommendation to Council. PENDING. - AWAITING DEVELOPMENT OF FIVE YEAR (FINANCE) PLAN.
17/05/2011	3.1	Albany Leisure and Aquatic Centre. That the Business Plan be Brought back to Council for the Approval of the Recommendation. PENDING COMPLETION OF BUSINESS PLAN TO BE PRESENTED TO FUTURE OCM.
July 2010	18.3	Notice of Motion by Councillor Paver-Review Standing Orders Local Law 2009 before the December 2010 Council Meeting. PENDING. – EXPECTED TO BE CONSIDERED AT OCTOBER 2011 OCM.
16/08/2011	15.4	Notice of Motion by Councillor J Bostock-Allocation of Public Open Space Funds to Mills Park, Little Grove. DEFERRED-THE MATTER TO BE BROUGHT BACK TO COUNCIL AT A FUTURE MEETING WITH MORE INFORMATION TO BE PROVIDED.

APPENDIX B

TABLED DOCUMENTS

Ms Jay Klinac	Petition opposing Proposed Junk Yard (Timber Salvage Only) at 235-239 Ulster Road, Collingwood Heights	GO.COM.3
Mr R Hedderwick	Differential Rating	GO.COM.3
Tabled by the Mayor on behalf of Mr Grocott	Item 2.2	GO.COM.3

TABLED DOCUMENTS BY ELECTED MEMBERS

Mayor Evans	Mayors Report to Council	GO.COM.3
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TABLED DOCUMENTS BY STAFF

Nil.

PETITION TABLED BY MS JAY KLINAC

To the Mayor and Councillors of the City of Albany.

PETITION

Objections to proposal for Timber Junkyard in Yakamia Creek floodplain

We, the undersigned residents of Breaksea Estate and Collingwood Heights request that the proponent at 235-239 Ulster Road, Collingwood Heights not be given approval under the existing land use zoning (Rural AA) for a Junkyard (Timber Salvage) at these premises. The proponent seeks to operate a light industrial business in the Yakamia Creek floodplain on Ulster Road, Collingwood Heights. We raise objections to the Application for a timber junkyard based on the following grounds:

- Conflict of interest – A voting councillor is family member of the proponent.
- Planning staff at CoA and Dept of Water have recommended rejecting the application and local residents have strongly objected in writing letters and making representations at Council briefings and meetings.
- Previous planning documents stipulate that any development not be embraced because of drainage issues and other negative environmental flow-on effects.
- Sets a precedent in allowing other businesses to then operate in a quiet school and residential areas altering the ambience and lifestyle values of the area. (Item 2.2 Development Application in Council Briefing and Meeting Agenda refers).

There is clearly no support from any quarter to support this application.

Name	Address	Telephone/Email	Signature
L. FARROW	9 WYLIE CR	9841 7024	[Signature]
T. PIETROPAOLO	31 ECLIPSE AVE	9844 8280	[Signature]
Robyn Peterson	35 Eclipse Ave	9844 7651	[Signature]
Jay Klinac	25 BORONIA AVE	9844 7002	[Signature]
C. PIETROPAOLO	22 WOODBORSON WEN	9844 7292	[Signature]
L. JENNINGS	45 DEW ST	9841 7866	[Signature]
S. McILWAIN	3 REIDY	9842 9576	[Signature]
M. Mc Lennan	40 BIRCHBASS CRES	9844 8163	[Signature]
C. THOMPSON	MURRAY LINDEN	9842 6100	[Signature]
A. VANDER HOOP	BORONIA AVE	9844 7338	[Signature]
J. VAN DER GEUG	BORONIA AVE	9844 7838	[Signature]
S. FELTON	7 BORONIA AVE	4794 1830	[Signature]
B. MUSTART	4 RANJAN WAY WARRING	0479 470 095	[Signature]
A. SEER	13 BORONIA AVE	0457 217 284	[Signature]
T. OSHIN	13 BORONIA AVE	0491 870 657	[Signature]
R. HEARNS.	13 WAREFIELD CRES.	0400 763 247.	[Signature]
M. STURMER	93 TENNESSEE RD N/W	0488 195 190	[Signature]
G. WYLIE	10 CLIFF ST, ALBANY	9841 6441	[Signature]
D. BUTTERWORTH	40 SILVA CRES AVE	0427 422290	[Signature]
S. MURRAY	72 LEMORA ST.	9841 2761	[Signature]
D. OFFER.	31 MCWHIR DR.	9842 6363	[Signature]
T. HARRISON	34 GORDON ST	9844 4263	[Signature]

- o Intent of petition in line
is statutory intent.
- o Form of the petition not
compliance.

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There is clearly no support from any quarter to support this application.

Name	Address	Telephone/Email	Signature
KERRY RANDELL	59 BORONIA AVE	0400028555	KRandall
REBECCA DRAGE	66 Boronia Ave	0417 178 320	R Drage
MARGARET SMAL	54 Eclipse St	08447602	M Smal
MARIA WASSINK	58 Boronia Ave	0135008800	M Wassink
TIM COLEMAN	54 BORONIA AVE	0428 4418690	T Coleman
Glove Padden	35 Eclipse Dr	98447651	G Padden
Glen & Jodie Tranter	18 Boronia Ave.	98447730	G Tranter
ROBBIE MARSHALL	14 Boronia Ave	98447443	R Marshall
Melissa Probert	14 Boronia Ave	0428428897	M Probert
Kim FEWSTER	17 BORONIA AVE.	042132066	K Fewsster
M. Housheer	38 Eclipse Dr	0441 449	M Housheer
S HUNTER	43 Eclipse Dr	98447543	S Hunter
J. ALLEN	40 Eclipse Dr.	98448415	J Allen
S Allen	41 Eclipse Dr	"	S Allen
E TOMPKINS	29 ECLIPSE	98441115	E Tompkins
H STRAPPS	25 ECLIPSE		H Strapps
K PARRY	21 ECLIPSE	98447260	K Parry
P. HILLS	21 ECLIPSE	98447260	P Hills
ARON FLAHERTY	17 Eclipse	98449893	A Flaherty
Alexia Janbowen	3 Sheoak Way	0474350252	A Janbowen
Vanessa Sprigg	5 Sheoak Way	0400649309	V Sprigg
Janet Porter	4 Boronia Ave	98448882	J Porter
GRAEME PALMER	3 Boronia Ave	98441110	G Palmer
Claire Johnston	1 Boronia Ave	0438 394331	C Johnston
Ashleigh Cracknell	4 Sheoak Way	04664304230935	A Cracknell
CHRISTINE CRACKNELL	4 SHEOAK WAY	98447599	C Cracknell
Stacy English	16 Boronia Ave	0432672375	S English
Bernadette Stubbs	15 Boronia Ave	08469053	B Stubbs

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There is clearly no support from any quarter to support this application.

Name	Address	Telephone/Email	Signature
Koss TenHaaf	31 Boronia Avenue	98447774	<i>Koss</i>
Kellie TenHaaf	" "	0407766994	<i>Kellie</i>
Doris & Brian Oudeeff	30 Boronia Ave	98447836	<i>Doris</i>
Robyn Clements	26 Boronia Ave	984441202	<i>Robyn</i>
Ellen Clements	" "	984441202	<i>Ellen</i>
David Clements	" "	" "	<i>David</i>
Missy Stevens	" "	" "	<i>Missy</i>
Sam Clements	" "	" "	<i>Sam</i>
Jackie McLeish	69 Boronia Ave	0608880795	<i>Jackie</i>
Amanda McLeish	20 Boronia Ave	0429398892	<i>Amanda</i>
K. Dunham	21 Boronia Ave	98447458	<i>K. Dunham</i>
T. Bongs	43 Rycaft Dr	98441269	<i>T. Bongs</i>
C. Bongs	43 Rycaft Dr	98441269	<i>C. Bongs</i>
H.G. Ball	26 Eclypse Dr	98447259	<i>H.G. Ball</i>
M.P. Ball	28 Eclypse Dr	98449316	<i>M.P. Ball</i>
F.A. Ballin	28 Eclypse Dr	" "	<i>F.A. Ballin</i>

TABLED ADDRESS BY MR R HEDDERWICK



Our Ref: 14684

Your Ref:

20th September 2011

The Chief Executive Officer
City of Albany
North Rd
Albany, WA

Dear Ms James

RE: Differential Rates – Vacant Land
Lot 9008, No 60 Richard St Milpara

Rod Hedderwick
116 Serpentine Rd
On behalf of Milpara Industrial Estate

Following last year's debacle on rates I made a general submission on Differential Rates for vacant land on the 7th July 2011.

- I acknowledged the change in basis of GRV from 5% to 3%
- I supported a corresponding change of the rate in the dollar for vacant land to match a nett increase of 5% and no more than 9%.
- The worst case scenario is consistent with previous resolutions of Council.

Unfortunately I was unaware that the GRV change to 3% only applied to residential land.

Ignoring the valuation related increase of 81% for this land which now suggests that \$49,000pa may be derived from it in rent! A matter to be addressed with the Valuer General unless Council wishes to rent it on this basis, in which case please don't hesitate to contact me.

The base rates this year have increased on top of this by a factor of nearly 30% from a struck rate of 5.7c last year to 7.4c this year.

The combined effect on rates for this land is an increase of over double 135% or \$2,080 of which the direct effect of council is \$820.

Licensed Surveying | Engineering/Construction Surveying | Town Planning (Urban & Rural) | GPS Solutions
Development Consultancy | Drafting | Mining | Strata Titles | Mapping, Feature & Contour Surveys | Building Tenancy

Albany | 116 Serpentine Road, Albany WA 6330 | PO Box 5207 Albany WA 6332 | T: 08 9841 7333 | F: 08 9841 3643
E: hgalb@harleyglobal.com.au | www.harleyglobal.com.au

ACN 009 101 786 | ABN 77 503 764 248 | Quality Endorsed Company ISO9001



I consider the outcome unfair.

I have made enquiries through Ms James and Councillor Wellington and thank them for their response.

I understand that

"Council in its budget deliberations, were aware of these variances"

I also understand that

"The City updated its planning data in August 2011. This data will be used to update the rates database with accurate zoning data in the coming months. The City will then be in a position to consider further differential rating for the 2012-13 Budget."

Will Council support during the 2012-13 budget a differential rate on land of this nature that may reflect

1. This year's unfair outcome as a credit
2. A rate that is more consistent with the vacant residential land.

This City and community needs to encourage investment and developments of this nature provide for establishment of new Light Industry's at negligible cost to Council.

The supply of land is adversely affected by many factors including Rates which are a significant cost that hinders the establishment of a developed land bank.

Yours faithfully

Rod Hedderwick

Rod Hedderwick
Managing Director
Harley Global Pty Ltd

E-mail: RodH@harleyglobal.com.au

Enc:

CC:

TABLED ADDRESS BY MAYOR EVANS ON BEHALF OF MR GROCOTT

The document tabled by
the Mayor at OCM 20/9
on behalf of Mr Grocott.

CM Grocott 35 Boronia Avenue Collingwood Heights

19/09/11

Faileen James Chief Executive Officer

Dear Ms James

Am I correct in thinking that Council will be making a decision on an application for a Junk Yard (Timber Salvage) tomorrow Tuesday 20/09/11 ?

I attended the Agenda briefing of which I had difficulty hearing on 6/09/11 however after reading the Agenda there can only be one outcome.

- **Item 2.2 Responsible Officers Recommendation** That Council ISSUE a Refusal Reasons A and B
- **Item 2.2 No 11 Department of Water** has objected to the proposal Operation in A Flood Plain
- **No16** Such a location is unsuitable for this type of activity etc
- **No17** Staff are of the opinion that the proposal should be refused.
- **Government Consultation** No 19 (as No 11)
- **STRATEGIC IMPLICATIONS**
- **No 25** The Land is identified as 'Regional Reserve' by Local Planning Strategy
- **POLICY IMPLICATION**
- **No 27 to 29** The Proposal does not meet the Policy 5E of the City's Local Planning Manual.
- **RISK IDENTIFICATION & MITIGATION**
- **No 30** Very High Risk.
- **No 33** Council must be mindful of the consequences, of future requests for filling
- **SUMMARY CONCLUSION**
- **No 37 to 38** The Intended location is entirely within the floodway of Yakamia Creek. Staff are of the opinion that the application be Refused.

I myself(from my property) and another resident residing in Eclipse Drive have witnessed numerous truck loads of waste building material being dumped and buried immediately apparently with total disregard for the environment within the Flood Plain. Albany has 2 Waste Dumping Points why were they not used ?

Judging by the activity carried out before the application was lodged could I be correct in saying that no or very little research or advice was sought pertaining to the impact on the environment.

It is apparent that Albany City has an efficient Administration and Planning Staff working for benefit of all Citizens of Albany . **They know their job, heed their advice**, let them **Stand Proud** knowing they have done a good Job .Mr Mayor and Councillors please do not pull the mat from under them.

In view of the above I respectfully request that the proposal for a Junk Yard (Timber Salvage) at 235-239 Ulster Road ,Collingwood Heights BE REFUSED.

I regret I will be unable to attend the Meeting I would appreciate it if my letter could be read out at the appropriate time .

Yours Sincerely
CM Grocott

APPENDIX B**MAYORS REPORT**

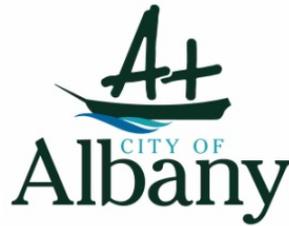
Councillors, Staff, members of the public.....

Following is a summary of my past month's activities which are in addition to scheduled meetings with our C.E.O., Community members, Government Departments and utility officials, Council and Committee meetings.

Since the last Council meeting held on 16 August 2011 I have engaged in the following:

- Along with the CEO, met with Scout representatives to discuss a multi-user facility.
- Wednesday 17th monthly Community Radio segment.
- Vietnam Veterans Memorial Service and wreath-laying.
- Attended the Great Southern Development Commission Natural Resource Management Medal presentations. Congratulations to winner John Moore, and finalists Gary Muir and Andrew Marshall.
- Tuesday 23rd attended the UWA Skywest Lecture with guest speakers, Lisa Scaffidi (Lord Mayor of Perth) and Marion Fulker (Committee for Perth CEO).
- Tuesday 30th hosted morning tea to recognise the efforts of the Friends of Emu Point who won the Keep Australia Beautiful Community Action Award and State Awards.
- Saturday the 3rd of September Ms James and I attended the MBA WA Excellence in Construction Awards. The Albany Entertainment Centre featured consistently amongst the winning entrants.
- With Cr Holden .Cr Wolfe and senior staff we attended the Wellstead Progress Association AGM.
- We were briefed on the proposed de-salination plant for Cape Riche and the Southdown magnetite mine.
- Tuesday 6th arranged an update for Council on the progress Verve Energy has made on the installation of 6 additional turbines at the Wind farm at Grassmere. They should be operational by December this year.
- Thursday the 8th attended the Annual Primary Schools Bands concert held for the first time in the AEC.
- Saturday the 10th invited to welcome the Girl Guide Trefoil Guild Annual gathering. Members from 12 Guilds across Western Australia and Tasmania travelled to Albany. Trefoil Guild last Albany Gathering was in 2001.
- In the afternoon, it was a pleasure to be part of the Annual TS Vancouver Navel Cadet parade and inspection.
- Tuesday the 13th attended the Annual Stay on your feet gathering at the Forts.
- Department of Transport Aviation User Group.
- Wednesday the 14th, Cr Wolfe and I attended the Youngs Siding AGM.
- Thursday the 15th I was invited to the AGM of Seniors Citizens of Meals on Wheels Inc Centre.
- In the afternoon, the monthly UWA Friends Executive committee.
- Friday 16th, as chair of Regional Development Australia-G.S.
- I met with Federal Officers of the Regional Development Australia Fund in Perth, to review round one funding applications, lodgement and outcomes. Round two fund will be \$150million.
- Saturday 17th, the fifteenth Annual Mayor's Prayer Breakfast was again well attended.
- In the evening I was invited to the Shire of Denmark Centenary Celebration Dinner. A delightful nostalgic occasion.

- Last evening there was a full house at the AEC to enjoy Oz Opera's presentation of the world Opera classic La Traviata ..



Mayor's Report

(Ordinary Council Meeting - 20 September 2011)

Western Australian Regional Cities Alliance (WARCA)

1. Background

At the 20 July 2011 meeting Council resolved to:

- a) Endorse a forward budget commitment of four years, commencing in the 2011/12 financial year, for an amount of \$50,000 per year as the City of Albany's contribution towards the Regional Cities Alliance, including contributing to the partnership with the University of Western Australia to undertake research in regional development, urban planning and spatial analysis, with the aim of providing an explicit focus on the research needs of the Alliance. These needs being concentrated in:
 - Economic, demographic and social analysis;
 - Service and infrastructure planning and delivery;
 - Strategic urban and regional planning; and
 - Governance.
- b) Enter into a contract with the University of Western Australia, as part of its membership of the Regional Cities Alliance.
- c) Direct the focus of the City's goals for the Alliance and the Mayor regularly updates Council on the Alliance.

This report is in accordance with point c) above.

The Western Australian Regional Cities Alliance includes membership from the City of Bunbury, City of Albany, City of Geraldton-Greenough and the City of Kalgoorlie-Boulder. The Shire of Roebourne and the Shire of Broome are considering membership.

2. Progress Report

2.1 *WARCA meeting held in Canberra on 21 June 2011*

The Mayor and CEO of the City of Albany were unable to attend this meeting. Key issues documented in the minutes include:

- Progression of a Regional Agenda with State and Federal Governments (WARCA agreed to prepare a draft regionalisation strategy and policies - underway);

- Arrangements for WARCA secretariat services (proposed that each Council make a financial contribution supplemented by funding from the State Government) – under consideration and funding submission has been lodged through Royalties for Regions program);
- Need for local land-use planning strategies and modernised town planning schemes for all regional cities - funding submission lodged;
- Proposed research and training partnership with UWA – funding submission lodged;
- Proposed review of funding arrangements (State versus Local Government) for cultural assets;
- Requirements for membership to the WARCA were resolved to include a mandatory commitment from members to:
 - a. fund the UWA partnership;
 - b. contribute to the costs of the secretariat (if and when a formal system is agreed); and
 - c. possible discretionary participation on other future WARCA projects or initiatives

Since the meeting on 21 June 2011, City of Albany staff provided input to a funding application to the Royalties for Regions Action Agenda Funding Round.

2.2 WARCA meeting held in Perth on 4 August 2011

This meeting was attended by the Mayors and CEO's of each member city. Also in attendance (as observers) was the Senior Advisor to the Federal Minister for Regional Australia, Regional Development and Local Government, and the Shire Presidents of Broome and Roebourne.

A summary of issues discussed includes:

- Regional cultural facilities – It was agreed to coordinate the collation of data about funding and operations of regional theatres, art galleries and museums across member cities.
- Priority research work for the UWA Partnership – each member Council will review the priority areas for the research proposed to be undertaken by UWA and advise the WARCA secretariat.
- Draft Regionalisation Strategy – Preparation is advancing on the development of a proposed strategy to encourage greater regionalisation. The document makes recommendations for key policy initiatives to be supported and implemented by the Commonwealth and State Governments in order to drive substantial economic and population growth under the categories of:
 - *Regional Living Pathways* - To facilitate the relocation and migration to regional centres by providing support to new families to live and work in regional city centres.
 - *Regional Devolution Strategy* - To facilitate the devolution of capacity, authority and autonomy to regional centres by increasing government capacity and services in the regions.
 - *Strengthening Regional Business* - To provide support for regional business in providing data to assist in business planning and assistance in obtaining skilled and unskilled workers in their own communities.
 - *Planning Regional Cities* - Implementation of Regional Centre Growth Plans (functioning as Local Planning Strategies) and Regional City Plans (consistent and contemporary performance based town planning schemes) which link to Regional

Strategies (developed by WAPC) and Regional Investment Plans (developed by relevant Development Commissions).

- *Building Regional Industries* - The creation and development, with supporting infrastructure and services, of major industrial precincts and hubs associated with each of the regional centres.

3. 2011/2012 Financial Report

The City of Albany has budgeted \$50,000 in 2011/12 for the Regional Cities Alliance (Account 1589). No expenditure has been incurred in 2011/12.

(nb: the 4 August 2011 meeting incurred travel costs associated with other business being conducted in Perth)

Council resolved on 19 July 2011 to allocate \$50,000 per year over four years to the UWA Partnership project.

4. Next Meeting

The next meeting of the Alliance is scheduled to be held in Bunbury on 11 November 2011.

Milton Evans JP
Mayor

8 September 2011