

# **MINUTES**

## **ORDINARY MEETING OF COUNCIL**

**on**

**Tuesday, 21<sup>st</sup> September 2004**

**7.30pm**

**Wellstead Progress Association Hall**

## **City of Albany**

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Signed \_\_\_\_\_

Date: 22<sup>nd</sup> September 2004

***Andrew Hammond***  
Chief Executive Officer

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**1.0 DECLARATION OF OPENING**

Her Worship the Mayor declared the meeting open at 7.25pm and extended a welcome to all present.

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

Mayor	-	A Goode, JP
Councillors	-	MJ Evans, JP
	-	P Lionetti
	-	AHM Demarteau
	-	DJ Wolfe
	-	DW Wellington
	-	RH Emery
	-	J Waterman
	-	E Barton
	-	R Paver
	-	J Jamieson
	-	G Sankey
	-	I West
Chief Executive Officer	-	AC Hammond
Executive Director Corporate & Community Services	-	WP Madigan
Executive Director Works & Services	-	B Joynes
Executive Director Development Services	-	R Fenn
Minute Secretary	-	L Freegard
Approximately 20 members of the public		
2 media representatives		

Apologies / Leave of Absence:

- Councillor SM Bojcun  
- Councillor JD Williams

**3.0 OPENING PRAYER**

Mayor Goode read the opening prayer

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

**4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**5.0 PUBLIC QUESTION TIME**

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

concise questions to Her Worship the Mayor on matters relating to the operation and concerns of the municipality.

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

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

**Dorothy Watson, Tangles Hair Studio, Middleton Loop.**

Ms Watson, representative of the shop owners in Middleton Loop addressed Council in relation to Item 11.2.2 seeking Council approval to allow sandwich board style signs on the footpath to encourage a more vibrant shopping area. Ms Watson stated that she had made enquiries with some metropolitan Councils who successfully allow sandwich boards in busy shopping districts and wished for Council to consider allowing them in the Middleton Loop area.

**Lynda Tyler, President Wellstead Progress Association.**

Mrs Tyler spoke on behalf of the Wellstead Progress Association and sought Council's support in regard to funding the remove of waste (skip bins) at the Boat Harbour / Pallinup junction. This has been undertaken in the past by Coastforce a branch of the Wellstead Progress Association however feel that this role should be funded by Council.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 17<sup>th</sup> August 2004;  
as previously distributed be confirmed as a true and accurate record of proceedings.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WELLINGTON**

**THAT the following minutes:**

- **Ordinary Council meeting held on 17<sup>th</sup> August 2004;  
as previously distributed be confirmed as a true and accurate record  
of proceedings.**

**MOTION CARRIED 13-0**

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**8.0 DECLARATIONS OF FINANCIAL INTEREST**

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

- Councillor Barton – Item 11.1.2 and Item 12.2.5
- Councillor Demarteau – Item 12.2.6
- Councillor Lionetti – Item 12.2.5
- Councillor Waterman – Item 12.2.5
- Councillor Wellington – Item 12.2.5

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

Nil.

**10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

# **Development Services**

## **REPORTS**

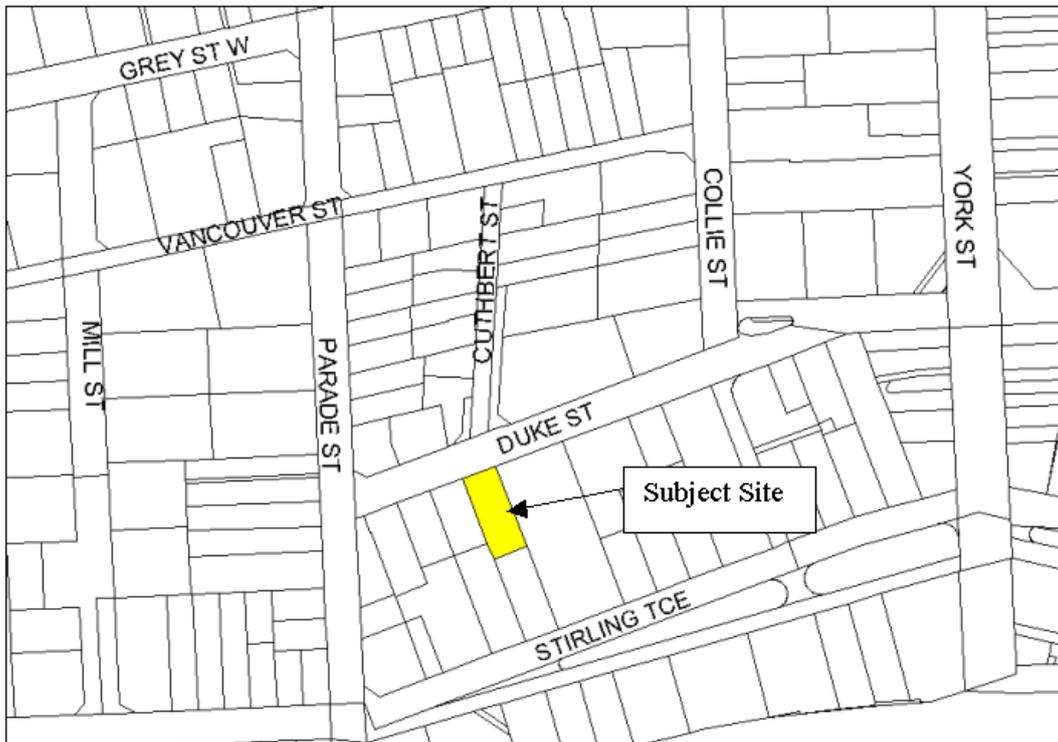
**DEVELOPMENT SERVICES REPORTS**

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

**11.1 DEVELOPMENT**

**11.1.1 Development Application – Office – 43–47 Duke Street, Albany**

<b>File/Ward</b>	: A99835 (Frederickstown)
<b>Proposal/Issue</b>	: Proposed Office (two tenancies)
<b>Subject Land/Locality</b>	: Lot ATL S46, 43-47 Duke Street, Albany
<b>Proponent</b>	: Michael Roberts Architect
<b>Owner</b>	: Southern Office Services Pty Ltd
<b>Reporting Officer(s)</b>	: Senior Planning Officer (G Bride)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Item 11.1.1 OCM - 20/7/04
<b>Summary Recommendation</b>	: Grant conditional Planning Scheme Consent
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	:



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**BACKGROUND**

1. At it's previous meeting dated 20 July 2004, Council resolved the following in relation to a proposed office development at 43-47 Duke Street, Albany:

*“THAT subject to no objections being received during the public consultation period, Council resolves to issue a Conditional Planning Scheme Consent for an Office at 43-47 Duke Street, Albany and that the conditions include, but not be limited to, requirements that the developer:*

- (i) Provide the 13 parking bays within the boundaries of the subject land as shown on the approved plan.*
- (ii) Those parts of the approved building shown as Storage shall permanently remain as storage areas and not be converted into office or similar floor space.*

*THAT Council resolves pursuant to clause 7.22 of the City of Albany Town Planning Scheme 1A delegate to the Manager Development Services authority to issue a Conditional Planning Scheme Consent for an Office at 43-47 Duke Street, Albany.”*

2. In accordance with the above resolution, staff sought comments from the residents of Duke Street in relation to the car parking shortage, which equated to 4 bays under the Scheme, and 9 bays under Council's Policy. Two objections have been received from nearby landowners and their submissions follow this report.

**STATUTORY REQUIREMENTS**

3. Advertising of the car parking relaxation was undertaken in accordance with Clause 4.10 and 7.5 of Town Planning Scheme No. 1A.
4. As two objections have been received, Clause 4.10(b) of Town Planning Scheme No. 1A, requires Council to have regard to any expressed views prior to making its determination to grant the variation.
5. Council can resolve to apply the scheme standard, apply the policy standard or grant the variation.

**POLICY IMPLICATIONS**

6. Section 6.5 of the City of Albany Development Guidelines – Scheme 1A states the following in relation to parking:

*“Each development in the Central Area zone shall provide the required number of car parking bays, consistent with the proposed use as part of the development. Where it is not practical to provide the additional car parking, Council may accept a cash payment or the transfer of land (free of cost) for carparking to be provided on the site, provided:*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- (i) *cash in lieu rates are calculated on the basis of 26 sq.m. per parking bay and include the cost of land within the development site, asphalt paving on a suitable basecourse, drainage, linemarking, landscaping and, where applicable, lighting; and*
- (ii) *the additional site coverage will not preclude the integration of access and car parking across lot boundaries.”*

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

8. In 1997 Council appointed Sinclair Merz Knights (SKM) to prepare the Albany Central Area Parking Strategy in order to provide a “Masterplan” (strategy) for the integration of parking facilities within the Albany Central Area. As part of this strategy it was recommended that for offices, 1 bay per 30m<sup>2</sup> GFA should be applied, given this was a proven standard applied by the majority of local governments across Western Australia.

**COMMENT/DISCUSSION**

9. In summary the following comments were received from two Duke Street residents:
- The relaxation of parking will affect the current ambience of the street.
  - Parking is an ongoing issue in central Albany.
  - The lack of parking options as vacant land around this area is developed will be exacerbated by this relaxation.
  - Cuthbert Street is unsuitable for on-street parking, but some cars do already park there. More congestion in this area will be dangerous.
  - In summer the backpackers already takes up a lot of on-street parking, which causes difficulty in negotiating driveway access. The lack of off-street parking for this development will force parking further up Duke Street, further congesting the roadside.
  - Other government offices across from the church already park in the street.
  - Most of the customers for this development would park in the street at times, which will deteriorate the parking situation already experienced outside the church.
10. Staff believe that should the relaxation be allowed it would set an undesirable precedent along Duke Street and other inner city streets, whereby the erosion of proven off-street parking standards would only transfer the parking demand from private land onto the street, promoting congestion and compromising vehicular and pedestrian safety. As the street has a number of residences fronting it, such congestion has the potential to detract from the enjoyment of residing along this street.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- 11. Additionally, other businesses along this street, such as John Kinnear and Associates (which has a similar lot size), have met their car parking requirements on site, and allowing a lesser standard to apply to this development would be unequitable for such businesses.
- 12. If the applicant were to reduce the gross floor area of the building from 658m<sup>2</sup> to 520m<sup>2</sup> (which could involve a reduction in the size of the storage areas and some internal areas), the building would be in compliance with the scheme requirement of 1 per 40m<sup>2</sup>. Should the applicant not wish to pay a cash-in-lieu contribution, this could be a cost-effective option.
- 13. If Council were to accept the lesser scheme standard of 17 bays the cash-in-lieu payment would be reduced from \$81,900 to around \$36,400 for the 4 bays.

**RECOMMENDATION**

THAT Council resolves to issue a Conditional Planning Scheme Consent for an Office at 43-47 Duke Street, Albany and that the conditions include, but not be limited to, requirements that the developer:

- i) provide seventeen parking bays within the boundaries of the subject land, or pay cash-in-lieu, in accordance with Clause 6.5 of the City of Albany Development Guidelines – Scheme 1A, for the remaining four bays; and
- ii) those parts of the approved building shown as Storage shall permanently remain as storage areas and not be converted into office or similar floor space.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WATERMAN  
 SECONDED COUNCILLOR WELLINGTON**

**THAT Council, pursuant to Clause 4.10 (b) of the City of Albany Town Planning Scheme 1A, resolves to vary the development standards for 43-47 Duke Street, Albany to reduce the number of car parking bays required to be provided on that site to 13 bays as detailed on the plan attached to the development application.**

**AND**

**THAT the submissions received be noted, and Staff report back to Council at the earliest opportunity on car parking arrangements in Duke Street, particularly in regards to the potential to reduce congestion and improve safety.**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**AND**

**THAT Council resolve to issue a Conditional Planning Scheme Consent for an office at 43-47 Duke Street, Albany and that the conditions include, but not be limited to, requirements that the developer:**

- a) Provide the 13 car parking bays within the boundaries of the subject land as shown on the approved plan.**
- b) Those parts of the approved building shown as storage shall be permanently remain as storage areas and not converted into office or similar floor space.**

**AND**

**THAT Council resolves, pursuant to clause 7.22 of the City of Albany Town Planning Scheme 1A, to delegate to the Manager Development Services authority to issue a Conditional Planning Scheme Consent for an office at 43-47 Duke Street, Albany.**

**MOTION CARRIED 9-4**

**Reason:**

The submissions have highlighted an existing parking problem in Duke Street which this proposal will neither assist in resolving or making worse. Reducing the number of car parking bays needed to be provided on-site is appropriate in the circumstance, given the nature of the business involved and the substantial benefits this development will bring to the Duke Street precinct.

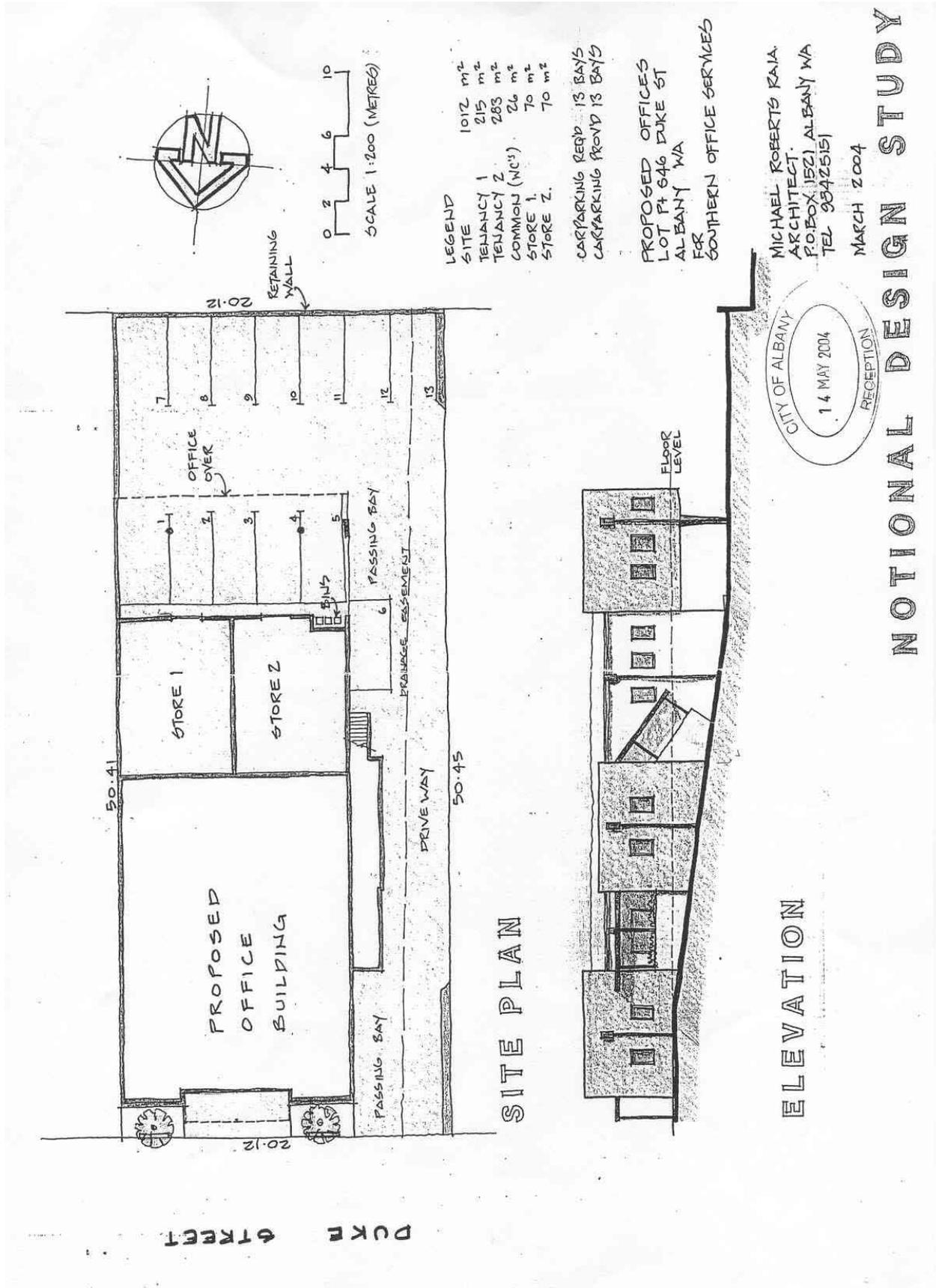
It was requested that names be recorded:

**For the Motion:** Mayor Goode, Councillors Demarteau, Emery, Evans, Lionetti, Waterman, Wellington, West, and Wolfe.

**Against the Motion:** Councillors Barton, Jamieson, Paver and Sankey.

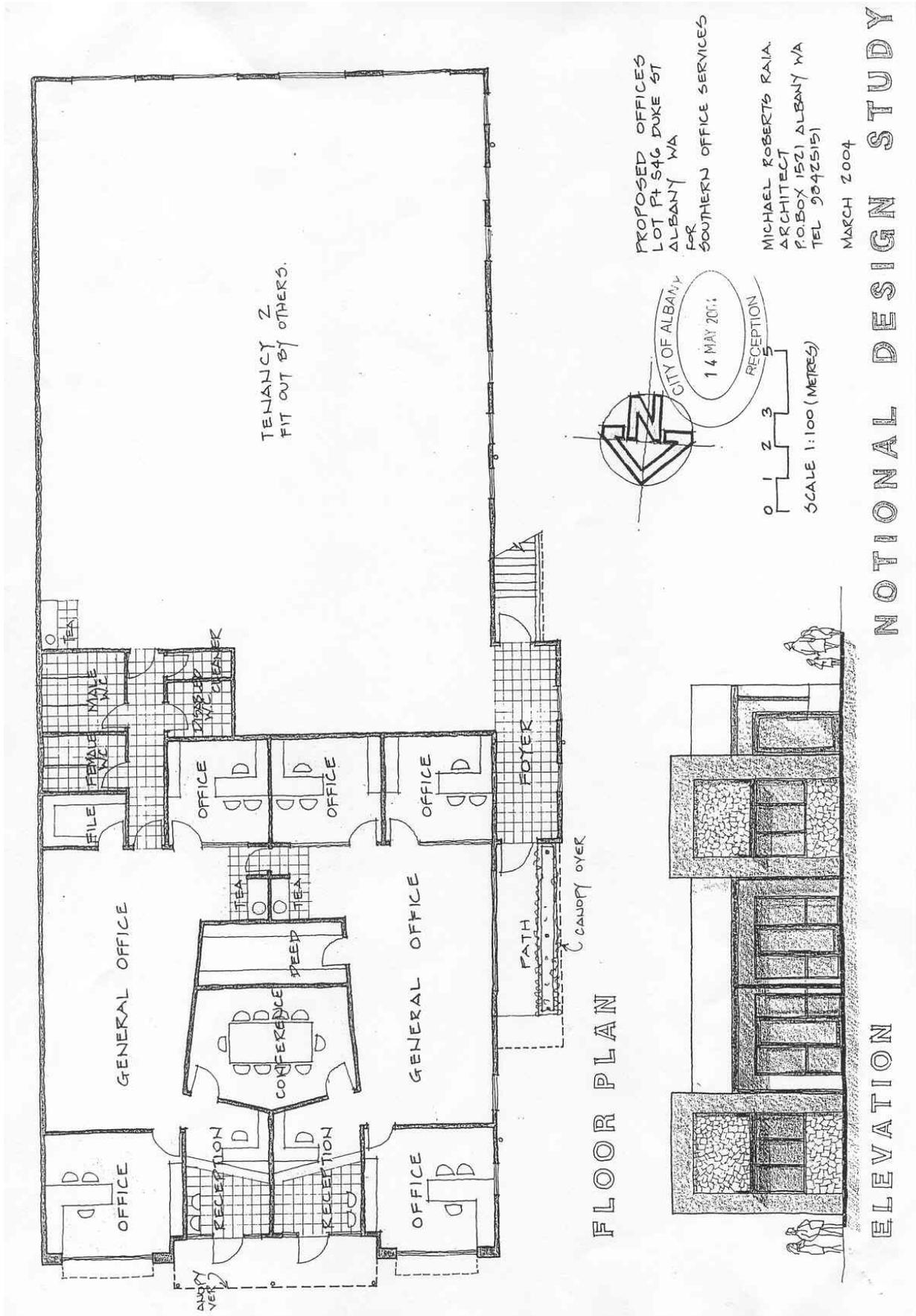
DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued



DEVELOPMENT SERVICES REPORTS

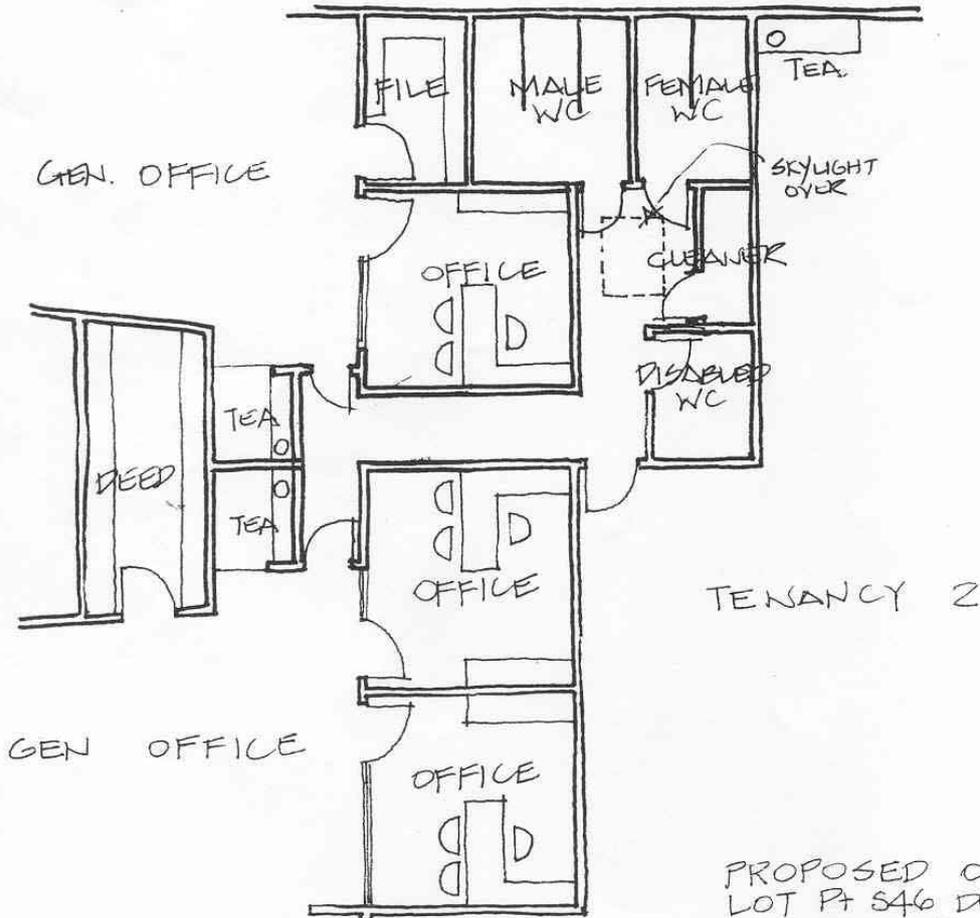
Item 11.1.1 continued



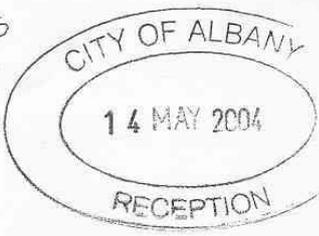
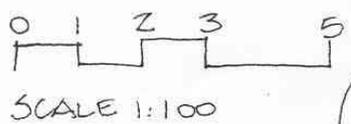
DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

# ALTERNATIVE SERVICE CORE LAYOUT



PROPOSED OFFICES  
LOT Pt 546 DUKE ST  
ALBANY WA  
FOR  
SOUTHERN OFFICE SERVICES



MICHAEL ROBERTS RAIA  
ARCHITECT  
P.O. BOX 1521 ALBANY WA  
TEL 98425151  
MAY 2004

# NOTIONAL DESIGN STUDY

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**Janette Rowe**

P O Box 5153, Albany 6332  
Telephone (08) 9842 6661  
Email: circa@omninet.net.au

16 August 2004

Mr Graeme Bride  
Senior Planning Officer  
City of Albany  
P O Box 484  
ALBANY WA 6331

Dear Graeme

**Re: Your Reference A99835/PA7439/P245214 – Application for Planning  
Consent 43-47 Duke Street, Albany**

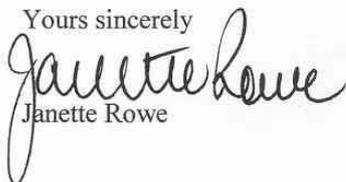
Thank you for your letter regarding the application seeking a relaxation in regard to car parking requirements as specified in Town Planning Scheme 1A.

While being impressed with the appearance of the building in the plans, which will add to the streetscape and built environment of the area, I am writing to lodge my objection to this parking relaxation because:

- In summer when the Backpackers are busy, buses and cars line Duke Street between Cuthbert Street and Parade Street. This causes difficulty in negotiating driveway access at times. At the moment a number of these vehicles park on the street in the area of roadway which would be at the front of the proposed office. The lack of off street parking for the office block will force these cars and buses to park further up Duke Street, further congesting the roadside.
- The relaxation of parking will affect the current ambience of the street in light of one above.
- Parking is an ongoing issue in central Albany. The lack of parking options as vacant land around this area is developed will be exacerbated by this relaxation (eg the block of land next door to the Church).
- Cuthbert Street is unsuitable for on street parking, but some cars do already park there. More congestion in this area will be dangerous.

I urge council to uphold its Planning Scheme and not relax the scheme standard in this case.

Yours sincerely

  
Janette Rowe

CITY OF ALBANY RECORDS	
FILE:	A99835
FILE:	
17 AUG 2004	
DOC:	IC02407869
OFFICE:	SP
ATTACH:	

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**Graeme Bride**

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**From:** bobelms [bobelms@westnet.com.au]  
**Sent:** Sunday, 22 August 2004 3:02 PM  
**To:** Graeme Bride  
**Subject:** Re: Notice of Application for Planning Consent

Wesley Uniting Church,  
PO Box 335,  
Albany 6331.  
22 August 2004.

Dear Sir,

Re Your A99835/PA7439/P245214 of 27th July 2004 - Notice of Application for Planning Consent.

I have just received the above letter which was addressed to the Church at 12-40 Duke Street. As you can see there has been a delay of almost a month before we received it.

Wesley Church would have serious objections to any plan which does not provide adequate parking for any planning project in Duke Street. The Church already has had discussions some time ago with the City Ranger about the problem of customers of the Government building opposite the Church parking in Duke Street outside Wesley Church at times when there are weddings or funerals. At times the hearse has had to park on the footpath in order to get the coffin into the Church. The Church requested yellow bays outside the Church to restrict parking but there are difficulties in providing these which need not be discussed here. The fact is that some of the staff and most of the customers for the Community Welfare Office opposite the church prefer to park in the street rather than use the off street parking behind that Government building.

The solution worked out with the Ranger was that Wesley staff should put "no parking" signs in the street outside the church when it is known that a funeral or a wedding is to be celebrated. However this does not work very well when staff from nearby buildings park before 9 a.m. and stay in that spot all day.

Obviously, from the information provided by you for us it is likely that the staff at the proposed offices would take up most of the offstreet parking. Most of the customers at times would park in the street which is going to exacerbate our problem further when they park in the street outside the Church..

We wish therefore to lodge an objection to the proposed planning decision on the grounds that it is very likely to cause the Church's problem with parking, much of it long term, outside the church to deteriorate further.

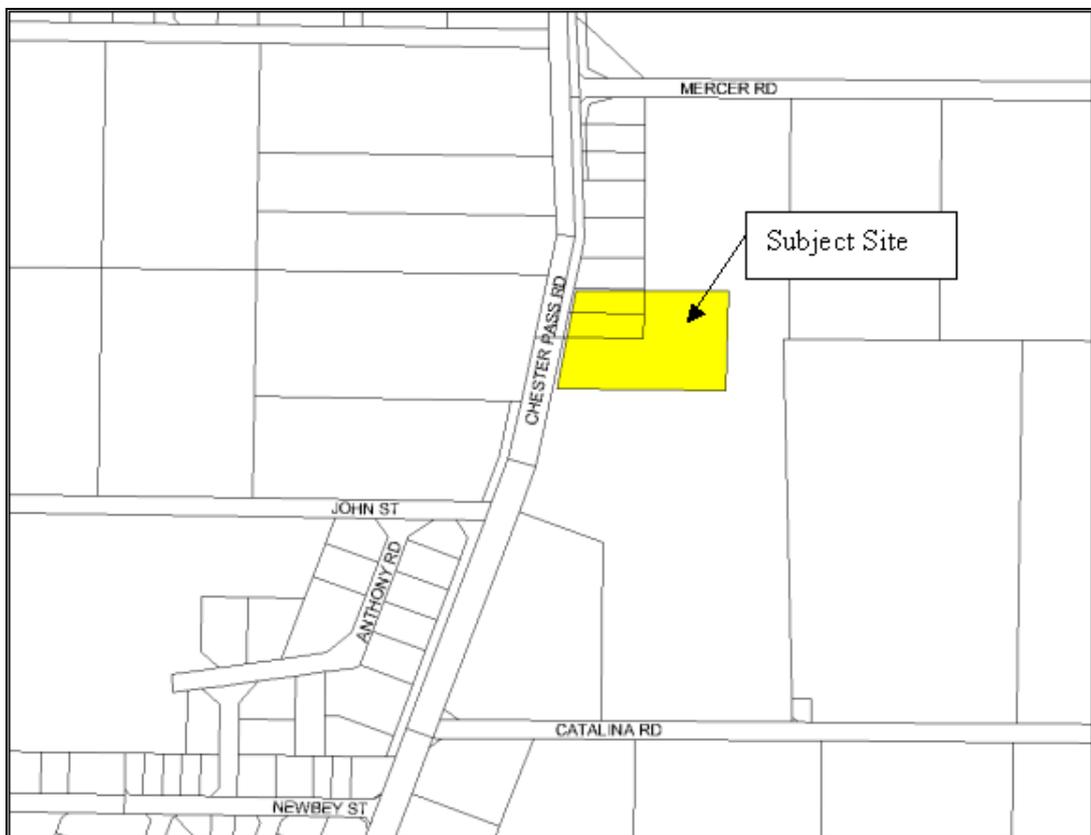
Yours faithfully.

J. R. (Bob) Elms,  
Secretary of Wesley Church Property and Finance  
Committee.

**DEVELOPMENT SERVICES REPORTS**

**11.1.2 Development Application – Warehouse – Lot 101 Chester Pass Road, Lange**

- File/Ward** : A186329 (Yakamia Ward)
- Proposal/Issue** : Application for a warehouse
- Subject Land/Locality** : Lot 101 on the Corner of Chester Pass Road and the proposed Brooks Garden Boulevard.
- Proponent** : Howard and Associates
- Owner** : Kingopen Pty Limited
- Reporting Officer(s)** : Planning Officer (J Devereux)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 17/02/04 - Item 11.1.3  
OCM 18/05/04 - Item 18.1
- Summary Recommendation** : To issue a Notice of Planning Scheme Refusal
- Bulletin Attachment** : Nil
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**BACKGROUND**

1. Council received an application on 29<sup>th</sup> June 2004, for a warehouse at lot 101 Chester Pass Road, Lange. Refer to attachment 1 for the site plan.
2. The proposal is for a 'Warehouse' with a proposed floor area of 1900m<sup>2</sup> and is proposed to be attached to the Harvey Norman building, approved by Council on the 24<sup>th</sup> June 2004.

**STATUTORY REQUIREMENTS**

3. The subject land is zoned 'Mixed Business' under Town Planning Scheme No. 3 (Scheme), and is subject to clause 5.22 of the Scheme. The relevant portion of that clause states;

*"No person shall carry out any development within the Mixed Business Zone unless such development is in accordance with a Precinct Plan which has first been adopted by Council."*

4. The proposed 'Warehouse' use has an 'A' classification under the zoning table of the Scheme, which is a discretionary use.
5. 'Warehouse' is defined as: -

*"Any building or enclosed land, or part of a building or enclosed land, used for storage of goods and the carrying out of commercial transactions involving the sale of such goods by wholesale."*

**POLICY IMPLICATIONS**

6. The proposal for a 'Warehouse' use as a separate land use is not consistent with the Catalina Central Structure Plan (CCSP). The CCSP has not addressed the issue of where 'warehouses' may be located, similar to other uses listed in the 'Mixed Business' zone, such as a 'Funeral Parlour' or 'Light Industry'. The land uses the CCSP does deal with are 'Neighbourhood Centre', 'Bulky Goods', 'Medical Centre', 'Service Station' and 'Grouped Dwellings'.

**FINANCIAL IMPLICATIONS**

7. Should the applicant appeal the refusal, then legal fees may be incurred.

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

9. As warehouse is classified as being an 'A' under the zoning table, Council has discretion to approve, but is bound by clause 5.22, mentioned in paragraph 3 above.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- 10. In the ‘Mixed Use’ zone any development is subject to an adopted Precinct Plan. Warehousing as a separate land use is not considered in the CCSP, as being a proposed use.
- 11. For the CCSP to be modified to allow this use, the landowner would need to justify to Council why there is a need and how the addition of extra floorspace within the CCSP would impact on the economy of Albany by preparing an ‘Economic Impact Assessment’.
- 12. It is recommend that Council refuse the application for the reason that the proposed use ‘Warehouse’ is not permitted by the Precinct Plan (Precinct 1). Council should refuse this application, as no power resides to approve it.

**RECOMMENDATION**

THAT Council resolves to issue a Notice of Planning Scheme Refusal for the ‘Warehouse’ at Lot 101 Chester Pass Road, Lange for the following reason: -

- i) the Catalina Central Structure Plan, Precinct 1 does not permit the proposed use; and
- ii) the proposed use is not consistent with the remainder of Precinct 1.

*Voting Requirement Simple Majority*

.....

**- Addendum to Officers Report -**

11.1.2 Development Application – Warehouse – Lot 101 Chester Pass Road, Lange

- 13. Since the preparation and release of the Agenda, the land owners planning consultants have requested that Council consider the issue of amending Precinct Plan No 1 contained within the Catalina Central Planning Framework. This request has come about as a result that only 5 land uses are permitted in the defined and adopted Precinct areas.
- 14. A modification to the Precinct Plan would have to be prepared by Council (staff), presented to Council for consideration, advertised for a period of 21 days and represented to Council for adoption. Once this process has been undertaken, then Council can consider the building associated with the Harvey Norman site.
- 15. Prior to Council resolving to modify the Precinct Plan, Council needs to be aware of some issues associated with the Plan.
- 16. The Precinct Plan currently identifies that 5 land uses are permitted within the designated area. This does not match up with the uses listed in the zoning table within Town Planning Scheme No 3. The uses that are not contained within the Precinct Plan(s) are:

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- a. Car Park
  - b. Caretaker's House/Flat
  - c. Civic Building
  - d. Consulting Rooms
  - e. Cultural
  - f. Dry Cleaning Premises
  - g. Educational Establishments
  - h. Fish Shop
  - i. Funeral Parlour
  - j. Garden Centre
  - k. Health Centre
  - l. Holiday Accommodation
  - m. Holiday Homes
  - n. Hospital
  - o. Hotel
  - p. Industry – Light
  - q. Industry – Services
  - r. Motel
  - s. Museum
  - t. Petrol Filling Station
  - u. Private Clubs
  - v. Public Amusement
  - w. Public Assembly
  - x. Public Recreation
  - y. Public Utility
  - z. Public Worship
  - aa. Radio TV Installation
  - bb. Tavern
  - cc. Trade Display
  - dd. Warehouse
  - ee. Warehouse Sales Outlet
17. The Mixed Business Zone has been created to cater for a range of uses and some of the above listed uses may not be compatible with some of the precincts within Catalina area. The task for Council is to ensure that the precinct plans are modified to ensure that like uses are compatible.
18. An example of the compatibility issues, is that Harvey Norman is a bulky goods outlet, with the current proposal for a warehouse to be located in the building extension. A warehouse could accommodate a use such as a Repco or Atkins Carlye, which would attract a significant different clientele, which may affect things as carparking, types of vehicles moving through the site (trucks and cars and trailers), size of carparking bays and signage requirements.
19. Should Council consider that a review of the Precinct Plans are justified, then the review of the Precinct Plan(s) need to ensure that compatible uses are introduced into any Precinct Area, that the precinct areas are appropriately defined and that the design guidelines are consistent with the form of development proposed.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

20. Therefore based on the request by the landowners planning consultant, and the problem that the current form of the precinct plans are restricting development, staff should undertake a review of the precinct plans and present that review and any required modifications to Council for consideration.

**AMENDED RECOMMENDATION**

THAT Council resolves to:-

- i) defer the consideration of a Planning Scheme Consent application for a “Warehouse” to be located on Lot 101 Chester Pass Road, Lange, until the consideration of a revised Precinct Plan being adopted by Council permitting the use; and
- ii) revisit the Precinct Plans prepared under the Catalina Central Planning Framework to ensure consistency between the zoning table within Town Planning Scheme No 3 and the Precinct Plans.

*Voting Requirement Simple Majority*

.....

Councillor Barton declared an interest in this item, and left the chambers at 7.45pm.  
The nature of the interest is that she is an employee of Coles.

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR WELLINGTON**

**THAT Council resolves to: -**

- i) Defer the consideration of a Planning Scheme Consent application for a “Warehouse” to be located on Lot 101 Chester Pass Road, Lange, until Council has been adequately briefed on the relationship of this proposal to the Catalina Central Planning Framework and Scheme 3;**
- ii) Receive a report from Staff at the October meeting to allow debate to take place on the merits of Council reviewing the Precinct Plans (included in the Catalina Central Planning Framework) adopted under Clause 5.22 of Town Planning Scheme No 3.**

**MOTION LOST 4-8**

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR JAMIESON**

**THAT Council resolves to:-**

- i) defer the consideration of a Planning Scheme Consent application for a “Warehouse” to be located on Lot 101 Chester Pass Road, Lange, until the consideration of a revised Precinct Plan being adopted by Council permitting the use; and**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued.

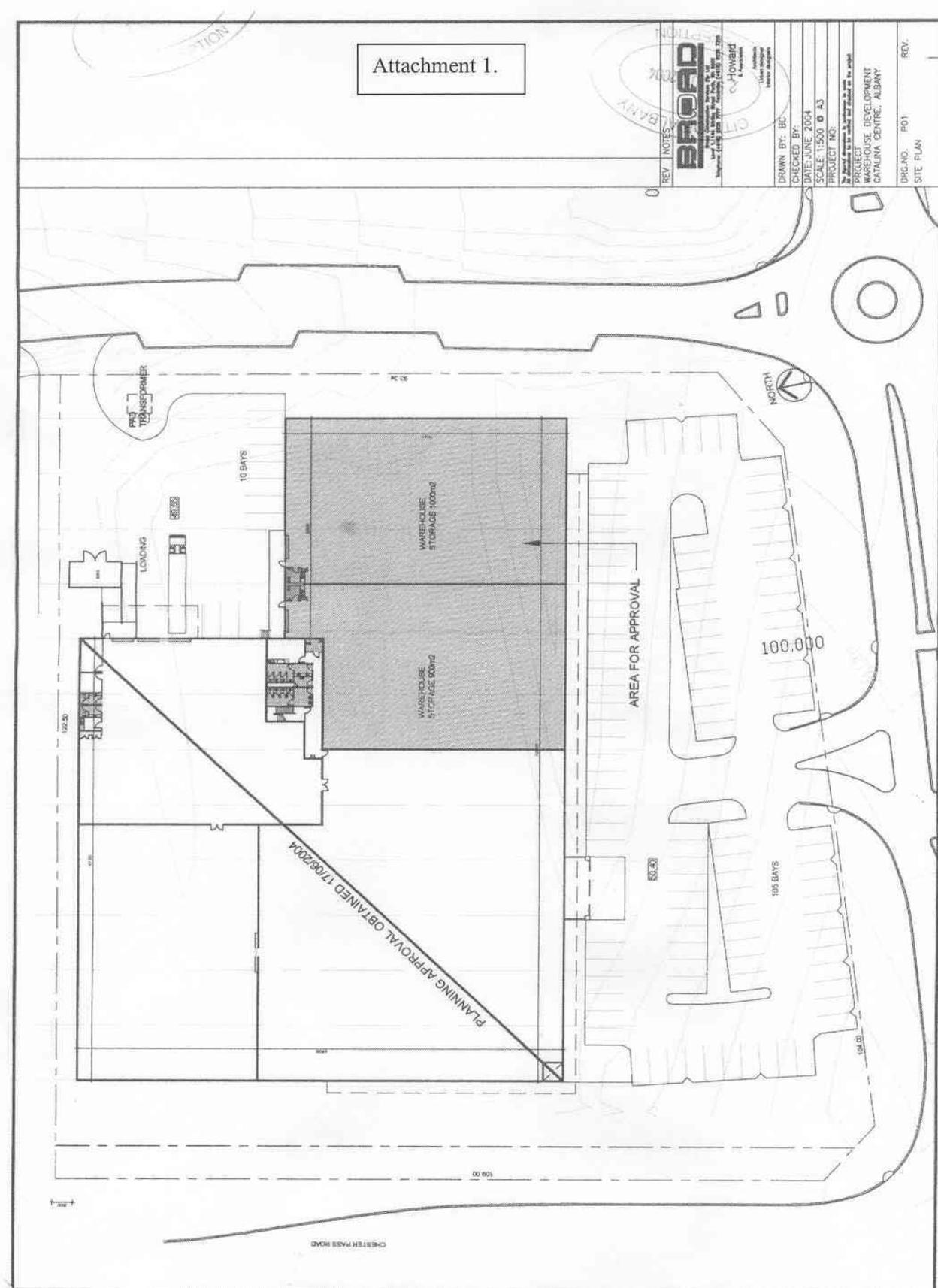
- ii) revisit the Precinct Plans prepared under the Catalina Central Planning Framework to ensure consistency between the zoning table within Town Planning Scheme No 3 and the Precinct Plans.**

**MOTION CARRIED 8-4**

Councillor Barton returned to the Chambers at 7.55pm

DEVELOPMENT SERVICES REPORTS

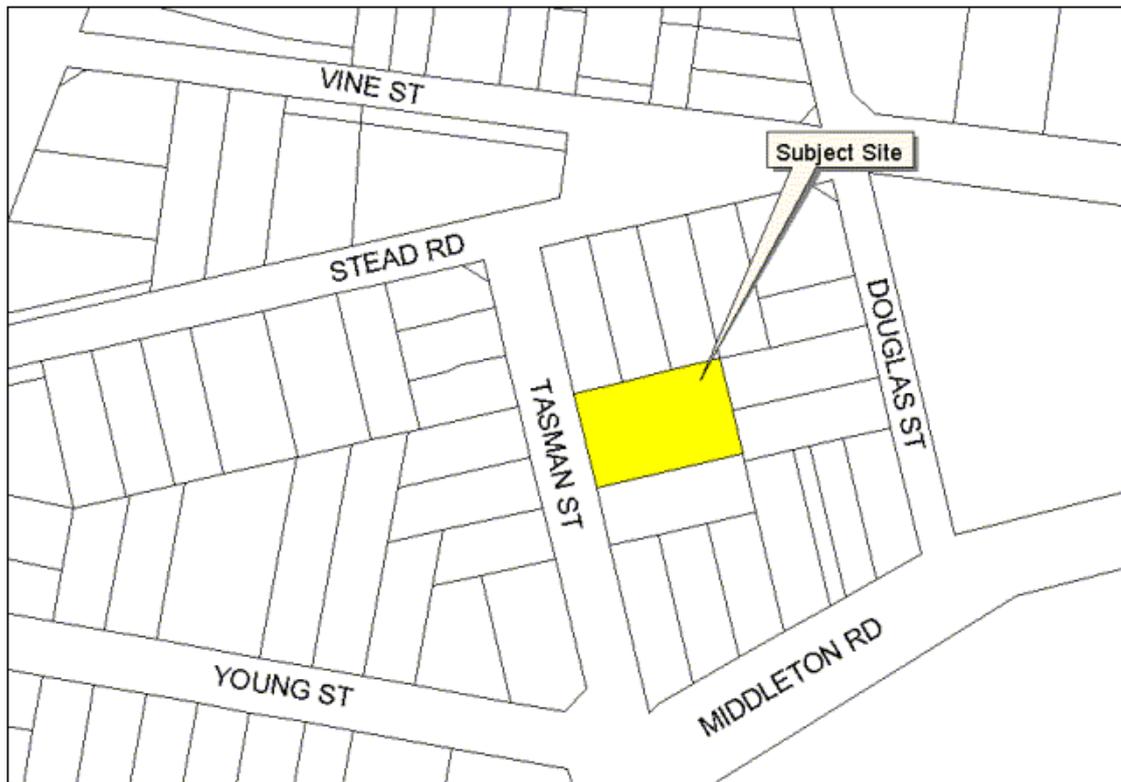
Item 11.1.2 continued



**DEVELOPMENT SERVICES REPORTS**

**11.1.3 Development Application – Relaxation of Condition – 8 Tasman St, Centennial Park**

<b>File/Ward</b>	: A181365 (Frederickstown Ward)
<b>Proposal/Issue</b>	: Occupation by person under 55 years of age in Over 55 unit
<b>Subject Land/Locality</b>	: Unit 3 6 - 8 Tasman Street, Albany
<b>Proponent</b>	: Public Trustee on behalf of prospective purchaser
<b>Owner</b>	: M & L Roberts
<b>Reporting Officer(s)</b>	: Manager Development (M Selby)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Nil
<b>Summary Recommendation</b>	: Allow occupation by a person under the age of 55
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	:



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

**BACKGROUND**

1. Council in 1999 granted approval to Grouped Dwelling and the applicant was granted a bonus 4<sup>th</sup> unit on the site because occupation of the units would be for people over 55, with an appropriate restriction placed on title at the time of development.
2. One of the units within the complex is under a contract of sale to a person under the mandatory age of 55.

**STATUTORY REQUIREMENTS**

3. Compliance with Planning Scheme Consent approval issued pursuant to Town Planning Scheme 1A.

**POLICY IMPLICATIONS**

4. There is no policy to cover this situation and no need for a policy to be formulated.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

7. Councillors have been provided under a separate confidential memo, details of the person purchasing the unit from the current owner.
8. Given the legal requirements, the Public Trustee is ensuring that the future occupant, who undertook negotiations with the current owner and was not aware of the restrictions on the occupation of the unit, can occupy with dwelling without Council enforcing the requirements of the planning approval. Therefore Council has been asked to relax the over 55 restriction in place.
9. It is not normal practice to allow occupation of a dedicated Aged Dwelling Unit, but Council may exercise its discretion and not enforce a portion of the planning scheme consent approval in place.
10. The future occupant has chosen this area for a number of reasons, which have been provided separately.
11. Given that this is a unique case, that Council can utilise its discretion (for compassionate reasons) and the period of non compliance is minimal, support to this request is considered appropriate.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

RECOMMENDATION

THAT Council advise the Public Trustee and prospective purchaser that it will permit the occupation of Unit 3, 6 – 8 Tasman Road, Albany by the purchaser who is under 55, provided the prospective purchaser is the only person under 55 occupying the premises.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR DEMARTEAU  
SECONDED COUNCILLOR EVANS**

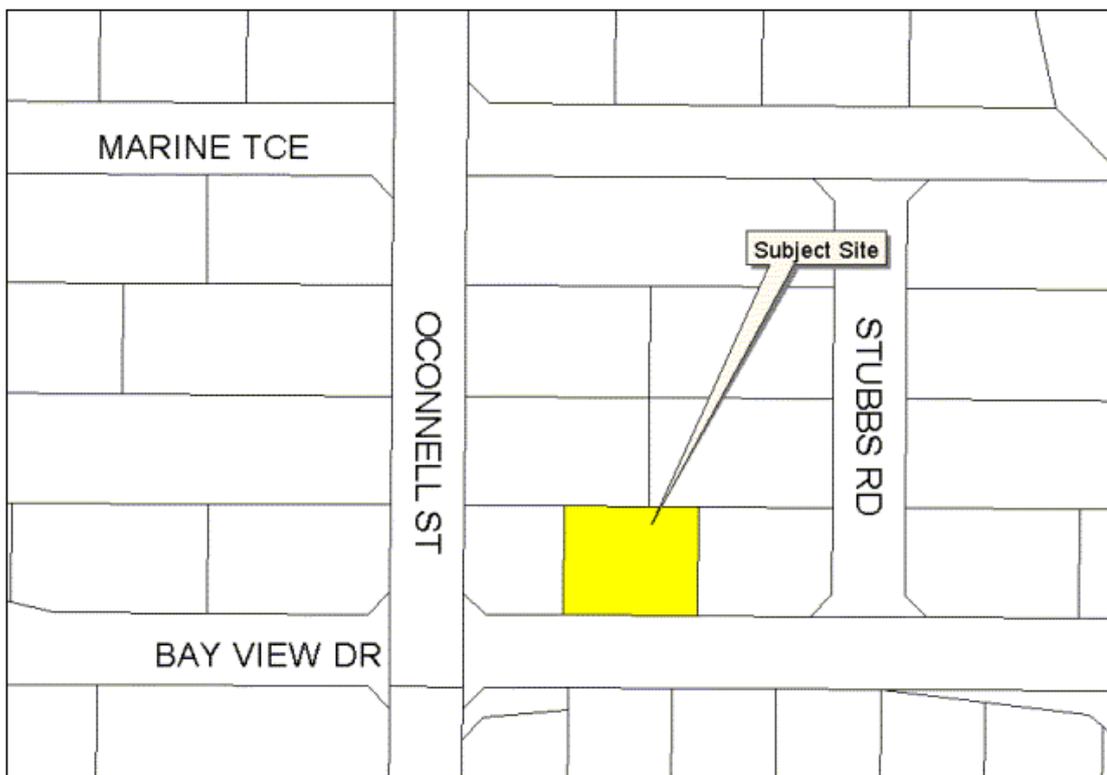
**THAT Council advise the Public Trustee and prospective purchaser that it will permit the occupation of Unit 3, 6 – 8 Tasman Road, Albany by the purchaser who is under 55, provided the prospective purchaser is the only person under 55 occupying the premises.**

**MOTION CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.1.4 Development Compliance – Outbuilding – 143 Bayview Drive, Little Grove**

- File/Ward** : A5800 (Vancouver Ward)
- Proposal/Issue** : Non-compliance with Planning Approval
- Subject Land/Locality** : Lot 31, (143) Bayview Drive, Little Grove
- Proponent** : Bradley Kennedy
- Owner** : Bradley Kennedy
- Reporting Officer(s)** : Planning Officer (J Devereux)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 12/10/03 - Item 11.1.5
- Summary Recommendation** : To issue a Notice pursuant to Section 10 of the Town Planning and Development Act 1928 (as amended)
- Bulletin Attachment** : Nil
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

**BACKGROUND**

1. Council received an application for Planning Scheme Consent, for the construction of an outbuilding at 143 Bay View Drive, Little Grove.
2. The matter was considered by Council at the ‘Ordinary Council Meeting’ (OCM) held on the 21<sup>st</sup> October 2003, where it was resolved to refuse the application.
3. The applicant then appealed Council’s decision to the ‘Town Planning Appeal Tribunal’, where the Tribunal upheld the appeal and conditionally approved the outbuilding.
4. Council Staff issued a building licence under their delegated approval on 19<sup>th</sup> March 2004, to the landowner.
5. The location of a window on the north-facing wall was brought to the attention of Council, by the adjoining landowner on 11 August 2004. His concerns were that the window did not comply with the direction of ‘Town Planning Appeal Tribunal’.
6. The tribunal did not place a condition on the approval to prohibit a window in this position, on the north-facing wall. However, its decision was made on information it was provided with. In this regard, it was stated in the report considered by Council at the Ordinary Council Meeting on the 21<sup>st</sup> October 2003 that no windows would be located on the subject wall.
7. Council Staff received an initial building licence application that did not include a window in this north-facing wall. The applicant amended the plans by locating a window in this wall, prior to the licence being issued.
8. The approved building licence was issued with a window overlooking the neighbouring property. The proponent has been contacted and requested to remove the window. That request has been denied.

**STATUTORY REQUIREMENTS**

9. The land is zoned ‘Residential Development’ under Town Planning Scheme No. 3.
10. The ‘Town Planning Appeal Tribunal’ granted the planning approval for the outbuilding in February 2004.
11. The window, in this location, did not form part of the planning approval and President McGowan made the following comment when assessing the appeal: -

*“The remaining question is one of amenity based on the ongoing concern that the combined effect of the subject property and the placement of the shed upon the existing level would impact upon the amenity of the neighbours...”*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

*There are trees which have been planted on the boundary between the subject property and lot 51. I am satisfied that will effect sufficient screening in time...*

*Again I am satisfied that the proposed arrangements and the introduction of the proposed shed will not adversely impact upon the amenity of the neighbour.”*

12. This statement only refers to the trees providing enough screening of the outbuilding and does not mention the impact of a window on the amenity of the neighbouring property. It is believed that President McGowan decision was made on the grounds that there would be no windows in this northern wall adjoining lot 51.
13. Council has the power pursuant to Section 10 of the Town Planning and Development Act 1928 to require the removal of the window. Council is required to give the applicant 60 days to rectify the breach, prior to undertaking legal proceedings.
14. Staff are not delegated to issue a notice under Section 10 of the Town Planning and Development Act 1928, without first gaining authority from Council.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

16. Should the applicant appeal the notice, or fail to adhere to its direction, legal fees may be incurred, pursuing the matter.

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

18. Council Staff have discussed the matter with the landowner. The landowner is not prepared to voluntarily remove the window, but is prepared to construct screening on the boundary to prevent overlooking.
19. This compromise has been discussed with the adjoining landowner, who is not prepared to except this or any other compromise. There is also no capacity under Town Planning Scheme No. 3 to modify the approval notice, once it is issued.
20. As a result of the breach of the Planning Approval issued by the Tribunal, it is recommended that Council issue a Section 10 Notice requiring the removal of the window in the northern wall of the outbuilding and replacing the opening with Colorbond® metal wall sheeting, matching the cladding of the shed, within sixty (60) days.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

RECOMMENDATION

THAT Council;

- i) delegates authority to the Manager Development to take action in accordance with Section 10(2) & 10(3) of the Town Planning and Development Act 1928 (as amended), against the landowner of Lot 31, (143) Bayview Drive, Little Grove, requiring the following to be undertaken within sixty (60) days of written notice:
  - a) remove the window in the north wall of the outbuilding and replace the opening with Colorbond® metal wall sheeting, matching the cladding of the shed; and
- ii) delegates authority to the Manager Development to take legal action against the landowner should the Section 10 (3) Notice not be complied with in the specified time.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR EMERY**

**THAT Council;**

- i) delegates authority to the Manager Development to take action in accordance with Section 10(2) & 10(3) of the Town Planning and Development Act 1928 (as amended), against the landowner of Lot 31, (143) Bayview Drive, Little Grove, requiring the following to be undertaken within sixty (60) days of written notice:**
  - a) remove the window in the north wall of the outbuilding and replace the opening with Colorbond® metal wall sheeting, matching the cladding of the shed; and**
- ii) delegates authority to the Manager Development to take legal action against the landowner should the Section 10 (3) Notice not be complied with in the specified time.**

**MOTION CARRIED 12-1  
ABSOLUTE MAJORITY**

**DEVELOPMENT SERVICES REPORTS**

**11.1.5 Building Appeal – Retaining Wall – 11 Festing Street, Albany**

<b>File/Ward</b>	: A97453 (Frederickstown Ward)
<b>Proposal/Issue</b>	: Minister’s Response to Appeal against Section 401 Notices on Retaining Wall
<b>Subject Land/Locality</b>	: Lot 0 (11) Festing Street, Albany
<b>Proponent</b>	: N/A
<b>Owner</b>	: L Roberts
<b>Reporting Officer(s)</b>	: Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 20/07/04 – Item 19.1 OCM 15/06/04 – Item 18.1 OCM 20/01/04 – Item 11.1.4
<b>Summary Recommendation</b>	: Serve notice on landowner
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	:



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**BACKGROUND**

1. The Minister for Housing and Works has written to Council, advising that the Notice(s) issued by Council under Section 401 (1)(a) and (b) of the *Local Government (Miscellaneous Provisions) Act 1960* on the retaining wall constructed on 11 Festing Street, is “defective”. A copy of the Minister’s letter is attached to this report.
2. Mrs Roberts has also written to Council requesting that the decision to issue a Section 401 Notice be rescinded.

**STATUTORY REQUIREMENTS**

3. Section 401 of the Local Government (Miscellaneous Provisions) Act 1960 states;

*401. Notice of required alterations*

- (1) *A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building:*
  - (a) *which tends to render the building unsafe or prejudicial to the public interest;*
  - (b) *which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specifications the approval of the local government has been obtained as required by this Act, or which is a contravention of this Act; or*
  - (c) *which, where permission of the local government is required for carrying it out, has been carried out without that permission;*

*and requiring him to pull down or so alter the building as to remove the cause of the objection and on being served with the notice the builder or owner shall comply with the requisition, unless where he has a right of appeal against the requisition, he exercises the right with due diligence, and the referees mentioned in Division 19 or the Minister, as the case may be, quash the requisition on appeal.*

**POLICY IMPLICATIONS**

4. There are no policy implications relating to this item

**FINANCIAL IMPLICATIONS**

5. The Minister has intimated that Council may wish to engage the services of a structural engineer to review the efficacy of the wall. That requirement has not been costed.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

7. It is unclear from the Minister's letter whether he has upheld the appeal outside of the regulatory process that has been put in place to determine the appeal, or whether he is requesting that Council reconsider its position on the Notice.
8. On examining the need for the wall be demolished, reference is made to the Notice issued under Section 401 (1) (c) of the Act in 1998. That Notice related to the wall being constructed without the appropriate licence being issued and required that it be demolished. A "post-construction" building licence was issued by Council, under instruction from the Minister, following the Minister's consideration of the appeal in July 1998. The Minister has challenged Council to provide an explanation why the Notice should not be seen as an attempt to have him review that earlier Ministerial decision.
9. During the period the wall has been in-situ, it has not shown any marked signs of structural failure, despite the actions of the neighbouring landowner in digging alongside and below the base of the wall. As previously reported to Council, Staff are not in a position to recommend to Council the expenditure of funds to engage a structural engineer to check the integrity of the wall when it appears to be meeting its performance requirements and has done so since 1998.
10. On the question of building contrary to the approved plans, strict compliance with the original plans is not considered by the Minister as being adequate grounds for taking further action on the wall, given the history of this dispute and the amount of money spent by the various parties. The City of Albany would only be justified in taking further action if it has clear evidence that the wall in its current condition is unsafe, according to the Minister.
11. Council has relied upon the Wood and Grieve Report to verify the structural adequacy of the retaining wall in the past. In so doing, Council has requested the owner to undertake remedial work on the wall. In his inspection report from his most recent visit to the wall, Wood and Grieve's structural engineer noted the necessity for the wall to extend 350mm below ground level, or for a key to be added below the base of the wall to prevent the future erosion of the soil adjacent to and from under the wall. The report stated that the "immediate structural integrity" of the wall would not be compromised if the base of the wall was to finish at ground level. However, the "long-term stability of the wall" would be compromised if 350mm of soil was not retained above the base of the wall or the concrete key which he suggests be placed below it.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

12. A report from the Principal Building Surveyor was tabled at the June meeting of Council, highlighting deficiencies in the concrete key required by the structural engineer to be installed below the retaining wall, on the common boundary between 11 and 13 Festing Street. The integrity of that key is paramount to the longer term stability of the wall; the Minister has indicated that Council may wish to pursue further remedial work being undertaken on the wall rather than requiring it to be pulled down.
13. The owners have requested that the motion of Council relating to agenda item 18.1 from the meeting on the 15th June 2004 be rescinded. That motion reads;  
  
*“THAT Council instructs the Chief Executive Officer to serve upon the owner of 11 Festing Street notices under S401 (1) a) and Section 401 (1) b) of the Local Government (Miscellaneous Provisions) Act 1960 requiring that the retaining wall be pulled down and reconstructed in accordance with the plans and specifications approved by the City of Albany and appropriate Australian Standards for retaining walls.”*
14. For that request to be considered, five Councillors will need to nominate that the rescission motion be debated.

RECOMMENDATION

THAT;

- i) based upon the Minister’s advise that Council’s Notice is defective, Council resolve to withdraw the Notice issued on the 21<sup>st</sup> June 2004, under Sections 401(1)(a) and (b) of the Local Government (Miscellaneous Provisions) Act 1960, upon Mrs L Roberts in respect to the retaining wall at 11 Festing Street, Albany;
- ii) Council, pursuant to Section 401 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1960, issue a Notice upon Mrs L Roberts requiring the completion of the concrete key beneath the retaining wall along the western boundary of 11 Festing Street, Albany as required by the Wood and Grieve structural report; and
- iii) pursuant to Section 401 (5) of the Local Government (Miscellaneous Provisions) Act 1960, the Principal Building Surveyor be required, prior to Certifying that any work has been completed in accordance with the Notice issued under Section 401 (1) (a), to;
  - i) arrange for a detailed photographic record of the retaining wall at 11 Festing Street, Albany; and
  - ii) arrange for a feature survey of the in-situ retaining wall and the ground levels along the western boundary of 11 Festing Street, Albany.

*Voting Requirement Simple Majority*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

RECOMMENDATION

THAT based upon the Minister’s advise that Council’s Notice is defective, Council resolve to withdraw the Notice issued on the 21<sup>st</sup> June 2004, under Sections 401 (1) (a) and (b) of the Local Government (Miscellaneous Provisions) Act 1960, upon Mrs L Roberts in respect to the retaining wall at 11 Festing Street, Albany.

AND

THAT Council, pursuant to Section 401 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1960, issue a Notice upon Mrs L Roberts requiring;

- (a) the removal from the neighbouring property of any section of the retaining wall that protrudes across the boundary of the subject land; and
- (b) the installation of scour protection measures to the western edge of the retaining wall along the boundary of 11 Festing Street, Albany as required by the Wood and Grieve letter dated 5<sup>th</sup> February 2004, by means of a concrete key having a minimum breadth of 200 mm behind the face of the wall and extending 350mm below ground level where any section of the wall does not extend that distance below ground level; and
- (c) the scour protection measures be contained entirely within the boundaries of the subject land.

AND

THAT, pursuant to Section 401 (5) of the Local Government (Miscellaneous Provisions) Act 1960, the Principal Building Surveyor be required, prior to certifying that any work has been completed in accordance with the Notice issued under Section 401 (1) (a), to;

- (a) arrange for a detailed photographic record of the retaining wall at 11 Festing Street, Albany; and
- (b) arrange for a feature survey of the in-situ retaining wall and the ground levels along the western boundary of 11 Festing Street, Albany; and that the Chief Executive Officer oversee the final inspection program for the remedial work.

*Voting Requirement Simple Majority*

.....

<p><b>MOVED COUNCILLOR WELLINGTON SECONDED COUNCILLOR WATERMAN</b></p> <p><b>THAT based upon the Minister’s advise that Council’s Notice is defective, Council resolve to withdraw the Notice issued on the 21<sup>st</sup> June 2004, under Sections 401 (1) (a) and (b) of the Local Government (Miscellaneous Provisions) Act 1960, upon Mrs L Roberts in respect to the retaining wall at 11 Festing Street, Albany.</b></p>
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**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**AND**

**THAT Council, pursuant to Section 401 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1960, issue a Notice upon Mrs L Roberts requiring;**

- (a) the removal from the neighbouring property of any section of the retaining wall that protrudes across the boundary of the subject land; and**
- (b) the installation of scour protection measures to the western edge of the retaining wall along the boundary of 11 Festing Street, Albany as required by the Wood and Grieve letter dated 5<sup>th</sup> February 2004, by means of a concrete key having a minimum breadth of 200 mm behind the face of the wall and extending 350mm below ground level where any section of the wall does not extend that distance below ground level; and**
- (c) the scour protection measures be contained entirely within the boundaries of the subject land.**

**AND**

**THAT, pursuant to Section 401 (5) of the Local Government (Miscellaneous Provisions) Act 1960, the Principal Building Surveyor be required, prior to certifying that any work has been completed in accordance with the Notice issued under Section 401 (1) (a), to;**

- (a) arrange for a detailed photographic record of the retaining wall at 11 Festing Street, Albany; and**
- (b) arrange for a feature survey of the in-situ retaining wall and the ground levels along the western boundary of 11 Festing Street, Albany; and that the Chief Executive Officer oversee the final inspection program for the remedial work.**

**MOTION CARRIED 10-3**

It was requested that the names be recorded:

**For the Motion:** Mayor Goode, Councillors Barton, Demarteau, Emery, Evans, Lionetti, Waterman, Wellington, West and Wolfe.

**Against the Motion:** Councillors Jamieson, Paver and Sankey.

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued



**HON NICK GRIFFITHS LLB MLC  
MINISTER FOR HOUSING AND WORKS;  
RACING AND GAMING; GOVERNMENT ENTERPRISES;  
LAND INFORMATION**



Our Ref: DHW 21060-04; 25246-04

30 AUG 2004

Mr Andrew Hammond  
Chief Executive Officer  
City of Albany  
PO Box 484  
ALBANY WA 6331

CITY OF ALBANY RECORDS	
FILE:	A 97453
FILE:	
- 1 SEP 2004	
DOC:	1CR408528
OFFICE:	CEO: GDDJ
ATTACH:	

Dear Mr Hammond

**APPEAL RETAINING WALL AT 11 FESTING STREET - CITY OF ALBANY**

I refer to the Section 401 *Local Government (Miscellaneous Provisions) Act 1960* notices issued on 21 June 2004, to the building owner with respect to a retaining wall at 11 Festing Street, Albany.

The notice(s) is defective. It does not outline what is unsatisfactory under Section 401(1)(a) and 401(1)(b) and therefore opens the same matters to be reviewed simultaneously by two independent tribunals. For this reason I do not consider it appropriate to appoint a referee under Division 19 of the Act or consider an appeal under Division 18 A of the Act.

I note that a 401(1)(c) notice to pull down the wall was considered on appeal by a previous Minister and that he upheld the appeal on 10 July 1998 against the requirements of the notice. Such appeals are not subject to further review by myself.

I also note that a 401(1)(a) notice was issued in October 2003 for remedial work, that the owner has apparently complied with that notice, and that in accordance with section 401(5) you advised the owner on 17 February 2004 that the work had been satisfactorily carried out and that the City will take no further action.

I am aware that this retaining wall has been a matter of dispute for some years between the adjoining neighbours and has become a matter of conjecture in the local community. I also refer to my previous correspondence on 17 November 2003 and 31 December 2003.

If the City wishes to issue new notices in respect of this retaining wall I would expect it to demonstrate:

1. Why the issuing of a new notice to pull down the wall does not constitute an attempt to review the previous Minister's decision on 10 July 1998.
2. What has changed to the condition of the wall since February 2004 when the City of Albany confirmed that the requirements of its notice of 21 October 2003 had been fulfilled and it intended to take no further action.
3. Why the wall should be pulled down rather than further remedial work being required.

10th Floor, London House 216 St George's Terrace Perth WA 6000  
Telephone (08) 9222 8950 Facsimile (08) 9222 8951

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

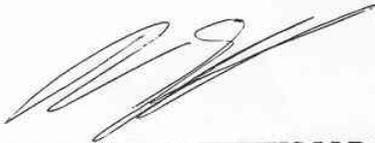
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I note from our previous correspondence and from the (defective) notice issued on 21 June 2004 that the primary issue is whether the owner has constructed the wall to the proportions and details in the original design drawing. Given the history of this dispute and the amount of money spent by the various parties I do not consider it reasonable at this late stage to require strict compliance with a design drawing some five or six years old. The City of Albany is only justified in taking further action if it has clear evidence that the wall in its current condition is unsafe.

Given the reports of Wood and Grieve Engineers in June 2003 and February 2004 and the declarations by Mr Roberts, a Registered Architect, that the wall was constructed in accordance with the Wood and Grieve Engineers' design, the only way the City of Albany can consider the wall to be unsafe is to have carried out its own thorough inspection to confirm the proportions and construction of the wall and to have had confirmed by a practicing structural engineer that the wall so constructed is unsafe.

In the absence of such clear and incontrovertible evidence the City of Albany's (defective) notice of 21 June 2004 seems quite inappropriate.

Yours sincerely



**HON NICK GRIFFITHS LLB MLC  
MINISTER FOR HOUSING AND WORKS; RACING AND GAMING  
GOVERNMENT ENTERPRISES; LAND INFORMATION**

Cc: Michael Roberts  
11 Festing Street  
ALBANY WA 6330

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.5 continued

**Lesley Roberts  
11 Festing Street  
Albany WA  
6330**

Your Ref: A97453/O304982

2 September 2004

The Chief Executive Officer  
City of Albany  
PO Box 484  
ALBANY WA 6331

Dear Sir

**11 FESTING STREET ALBANY  
RETAINING WALL**

I refer to my appeal to the Minister for Housing and Works against the Notice which has been issued by the City of Albany to me under the *Local Government [Miscellaneous Provisions] Act 1960* Sections 401 (1a) and 401 (1b).

I note that the Minister has formally advised the City of Albany that the notice(s) is defective and that he considers it inappropriate to appoint a referee under Division 19 of the Act or consider an appeal under Division 18 A of the Act.

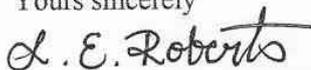
I again refer you to my letter dated 23 June where I demanded that Albany City Council rescinds the resolution which authorized the issue of the Section 401 Notice and withdraws the Notice. It is clear from the Minister's response that the Notice, which was issued is defective, therefore Council must take responsibility for it's actions and consequences and now withdraw the Notice.

As you are now aware, the (defective) 401 Notice issued by City of Albany at the same time as we were about to settle the contract for the sale of our home caused the delay and eventual loss of the sale.

I am outraged that council's manifestly unreasonable actions have caused my family enormous stress and substantial financial loss.

I await your response.

Yours sincerely



Lesley Roberts

**DEVELOPMENT SERVICES REPORTS**

**11.2 INSPECTION SERVICES**

**11.2.1 Local Law – Consider the Introduction of a Local Law for the Control, Keeping and Welfare of Cats**

<b>File/Ward</b>	:	MAN 052 (All Wards)
<b>Proposal/Issue</b>	:	Consider the introduction of a local law relating to cats.
<b>Subject Land/Locality</b>	:	City of Albany
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager Inspection Services (K Barnett)
<b>Disclosure of Interest</b>	:	Nil.
<b>Previous Reference</b>	:	N/A
<b>Summary Recommendation</b>	:	That Council defer the introduction of a cat local law.
<b>Bulletin Attachment</b>	:	Nil.
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Councillor Paver has requested that an agenda item, seeking support for the introduction of a local law for the control, keeping and welfare of cats, be prepared for Council consideration.

**STATUTORY REQUIREMENTS**

2. The Local Government Act 1995 provides Local Governments with the power to make Local Laws considered necessary for the good government of their districts:

*“Section 3 .5 - Legislative power of local governments*

*“(1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.”*

**POLICY IMPLICATIONS**

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

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

**FINANCIAL IMPLICATIONS**

4. The cost of making a local law can be funded from the current budget.
5. Should a local law be adopted there would be costs associated with its implementation and operation. Whilst actual costs have not been quantified, some of the cost areas have been identified:
  - Registration;
  - Sterilisation subsidy costs, if applicable;
  - Construction of a pound suitable for cats;
  - Administration;
  - Additional Ranger;
  - Veterinary;
  - Additional Vehicle; and
  - Legal costs.
6. Should Council agree in principle to the idea of introducing a local law, an estimated cost of implementing the local law can be prepared before Council makes a final decision.

**STRATEGIC PLAN IMPLICATIONS**

7. The Albany 2020 Charting Our Course Strategic Plan includes the following Port of Call:

*“The Continual development of Council services & facilities to meet the needs of all stakeholders.”*

**COMMENT/DISCUSSION**

8. From time to time the City has received requests from sections of the community for the introduction of a “Cats Local Law”, which it is believed will either eliminate or greatly reduce perceived problems associated with cats. However, anecdotal evidence suggests that the few local laws adopted within Western Australia have not worked, and statewide legislation, similar to the Dog Act, is a more appropriate method of controlling cats.
9. Unfortunately, the State Government has no plans to introduce statewide legislation dealing with cats.
10. The majority of problems associated with cats are well documented and can be arranged into four groups:
  - Nuisance  
The most common concerns appear to be trespass, defecating in garden beds and noise due to cats “crying”, “calling”, and fighting.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

• Welfare

The welfare of the “owned” cat is an issue. It is generally accepted that all cats should receive an acceptable standard of care, however many residents with a genuine concern for the welfare of pet cats could be upset by any perception of an "anti-cat" attitude.

• Predation of native wildlife

It is fair to say that cat predation is a real issue. However, while cats do have a natural hunting instinct, not all cats hunt. Therefore to single out cats for their hunting instincts could well create division.

• Human health

The risk to human health from straying cats is often cited as reason to introduce local laws, however cats are not considered a significant human health issue. The two main risks, roundworm and ringworm, which are generally resolved through normal hygiene practices, encouraging owners to worm cats regularly and discouraging children from patting unfamiliar cats.

- 11. To date, the only type of cat management adopted by the City is a restriction under Clause 43 of the Animals Local Law on the number of cats a person may keep.
- 12. According to the Department of Local Government & Regional Development database, some six local governments have local laws relating to cats. Should Council resolve to introduce a cat local law, a draft based on these other local laws would be developed for consideration.
- 13. Councillor Paver has requested a recommendation supporting the introduction of cat control. Staff are not strongly supporting or objecting to that proposal, however are concerned that the current Council by Council approach to cat control is confusing to the public and will lead to greater potential for non compliance. The following recommendation acknowledges those concerns.

**RECOMMENDATION**

THAT Council defer the introduction of a Local Law relating to the control, keeping and welfare of cats, until a Statewide approach to cat control can be developed.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR PAVER  
 SECONDED COUNCILLOR JAMIESON**

**THAT Council consider the introduction of a Local Law for the Control, Keeping and Welfare of Cats and, prior to Council formally debating the issue, Staff provide Councillors with a comprehensive briefing on the issues associated with the introduction of the Local Law, including the approaches taken by other local authorities who have introduced Local Laws, any implementation issues that those local authorities have experienced, the capacity of Local Laws to**

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued.

**deliver community expectations and an indicative financial model to minimise the costs associated with cat control.**

**MOTION CARRIED 10-3**

**Reason:**

To make an informed decision on this matter Councillors need to be exposed to the experiences of other local authorities who have sought to control cats in their urban environments and the motion provides guidance to Staff on the matters to be addressed at the briefing session.

**DEVELOPMENT SERVICES REPORTS**

**11.2.2 Local Law - Request to Permit Footpath Signage – Middleton Loop**

<b>File/Ward</b>	: MAN 052 (All Wards)
<b>Proposal/Issue</b>	: Relaxation of Council’s Local Laws and Policy
<b>Subject Land/Locality</b>	: Middleton Loop, Albany
<b>Proponent</b>	: Middleton Loop Business Operators
<b>Owner</b>	: Various
<b>Reporting Officer(s)</b>	: Manager Development (M Selby)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 17/6/2004 - Item 11.2.1
<b>Summary Recommendation</b>	: Current Policing Practices be Maintained
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	: N/A

**BACKGROUND**

1. In March 2000, Council finalised procedures for the handling of signs on Council reserves and a copy of those procedures follows this report item. The policy was fully implemented as from the 1st July 2000. This policy provides further clarity on Council’s Local Law associated with “Activities in Thoroughfares and Public Places and Trading”.
2. In June 2003 a further report was presented to Council, which resulted in Council maintaining the policy as attached to this item.
3. Councillor Waterman has requested that this issue be brought forward to Council for further consideration as a request and petition has been received from businesses located in Middleton Loop to allow “A” frame signs on the footpath.

**STATUTORY REQUIREMENTS**

4. Council’s “Activities in Thoroughfares and Public Places and Trading Local Law 2001” states in part;

*“3.2 Advertising Signs*

*(1) A person shall not, without a permit –*

*(a) erect or place an advertising sign on a thoroughfare; or*

*(b) post any bill or paint, place or affix any advertisement on a thoroughfare.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

- (2) *Notwithstanding subclause (1), a person shall not erect or place an advertising sign –*
- (a) *on a footpath;*
  - (b) *over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;*
  - (c) *on or within 3 metres of a carriageway;*
  - (d) *in any location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or*
  - (e) *on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.”*

5. The guidelines adopted by Council in March 2000 related to early By-Laws, but they remain as an essential tool for staff to define those signs, which are acceptable in a thoroughfare.

**POLICY IMPLICATIONS**

6. Council currently allows minor indiscretions without punishment, but repeat offenders are prosecuted as per the Local Law. Council cannot introduce a policy, which is contrary to the Local Law.

**FINANCIAL IMPLICATIONS**

7. Strict adherence to the Local Law will require additional resourcing by Council.
8. A person who fails to comply with clause 3.2 of the Local Law may receive a \$100 modified penalty, via an infringement, or they may be fined up to \$5,000, with a daily penalty of \$500, if the matter is brought before the Court.

**STRATEGIC IMPLICATIONS**

9. Council can decide to revoke its Local Law however that would leave the City with a legislative vacuum and no control over the placement of signs on footpaths or in road reserves.

**COMMENT/DISCUSSION**

10. The request to Council is in effect is to create a special case for the Middleton Loop businesses. The Local Law is specific (clause 3.2) that no signs are permitted on the footpath.
11. If Council were to instruct staff that this area should not be policed, it would establish a precedent that other areas within the Central Area and other Commercial areas would wish to follow. If other areas were then granted an exemption, the Local Law would need to be repealed.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

- 12. It should be noted that the City’s Local Laws were drafted to protect the public and to provide direction to individuals on appropriate standards and behaviour. The fact that the Local Laws are not rigidly enforced does not negate the reason why they were originally drafted or provide justification for them to be revoked.
- 13. Council previously resolved that no “A” frame signage was permitted within the footpath and there appears to be no reason why this should change.

**RECOMMENDATION**

THAT Council maintain its policy of requiring the removal of temporary signage placed on Council verges and footpaths, that exemptions to the City’s Activities in Thoroughfares and Public Places and Trading Local Law 2001 be allowed in accordance with the “Policing of Signs on Council Reserves – 2000” guidelines.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WATERMAN  
 SECONDED COUNCILLOR WELLINGTON**

**THAT Council lay Item 11.2.2 on the table for one month while council officers investigate the Alfresco and Street trading policies in metropolitan councils with a view to conducting a trial of a similar policy in Middleton Loop.**

**MOTION CARRIED 12-1**

**Reason:**

This will provide Council an opportunity to make an informed decision after reviewing metropolitan council policies in this regard.

DEVELOPMENT SERVICES REPORTS

Item 11.2.2 continued



**POLICING OF SIGNS ON COUNCIL RESERVES**

**Issued: March 2000**

**Objective:**

Within the City of Albany there has been a continuous build up of A framed and portable signs within Council road and recreational reserves. Those signs are owned by private citizens and by businesses and they pose a threat to motorists and pedestrians using the reserves. In addition, they detract from the amenity of an area and they become ineffective when the messages on the sign are too complicated or there is a proliferation of signage along a road.

An ad hoc approach has been taken by the City of Albany to policing of unauthorised signs on reserves and the following operational guidelines will be applied and enforced as of the 13<sup>th</sup> March 2000. Persons ( whether they are businesses or residents) placing signs on reserves without the appropriate license also face a potential fine of \$500 if found guilty of an offence under the Sign Local Laws existing within the City of Albany.

**General Principles:**

1. The use of protruding metal objects (including star pickets and anchoring pins) on sign on a reserve, creating the potential for injury to a pedestrian, will result in the sign being removed from the reserve, notwithstanding that it may comply with other guidelines.
2. A sign located on private property which is blown onto a reserve will be treated as a sign on the reserve for the purposes of these guidelines.
3. A shopping trolley will be treated as sign for the purposes of these guidelines. Persons caught depositing a trolley on a reserve may be subject to the penalty provisions of the Litter Act.
4. No sign shall obstruct a footpath or be located within 600 mm of the kerb, or where no kerb exists the edge of the road, where the sign is displayed.
5. These guidelines do not apply to a sign(s) located on private property. That sign may require a licence pursuant to the City of Albany's Signs Local Laws.
6. A person wishing to place a sign on a reserve which does not comply with these guidelines shall apply to Council and have the non complying sign registered.
7. Council reserves the right to relocate or remove signs placed in accordance with these guidelines where an officer considers that traffic or public safety may be compromised.
8. No balloons, flagging or bunting shall be attached to a sign on a road reserve.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

**Properties For Sale:**

All real estate "For Sale" signs are to be located on private property and they must relate to the property for sale. Council does not support signs which encroach upon reserves to increase exposure of the property to potential purchasers, including those located in minor cul-de-sacs.

A maximum of three (3) only "Home Open for Inspection" signs are permitted to be displayed on road reserves 2 hours prior to the published time the home is to be open and for a period of 30 minutes after the published closing time. The signs are to be located in positions which provide guidance to the site and multiple signage at a single road intersection by a real estate company is not permitted.

**Vehicles Used for Advertising:**

Vehicles deliberately left on reserves for the purpose of advertising a business or product contravene the Local Law and can be subject to an infringement notice.

Vehicles, boats and household items placed on reserves for the purposes of being offered for sale can also be subject to an infringement notice.

**Special Events:**

Signage for all special events shall comprise a maximum of 3 individual signs which can be a combination of banners or temporary signs.

Clubs which run regular meeting programmes (trotting, speedway, etc.) and organisers of annual events should register their programmes with Council and arrange for a fixed location to display upcoming events. Organisers of regular sporting (eg. speedway) and occasional community events (eg. car park sales) may display upcoming events 4 days prior to the event and the signs must be removed within 1 day of the event concluding.

Organisers of "One Off" events (eg. jazz festival) may display the upcoming event 14 days prior to the event and the sign must be removed within 3 days of the event concluding.

**Weekend Activities:**

Service Stations may be permitted to place 3 signs no larger than 0.5 sq. m. in area advising that they are open on the day that they are open. The signs are to acknowledge the name of the service station (by brand or name) and its location. Any sign carrying ancillary advertising will be removed.

Churches may place a maximum of 2 signs no greater than 1.0 sq.m. in area upon a reserve 2 hours prior to a Sunday Service and the signs are to be removed within 30 minutes of the service concluding.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

Persons conducting Garage Sales are encouraged to use published signs affixed to solid items (mobile garbage bins, plastic crates, etc.). A maximum of 3 signs are permitted for a single sale site. (Note: where a landowner holds more than 3 garage sales per annum they will be treated as a business and require Council approval.) Failure to remove damaged signs, or the cardboard or paper containers they are attached to, at the conclusion of the garage sale constitutes a littering offence.

Weekend Traders (selling bread, milk, papers, tackle, nursery items etc.), other than those in the Central Business District and Local Shopping Centres, may display one sign no greater than 1.0 sq. m. advising motorists of the name of the business and that the business is open. The sign is to be located in front of the business, it is to be displayed only on Saturday afternoons and Sundays when the business is open and it shall contain no advertising of products sold in the business.

**Rural Activities:**

The advertising and selling of commodities produced in rural areas requires Council approval.

**Policing:**

Policing of these guidelines will commence on the 13<sup>th</sup> March 2000 and Council officers will remove offending signs from reserves without referral to the offending party. The Signs will be stored and disposed off after 60 days. Up until the 1<sup>st</sup> July 2000 a "phasing in" period will apply and offenders can claim their signs upon payment of a storage fee of \$15 per sign. No offending signs will be returned after the close of the "phase in" period.

**Contact Information:**

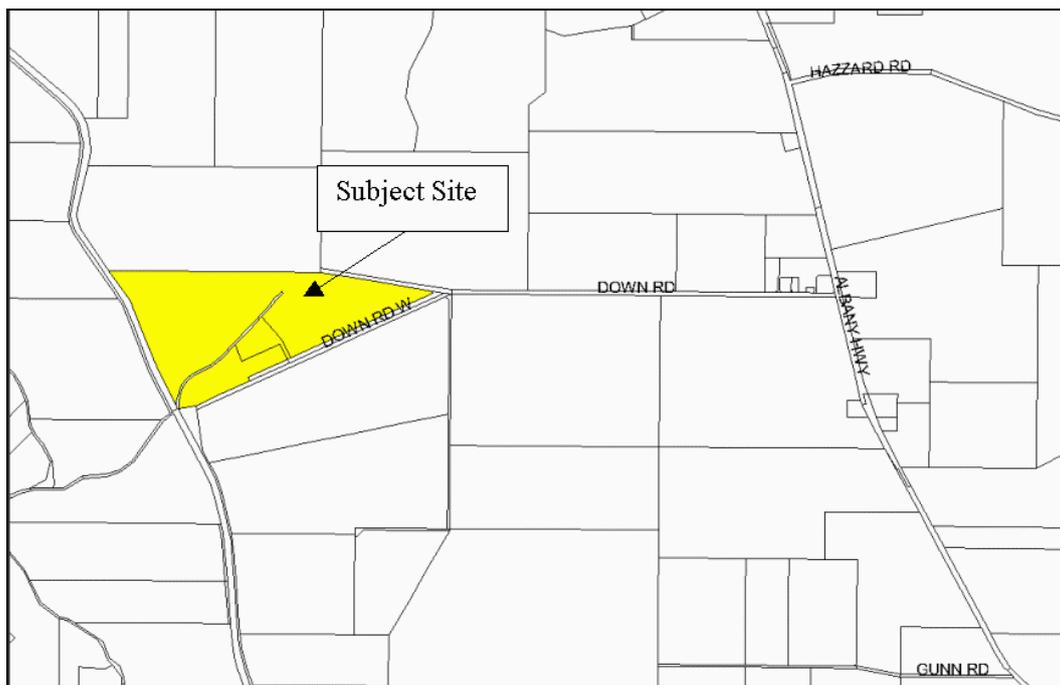
All inquiries should directed to the City of Albany, P.O. Box 484, ALBANY. 6331. Telephone 9841 9333 Facsimile 9841 9222.

**DEVELOPMENT SERVICES REPORTS**

**11.3 DEVELOPMENT POLICY**

**11.3.1 Initiate Scheme Amendment – Lots 100, 102 & 103 Down Road, Drome**

<b>File/Ward</b>	:	A171237A (West Ward)
<b>Proposal/Issue</b>	:	Initiate Scheme Amendment to rezone Lots 100, 102 & 103 Down Road from ‘Rural’ to ‘General Industry’
<b>Subject Land/Locality</b>	:	Lots 100, 102 & 103 Down Road, Drome
<b>Proponent</b>	:	Landvision
<b>Owners</b>	:	LandCorp and APEC
<b>Reporting Officer(s)</b>	:	Planning Officer – Policy (R Hindley)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM18/11/2003 – Item 11.3.4
<b>Summary Recommendation</b>	:	Initiate Amendment subject to modification.
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

**BACKGROUND**

1. At its meeting of the 18<sup>th</sup> November 2003 Council resolved:  
  
*“THAT Council, advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Lots 100, 102 & 103 Down Road, Drome from ‘Rural’ to ‘Special Use’ subject to the Scheme Amendment addressing the following to the satisfaction of Council:*
  - i) *detailed Land Capability Assessment;*
  - ii) *detail of any potential pollutants as a result of the proposed activities;*
  - iii) *details as to how any potential off site impacts will be managed with particular reference to Marbellup Creek;*
  - iv) *details of infrastructure and servicing requirements and how they are proposed to be provided;*
  - v) *preparation of a development guide plan; and*
  - vi) *protection of remnant vegetation.”*
2. The amendment documents have been prepared after consultation with the City, Department of Environment and the Department of Planning and Infrastructure.
3. The amendment seeks to rezone the site to ‘Special Use’ to facilitate the development of a range of timber related industries. The proposed uses include a 72 MW biomass energy plant, engineered strand lumber plant and a fixed woodchip mill.
4. A copy of the amendment documents will be tabled at the meeting.

**STATUTORY REQUIREMENTS**

5. Council’s resolution under the Town Planning & Development Act 1928 and the Town Planning Regulations 1967 is required to amend the Scheme.
6. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
7. Advertising of an amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.
8. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

**POLICY IMPLICATIONS**

9. There are various policies and strategies that have relevance to this proposal. They include:
  - The State Planning Strategy;
  - Statement of Planning Policy No. 1 - State Planning Framework Policy (Variation No. 1) (SPP 1);
  - The Albany Regional Strategy (1994); and
  - The Local Rural Strategy (1996).
10. The purpose of SPP 1 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.
11. The subject site is located within Torbay Precinct 9 of the City's Local Rural Strategy. The policy statement for this precinct states that land use proposals are to be determined in accordance with the general policies.
12. The Local Rural Strategy seeks to encourage and facilitate development, which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

15. Council's earlier resolution required the amendment documents to detail the potential impact of the proposed development. To this end the proponent prepared an environmental scoping report, which was referred to the EPA. The EPA has assessed the document as being adequate to address the issues that need to be investigated. More detailed environmental analysis will occur in accordance with EPA requirements once the amendment has been initiated.
16. The applicant has prepared a land capability assessment that demonstrates that, subject to suitable management techniques, the site can support the proposed uses.
17. A Development Guide Plan has been prepared showing how the proposed uses will be distributed on the site.
18. A large portion of the site is being excluded from development, which results in the retention of the majority of remnant vegetation. A 100m setback line from the watercourse is also shown on the plan.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

19. Further studies are proposed to be undertaken following the initiation of this amendment. These studies include:
- Environmental Management Plan;
  - Transport Option Study;
  - Comment on Site Evaluation; and
  - Consultation Programme.
20. Discussions were being held with the EPA at the time of this item’s preparation, which means that modifications may be required to the amendment prior to it being initiated. Given the work done to date, it is considered appropriate that Council resolve to initiate the amendment subject to documents being modified to the satisfaction of the Executive Director Development Services; failure to take that step would cause further delays in the announcement of these important projects to the District.

**RECOMMENDATION**

THAT, subject to modifications being made to the satisfaction of the Executive Director Development Services, Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:

- i) removing Lots 100, 102 & 103 Down Road, Drome from ‘Rural’ zone;
- ii) including Lots 100, 102 & 103 Down Road, Drome within the ‘Special Use Zone No. 17’ zone; and
- iii) amending the Scheme Maps accordingly.

*Voting Requirement Simple Majority*

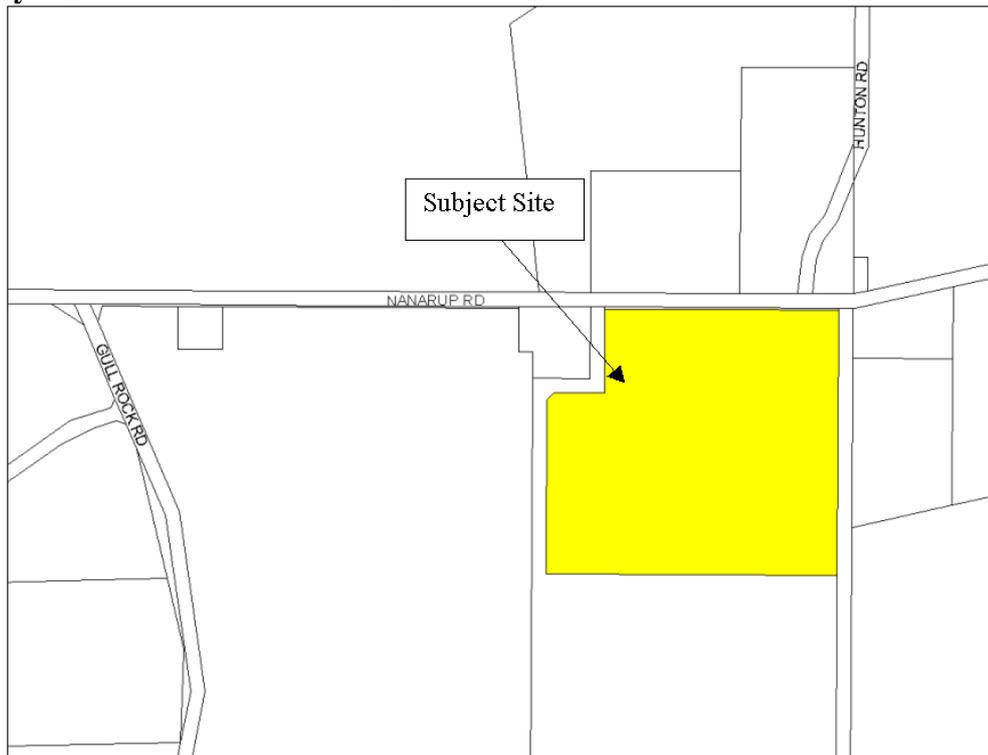
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<p><b>MOVED COUNCILLOR EMERY SECONDED COUNCILLOR WOLFE</b></p> <p><b>THAT, subject to modifications being made to the satisfaction of the Executive Director Development Services, Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:</b></p> <ul style="list-style-type: none"><li><b>i) removing Lots 100, 102 &amp; 103 Down Road, Drome from ‘Rural’ zone;</b></li><li><b>ii) including Lots 100, 102 &amp; 103 Down Road, Drome within the ‘Special Use Zone No. 17’ zone; and</b></li><li><b>i) amending the Scheme Maps accordingly.</b></li></ul> <p style="text-align: right;"><b>MOTION CARRIED 11-2</b></p>
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**DEVELOPMENT SERVICES REPORTS**

**11.3.2 Final Approval on Amendment – Lot 302, Loc 21 Nanarup Rd, Lower Kalgan**

- File/Ward** : A3650A (Kalgan Ward)
- Proposal/Issue** : Grant Final Approval to Amendment to rezone Lot 10, Location 21 Nanarup Rd, Lower Kalgan from ‘Rural’ and ‘Special Site’ to ‘Rural’ and ‘Special Site’
- Subject Land/Locality** : Lot 302, Location 21 Nanarup Rd, Lower Kalgan
- Proponent** : Ayton Taylor Burrell
- Owner** : JB & JL Keays
- Reporting Officer(s)** : Planning Officer – Policy (R Hindley)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 16/09/2003 – Item 11.3.3  
OCM 20/04/2003 - Item 11.3.5
- Summary Recommendation** : Grant Final Approval Subject to Modifications
- Bulletin Attachment** : Submissions
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**BACKGROUND**

1. At its meeting of the 20<sup>th</sup> April 2003 Council resolved:

*‘THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) resolves to amend the City of Albany’s Town Planning Scheme No. 3 by:*

- i) rezoning Lot 302, Location 21 Nananup Rd, Lower Kalgan from ‘Rural’ and ‘Special Site (Holiday Accommodation)’ to ‘Rural’ and ‘Special Site (Caravan Park and Holiday Accommodation)’;
- ii) modifying the provision for the Special site zone to allow development in accordance with a development guide plan; and
- iii) amending the Scheme Maps accordingly.’

2. The amendment was assessed by the Environmental Protection Authority (EPA) as “Scheme Not Assessed (advice given)” and was advertised for public inspection until 5th August 2004.
3. At the close of the advertising period 5 submissions had been received (refer to the Elected Members’ Report/Information Bulletin for a copy of each submission).
4. The amendment proposes to:
  - Permit the development of up to 74 caravan/camping sites and associated facilities; and
  - Modify the special site provisions to permit development in accordance with a subdivision guide plan.
5. A copy of the amendment documents was included in Council’s April’s agenda and is available on request.

**STATUTORY REQUIREMENTS**

6. Section 7 of the Town Planning and Development Act provides the mechanism for a town planning scheme to be amended. Council must resolve to initiate a scheme amendment and then place the amending documents on public display. Any comments received must be considered by Council and a recommendation made to the Minister for Planning and Infrastructure on the course of action Council wishes to pursue (this is where this application currently sits in the process). Council can seek to progress the amendment without change, it can modify the amending documents to reflect the submissions received or it can recommend that the rezoning not proceed.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

7. If Council resolves to decline to proceed with the rezoning or to grant final approval to the amendment, with or without modifications, the documents are then referred to the Minister for Planning and Infrastructure. The Minister can accept Council's recommendation or she can require her own modifications to the documents prior to them being gazetted and coming into force. The Minister can also decline to withdraw from the rezoning if she considers Council's decision is not consistent with orderly planning.

**POLICY IMPLICATIONS**

8. There are various policies and strategies that have relevance to this proposal. They include:
  - The State Planning Strategy
  - The Western Australian Planning Commission Statement of Planning Policy No. 1 (SPP 1)
  - The Albany Regional Strategy (1994)
  - The Local Rural Strategy (1996)
9. The purpose of SPP 1 is to bring together existing State and regional policies that apply to land use and development in Western Australia. Local government is to have regard for Statements of Planning Policy when preparing a Town Planning Scheme or Town Planning Scheme Amendment.
10. The subject site is located within Oyster Harbour Precinct 15 of the City's Local Rural Strategy. The policy statement for this precinct states that land use proposals are to be determined in accordance with the general policies.
11. The Local Rural Strategy seeks to encourage and facilitate development, which is sympathetic to community and environmental considerations, but also does not impact upon surrounding rural pursuits.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

13. There are no strategic implications relating to this item. The proposed use is an extension to an existing use and it is not considered that a precedent would be formed in this instance.

**COMMENT/DISCUSSION**

14. The EPA advised that the centralised alternative wastewater treatment unit is a prescribed premise under Category 85, Schedule 1 of the Environmental Protection Regulations 1987 and will therefore require a works approval prior to construction and registration on completion.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

15. The Albany office of the Department of Environment has raised a series of concerns over the sites ability to cater for an onsite effluent disposal system. Initial site testing showed that there was adequate separation between the effluent disposal system and the water table.
16. Concern has been raised regarding the potential for stormwater to recharge groundwater in the vicinity of the effluent disposal system thereby reducing its effectiveness.
17. Concern was raised over the potential volume of clearing that is proposed for the site. Discussions with the Albany office of the Department of Environment identified that unless clearing is required under the Bush Fires Act it will require a permit.
18. Concern has been raised over the lack of controls previously placed on the site. This amendment will insert specific controls into the Scheme, which can be enforced as conditions on a development approval.
19. A Schedule of Submissions has been prepared and attached in which staff have prepared a draft comment and recommendation for Council’s consideration.

**RECOMMENDATION**

THAT:

- i) Council grant final approval to Amendment 234 to the City of Albany Town Planning Scheme No. 3 to Rezone Lot 302, Location 21 Nanarup Rd, Lower Kalgan from ‘Rural’ and ‘Special Site (Holiday Accommodation)’ to ‘Rural’ and ‘Special Site (Caravan Park and Holiday Accommodation)’ subject to the following modification;
  - a) a development control being included to ensure separation between stormwater and the wastewater disposal area.
- ii) the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either Noted, Upheld or Dismissed as detailed; and
- iii) the amending documents be appropriately signed in accordance with Section 7 of the Town Planning and Development Act and then forwarded to the Minister for Planning and Infrastructure for execution and gazettal.

*Voting Requirement Simple Requirement*

.....

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR JAMIESON**

**THAT:**

- i) Council grant final approval to Amendment 234 to the City of Albany Town Planning Scheme No. 3 to Rezone Lot 302, Location 21 Nanarup Rd, Lower Kalgan from ‘Rural’ and ‘Special Site (Holiday Accommodation)’ to ‘Rural’ and ‘Special Site (Caravan Park and Holiday Accommodation)’ subject to the following modification;
  - a) a development control being included to ensure separation between stormwater and the wastewater disposal area.****
- ii) the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be either Noted, Upheld or Dismissed as detailed; and**
- iii) the amending documents be appropriately signed in accordance with Section 7 of the Town Planning and Development Act and then forwarded to the Minister for Planning and Infrastructure for execution and gazettal.**

**MOTION CARRIED 12-1**

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**Town Planning & Development Act 1928 (As Amended) TPS3  
Proposed Amendment No. 234  
Schedule of Submissions**

Submission No.	Ratepayer/Resident or Agency	Submission	Comment	Recommended Decision
1.	Water Corporation PO Box 915 ALBANY WA 6330	No objections to the proposal, however discussions will need to be held regarding the provision of water services.	Noted	NOTED
2.	Western Power Post Office PICTON WA 6229	No objections to the proposal	Noted	NOTED
3.	Erujin Pty Ltd PO Box 210 BOYUP BROOK WA 6244	Supports the proposal	Noted	NOTED
4.	Department of Environment PO Box 525 ALBANY WA 6330	<p>a) Requires the effluent disposal system to have a horizontal separation of 50m to the highest known level of a waterbody;</p> <p>b) Requires the effluent disposal system to have a 0.9m vertical separation from highest known groundwater level or bedrock;</p> <p>c) The centralised alternative wastewater treatment unit is a prescribed premise under category 85, Schedule 1 of the Environmental Protections Regulations 1987 and will require a works approval prior to construction and registration on completion.</p> <p>d) Concerned over conflict between stormwater and the wastewater disposal site.</p> <p>e) Stormwater drainage needs to be managed and discharge into natural drainage systems prior to treatment is unacceptable;</p> <p>f) Area proposed for fuel reduction is remnant vegetation and will require the issue of a permit under the new Clearing Regulations.</p>	<p>a) There is in excess of 100m horizontal separation between the effluent disposal system and the highest known level of a waterbody;</p> <p>b) Department of Health guidelines stipulate a 0.5m vertical separation which is achieved in this instance;</p> <p>c) Noted</p>	DISMISS DISMISS NOTED
			<p>d) Drainage will need to be managed to ensure it does not impact on the wastewater disposal site.</p> <p>e) Provisions for the special site requires all stormwater to be maintained on site.</p> <p>f) Clearing under the Bush Fires Act is exempt under the Clearing Regulations – all other clearing</p>	UPHOLD DISMISS NOTED

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

Submission No.	Ratepayer/Resident or Agency	Submission	Comment	Recommended Decision
5.	A & G Riches RMB 8601 Nanarup Rd KALGAN WA 6330	<p>a) Concerned over the size and number of caravan parks in the vicinity.</p> <p>b) Concerned over previous efforts at revegetating the site.</p> <p>c) Concerned over increased bushfire risk due to large numbers of people near bush on the site.</p> <p>d) Concerned that wastewater disposal area will not be sufficient.</p> <p>e) Concerned over the lack of screening impacting on property values of neighbouring properties classed as 'rural retreats'.</p> <p>f) Concerned over the sites suitability for the proposed development.</p> <p>g) Concerned that the development will not comply with all relevant standards when developed.</p>	<p>will require a permit.</p> <p>a) Not a valid planning consideration.</p> <p>b) Revegetation is shown on the guide plan and will be undertaken as a condition of consent</p> <p>c) A Bush Fire management plan has been prepared.</p> <p>d) Refer to submission 4c).</p> <p>e) Adjacent property is zoned 'Rural' and revegetation is shown on the development guide plan.</p> <p>f) The amendment report outlines management regimes and places requirements on the development.</p> <p>g) All requirements for the development can be enforced as part of the planning consent process.</p>	<p>DISMISS</p> <p>NOTED</p> <p>NOTED</p> <p>NOTED</p> <p>NOTED</p> <p>DISMISS</p> <p>DISMISS</p>

**DEVELOPMENT SERVICES REPORTS**

**11.4 RESERVES PLANNING**

Nil.

**DEVELOPMENT SERVICES REPORTS**

**11.5 DEVELOPMENT SERVICE COMMITTEES**

**11.5.1 Bushfire Management Committee Minutes – 1 September 2004**

<b>File/Ward</b>	:	MAN 089 (All Wards)
<b>Proposal/Issue</b>	:	Committee items for Council consideration
<b>Reporting Officer(s)</b>	:	Executive Director Development Services (R Fenn)
<b>Summary Recommendation</b>	:	That the minutes of the Bushfire Management Committee held on 1 September 2004 be adopted.

**RECOMMENDATION**

THAT the minutes of the Bushfire Management Committee held on 1 September 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin) and the following motions be adopted:-

**Item 9.1**

THAT Council endorses Mr Kevin Martin as Senior Fire control Officer- South West.

**Item 9.2**

THAT Council endorse the appointment of City of Albany Bush Fire Control officers and Deputy Bush Fire Control Officers for the 2004/05 fire season, as per the appended list.

**Item 9.3**

That Council:

- i) endorse the appointment of the following Brigade Officers from adjoining local governments as Bush Fire Control officers within the City of Albany:

Shire of Plantagenet:

Warren Forbes (Narrikup VBFB)

John Russell (Porongurup VBFB)

Shire of Gnowangerup:

Colin King (Borden VBFB)

Graham Moir (Borden VBFB)

Shire of Jerramungup:

Anthony Thomas (Boxwood VBFB); and

Shire of Denmark:

Chris Hoare (Denmark East VBFB)

- ii) note the submission of the following City of Albany Brigade Officers as Bush Fire Control Officers in adjoining local governments:

Shire of Plantagenet:

John Hood (Kojaneerup VBFB)

Terry Bradshaw (Kojaneerup VBFB)

Tom Collins (Napier VBFB)

Lance Flett (Redmond VBFB)

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

Lance Flett	(Redmond VBFB)
Chris Norton	(Highway VBFB)
Shire of Denmark:	
Kevin Martin	(Youngs VBFB)
Shire of Gnowangerup:	
Peter Moir	(Gnowellen VBFB)
Shire of Jerramungup:	
Peter Moir	(Gnowellen VBFB)
Chris Gilmour	(Wellstead VBFB)

Item 9.4

THAT Council endorses the granting of optional perimeter firebreaks until 30 June 2005 as follows:

- i) Gnowellen, Wellstead, Kojaneerup, Greenrange, and South Stirlings brigade areas subject to the following conditions:
  - a) vacant land/absentee landowners must have firebreaks unless:
    - they reside within the above brigade districts of the City of Albany, or
    - they reside within the above brigade districts of the City of Albany, or
    - an employee resides on the property.
  - b) the above conditions may be varied upon application through the appropriate FCO. (eg appropriate hazard reduction in place of firebreaks for vacant land/absentee landowners)
  - c) removal of fire hazards surrounding buildings to an acceptable level etc, is still required when the option of installing perimeter firebreaks is utilised.
- ii) Manypeaks brigade area subject to the following conditions:
  - a) the landowner/manager resides in the Manypeaks Brigade area.
  - b) the landowner/manager has a dedicated fire-fighting appliance located within the Manypeaks brigade area, with a water capacity of not less than 400 litres.
- iii) Napier Brigade area subject to the following conditions:
  - a) optional perimeter firebreaks will only be granted for properties in excess of ten (10) hectares if:
  - b) the owner resides in the Napier Brigade area or within five (5) kilometres of the property.
  - c) the owner has a serviceable fire fighting unit, available at all times, which is comprised of a minimum of a 600 litre water tank and a 5hp motorised fire pump. The fire unit must also have at least 15 metres of 19mm fire hose, a reel fitted with the suitable fire nozzles and all equipment must be mounted on a vehicle, trailer or skid mounted unit.
  - d) Fire Control Officer must be notified in writing by those intending to have optional perimeter firebreaks no later than 23rd November 2003.
- iv) Kalgan Brigade area subject to the following conditions:

Owners and/or occupiers of land in the Kalgan brigade area have the option of installing perimeter firebreaks on their land for a period expiring on 30<sup>th</sup> June 2004 subject to:

  - a) parkland clearing around buildings and fuel dumps to a minimum distance of 20 metres.

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

- b) access to all buildings being at least 4 metres wide and with a vertical clearance of 4 metres
- c) the above conditions may be varied upon application through the appropriate Fire Control Officer.
- v) That the City of Albany staff contact all brigades with optional perimeter firebreaks with the intention of submitting, no later than the February meeting of the Bushfire advisory Committee, a common set of standards for optional perimeter Firebreaks.

Item 9.5

THAT the composition of the investigating committee be:

Charlie Butcher	Chief Bush Fire Control Officer
Robert Fenn	Executive Director Development Services
Steve Gray	Administration Officer (Bushfire)
John Hood	Deputy Chief Bush Fire Control Officer (North East)
Ken Johnson	Deputy Chief Bush Fire Control Officer (South West)
Chris Gilmour	Senior Fire Control Officer (North East)
Kevin Martin	Senior Fire Control Officer (South West)
Brian Lester	Manypeaks VBFB
Richard Metcalf	FCO Manypeaks VBFB
Peter Moir	FCO Gnowellen VBFB
Alan Hawley	DFCO King River VBFB
Andrew Marshall	FCO Torbay VBFB
Gerry Gregson	DFCO Bornholm VBFB
Tony Ball	Kalgan VBFB

and the initial meeting be set to refine the committees terms of reference and to commence discussions on senior officers roles and qualifications.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR JAMIESON**

**THAT the minutes of the Bushfire Management Committee held on 1 September 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin) and the following motions be adopted:-**

**Item 9.1**

**THAT Council endorses Mr Kevin Martin as Senior Fire control Officer- South West.**

**Item 9.2**

**THAT Council endorse the appointment of City of Albany Bush Fire Control officers and Deputy Bush Fire Control Officers for the 2004/05 fire season, as per the appended list.**

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

**Item 9.3**

**That Council:**

- i) **endorse the appointment of the following Brigade Officers from adjoining local governments as Bush Fire Control officers within the City of Albany:**

**Shire of Plantagenet:**

**Warren Forbes (Narrikup VBFB)**

**John Russell (Porongurup VBFB)**

**Shire of Gnowangerup:**

**Colin King (Borden VBFB)**

**Graham Moir (Borden VBFB)**

**Shire of Jerramungup:**

**Anthony Thomas (Boxwood VBFB); and**

**Shire of Denmark:**

**Chris Hoare (Denmark East VBFB)**

- ii) **note the submission of the following City of Albany Brigade Officers as Bush Fire Control Officers in adjoining local governments:**

**Shire of Plantagenet:**

**John Hood (Kojaneerup VBFB)**

**Terry Bradshaw (Kojaneerup VBFB)**

**Tom Collins (Napier VBFB)**

**Lance Flett (Redmond VBFB)**

**Lance Flett (Redmond VBFB)**

**Chris Norton (Highway VBFB)**

**Shire of Denmark:**

**Kevin Martin (Youngs VBFB)**

**Shire of Gnowangerup:**

**Peter Moir (Gnowellen VBFB)**

**Shire of Jerramungup:**

**Peter Moir (Gnowellen VBFB)**

**Chris Gilmour (Wellstead VBFB)**

**Item 9.4**

**THAT Council endorses the granting of optional perimeter firebreaks until 30 June 2005 as follows:**

- i) **Gnowellen, Wellstead, Kojaneerup, Greenrange, and South Stirlings brigade areas subject to the following conditions:**

- a) **vacant land/absentee landowners must have firebreaks unless:**

- **they reside within the above brigade districts of the City of Albany, or**
- **they reside within the above brigade districts of the City of Albany, or**
- **an employee resides on the property.**

- b) **the above conditions may be varied upon application through the appropriate FCO. (eg appropriate hazard reduction in place of firebreaks for vacant land/absentee landowners)**

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

- c) **removal of fire hazards surrounding buildings to an acceptable level etc, is still required when the option of installing perimeter firebreaks is utilised.**
  - ii) **Manypeaks brigade area subject to the following conditions:**
    - a) **the landowner/manager resides in the Manypeaks Brigade area.**
    - b) **the landowner/manager has a dedicated fire-fighting appliance located within the Manypeaks brigade area, with a water capacity of not less than 400 litres.**
  - iii) **Napier Brigade area subject to the following conditions:**
    - a) **optional perimeter firebreaks will only be granted for properties in excess of ten (10) hectares if:**
    - b) **the owner resides in the Napier Brigade area or within five (5) kilometres of the property.**
    - c) **the owner has a serviceable fire fighting unit, available at all times, which is comprised of a minimum of a 600 litre water tank and a 5hp motorised fire pump. The fire unit must also have at least 15 metres of 19mm fire hose, a reel fitted with the suitable fire nozzles and all equipment must be mounted on a vehicle, trailer or skid mounted unit.**
    - c) **Fire Control Officer must be notified in writing by those intending to have optional perimeter firebreaks no later than 23rd November 2004.**
  - iv) **Kalgan Brigade area subject to the following conditions:**

**Owners and/or occupiers of land in the Kalgan brigade area have the option of installing perimeter firebreaks on their land for a period expiring on 30<sup>th</sup> June 2005 subject to:**

    - a) **parkland clearing around buildings and fuel dumps to a minimum distance of 20 metres.**
    - b) **access to all buildings being at least 4 metres wide and with a vertical clearance of 4 metres**
    - c) **the above conditions may be varied upon application through the appropriate Fire Control Officer.**
  - v) **That the City of Albany staff contact all brigades with optional perimeter firebreaks with the intention of submitting, no later than the February meeting of the Bushfire advisory Committee, a common set of standards for optional perimeter Firebreaks.**

**Item 9.5**

**THAT the composition of the investigating committee be:**

**Charlie Butcher  
Robert Fenn  
Steve Gray  
John Hood  
East)**

**Chief Bush Fire Control Officer  
Executive Director Development Services  
Administration Officer (Bushfire)  
Deputy Chief Bush Fire Control Officer (North**

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

<b>Ken Johnson</b>	<b>Deputy Chief Bush Fire Control Officer (South West)</b>
<b>Chris Gilmour</b>	<b>Senior Fire Control Officer (North East)</b>
<b>Kevin Martin</b>	<b>Senior Fire Control Officer (South West)</b>
<b>Brian Lester</b>	<b>Manypeaks VBFB</b>
<b>Richard Metcalf</b>	<b>FCO Manypeaks VBFB</b>
<b>Peter Moir</b>	<b>FCO Gnowellen VBFB</b>
<b>Alan Hawley</b>	<b>DFCO King River VBFB</b>
<b>Andrew Marshall</b>	<b>FCO Torbay VBFB</b>
<b>Gerry Gregson</b>	<b>DFCO Bornholm VBFB</b>
<b>Tony Ball</b>	<b>Kalgan VBFB</b>

**and the initial meeting be set to refine the committees terms of reference and to commence discussions on senior officers roles and qualifications.**

**MOTION CARRIED 13-0**

Please note typographical error in section Item 9.4, (iii) (d) '2003' has been corrected in the recommendation to be '2004' and Item 9.4 (iv) has been corrected from '2004' and '2005'

**DEVELOPMENT SERVICES REPORTS**

**11.5.2 Albany Streetscape Advisory Committee Minutes – 2<sup>nd</sup> September 2004**

- File/Ward** : MAN 161 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration
- Reporting Officer(s)** : Executive Director Development Services  
(R Fenn)
- Summary Recommendation** : That the Minutes of the Albany Streetscape Advisory Committee held on the 2<sup>nd</sup> September 2004 be adopted.

RECOMMENDATION

THAT the minutes of the Albany Streetscape Advisory Committee held on 2<sup>nd</sup> September 2004 be received (copy of minutes are in the Elected Members’ Report/ Information Bulletin) and the following motion adopted:-

Item 5

THAT Council clarify the role, function and terms of reference for the Albany Streetscape Advisory Committee.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR WELLINGTON**

**THAT the minutes of the Albany Streetscape Advisory Committee held on 2<sup>nd</sup> September 2004 be received (copy of minutes are in the Elected Members’ Report/ Information Bulletin) and the following motion adopted:-**

**Item 5**

**THAT Council clarify the role, function and terms of reference for the Albany Streetscape Advisory Committee.**

**MOTION CARRIED 13-0**

# **Corporate & Community Services**

## **REPORTS**

## - R E P O R T S -

### 12.1 FINANCE

#### 12.1.1 List of Accounts for Payment – City of Albany

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

#### COMMENT/DISCUSSION

1. The list of accounts for payment for the City of Albany is included in the Councillor Report/Information Bulletin and contains the following:-

Municipal Fund		
Cheques	totalling	202,917.92
Electronic Fund Transfer	totalling	1,707,666.65
Payroll	totalling	663,109.70
<b>TOTAL</b>		<b><u>\$2,573,693.27</u></b>

Cancelled Cheques - 19573

2. As at 1<sup>st</sup> September 2004, the total outstanding creditors, stands at \$1,515,227.30.



## 12.2 ADMINISTRATION

### 12.2.1 Variation to Lease Agreement – Modification to Building Envelope - Lease 6 Baxteri Road, Cheyne Beach

<b>File/Ward</b>	: A63751 (Hassell Ward)
<b>Proposal/Issue</b>	: Variation to lease to accommodate construction outside building envelope.
<b>Subject Land/Locality</b>	: Reserve 878, Lease 6 Baxteri Road, Cheynes Beach.
<b>Proponent</b>	: J & S Gibbons
<b>Owner</b>	: Crown (management order with City & leased to Gibbons)
<b>Reporting Officer(s)</b>	: Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 17/08/04 - Item 11.1.1
<b>Summary Recommendation</b>	: Refuse to vary the lease documents.
<b>Bulletin Attachment</b>	: Nil
<b>Locality Plan</b>	: Nil.

#### BACKGROUND

1. At the August Council meeting, a report was submitted to Council dealing with the town planning merits of constructing an addition to the outbuilding located on lease 6 Baxteri Road, Cheyne Beach. It was resolved “*THAT Council lay this item on the table until staff provide a report to Councillors on the legal, planning and potential future subdivision ramifications of a decision by Council not to uphold the leasehold covenant in respect of Lease 6 Baxteri Road, Cheynes Beach.*”
2. Councillors received a briefing on the 31<sup>st</sup> August 2004.

Item 12.2.1 continued

### **STATUTORY REQUIREMENTS**

3. The Management Order for Reserve 848 has been issued to the City of Albany for the purpose of “Recreation, Camping and Holiday Accommodation” and with power to sub-lease part or all of the Reserve for a period not exceeding 21 years. Lease 6 was originally assigned to IR & LD Phippard in 1992. In 2004, via a transfer of lease agreement and Ministerial support, the original lease has been reassigned to J & S Gibbons.
4. The annexure to the lease agreement (the plan showing the building envelope) was altered in 1995, following the decision of the former Albany Shire Council to allow the construction of a verandah onto front and side of the constructed dwelling, outside the building envelope. The more detailed terms of the lease were not altered as a result of the 1995 Council decision or the subsequent reassignment.
5. The operative part of the lease agreement (in summary form) provides that;
  - The City will lease the described land for 21 years upon the terms and conditions contained in the lease document.
  - The lessees will undertake to meet their financial responsibilities to the lessor, to only use the premises on a temporary basis, to comply with and obey the provisions of all lawful and valid regulations, keep the leased area and buildings thereon in good condition, to maintain adequate insurance cover, to construct all buildings inside the defined building envelope annexed to the lease agreement and to not keep animals on the lease area.
6. The lease document further provides that the lessee shall construct a dwelling for holiday accommodation purposes on the leased area within two years of the date that the lease was entered into, to remove any buildings from the leased area upon the expiration of the lease and that there is no guarantee that a fresh lease will be obtained upon the expiration of the lease.
7. Under the City’s Town Planning Scheme the lease is located on land zoned “Special Site – Holiday Accommodation” where the only land use permitted is Holiday Accommodation.

### **POLICY IMPLICATIONS**

8. At sections 2(u)(i) and 5(1)(ii) of the lease document it is stated that “*the development shall be located within the building envelope shown on the plan annexed hereto and marked “A” or such other building envelope as the Lessor in its absolute discretion may prescribe*”. There is description in the lease on how that prescription should occur.

Item 12.2.1 continued

9. In 1995, the former Shire Council amended the building envelope (reflected as a notation on the amended lease documents) by passing the following resolution;

*“That in accordance with the lease agreement, approval be granted to IR and LD Phippard for the construction of a verandah on the existing dwelling subject to the issue of planning scheme consent, subject to conditions as determined by the Director Development Services, and a building licence.”*

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

11. In September 2001, Council resolved:

*“to advocate with the State Government for the preparation of a detailed structure plan over Reserve 878, being Location 7442 Cheyne Road, Cheyne Beach which would provide;*

- *A subdivisional layout over existing holiday home sites at Cheyne Beach and allow for the future subdivision and freehold titling of those holiday homes.*
- *An expansion of the number of holiday home sites at Cheyne Beach available for development.*
- *A review of the existing sites capable of being leased to commercial fishermen for development of housing and fishing infrastructure to determine the suitability of utilising that land for that purpose in the long term.*
- *An improvement in the quality of services and infrastructure available to the settlement in the long term.*
- *Improved recreational and tourism infrastructure within the expanded settlement for the broader community.”*

12. Of the 30 “holiday accommodation” leases at Cheynes Beach it would appear that Lease lot 6 is the only one to have its building envelope adjusted during the term of the lease.

**COMMENT/DISCUSSION**

13. The additional research undertaken on this lease, since the August meeting of Council, has highlighted a general non-acceptance by the current and previous lessee of the terms of the lease they signed to assume the private enjoyment of the lease site. Mr and Mrs Gibbons have only recently taken over the lease (June 2004) and it could be strongly argued that they would have been aware of the terms of the lease and they should have resolved those concerns prior to accepting the assignment of the lease.

Item 12.2.1 continued

14. Council is the Lessor and must determine in the first instance whether it wishes to relax or modify its lease requirements for this site. Once that decision is made, then the procedural requirements of issuing a planning approval and a building licence can be handled through administrative processes, pursuant to the scheme.
15. There appears to be no attempt by any other lessees at Cheynes Beach to want to construct buildings outside the declared envelope on their lease and a strong precedent would be set if this request was to be supported.

RECOMMENDATION

THAT Council;

- i) advise Mr and Mrs Gibbons that it is not prepared to change the prescribed building envelope, described in sections 2(u)(i) and 5(1)(ii) of the lease document, as they apply to lot number 6 of Reserve 878 Cheyne Beach, to facilitate the construction of shedding outside the defined building envelope declared upon that site; and
- ii) require Mr and Mrs Gibbons to take all reasonable steps to reinstate the natural vegetation that was removed from the balance of the demised premises without the Lessor’s consent in writing and contrary to the terms of the lease for the site.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR DEMARTEAU**

**THAT Council;**

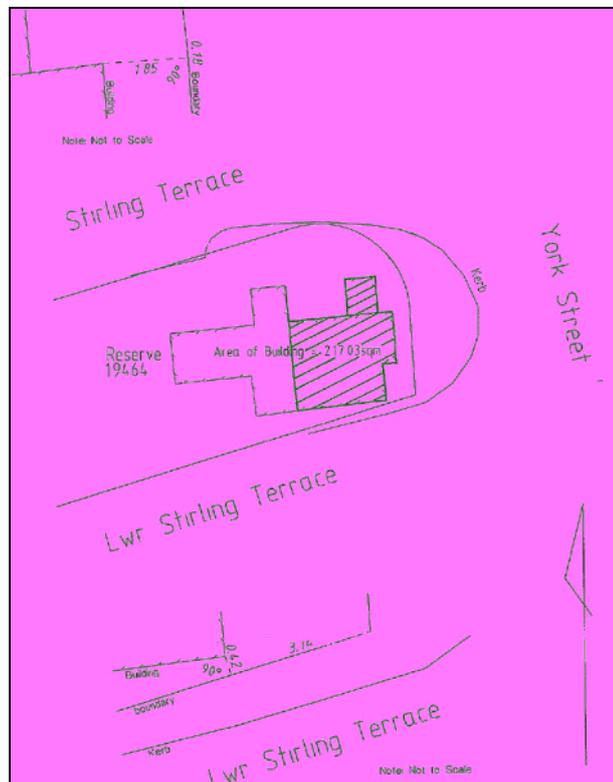
- i) advise Mr and Mrs Gibbons that it is not prepared to change the prescribed building envelope, described in sections 2(u)(i) and 5(1)(ii) of the lease document, as they apply to lot number 6 of Reserve 878 Cheyne Beach, to facilitate the construction of shedding outside the defined building envelope declared upon that site; and**
- ii) require Mr and Mrs Gibbons to take all reasonable steps to reinstate the natural vegetation that was removed from the balance of the demised premises without the Lessor’s consent in writing and contrary to the terms of the lease for the site.**

**MOTION CARRIED 13-0**

ORDINARY COUNCIL MEETING MINUTES– 21/09/04  
\*\* REFER DISCLAIMER \*\*  
CORPORATE & COMMUNITY SERVICES REPORTS

**12.2.2 Proposed New Lease for Albany Women’s Rest House Association Inc on a Portion of Reserve 19464**

- File/Ward** : PRO 045 (Frederickstown Ward)
- Proposal/Issue** : New Lease
- Subject Land/Locality** : Reserve 19464, Albany Lot 826
- Proponent** : Albany Women’s Rest House Association Inc
- Owner** : Crown Land – Department of Land Administration  
(Managed by the City of Albany)
- Reporting Officer(s)** : Corporate Services Officer (N Franich)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : That Council approve the request for a new lease to be prepared for a 21 year term from 1 January 2005
- Bulletin Attachment** : Nil
- Locality Plan** :



Item 12.2.2 continued

### **BACKGROUND**

1. A request has been received from the Albany Women's Rest House Association Inc for Council to consider renewing their lease agreement which is due to expire on 31<sup>st</sup> December 2004. The current lease is for a term of 21 years, which commenced on 1<sup>st</sup> January 1984.
2. The Rest House is located on Reserve 19464 at the bottom of York Street and Council currently has a Management Order for the purpose of "Preservation of Historic Buildings" with power to lease for periods up to and including 21 years.

### **STATUTORY REQUIREMENTS**

3. Section 3.58 of the Local Government Act 1995 – "Disposing of Property" requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
4. Council is however able to dispose of property by other means, provided that it gives statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
5. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural; educational, recreational, sporting or other like nature.
6. The Albany Women's Rest House Association Inc is clearly a benevolent body and therefore the proposed disposition of land is exempt from the provisions of Section 3.58 of the Act.
7. Section 18 (1) of the Land Administration Act 1997 requires 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". A preliminary approval for this lease has been sought from the Department of Land Administration and the Minister's agreement in principle has been granted.

### **POLICY IMPLICATIONS**

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

Item 12.2.2 continued

### **FINANCIAL IMPLICATIONS**

9. The current rent is fixed at a peppercorn rental of \$2.00 per annum for the term of the lease. Council no longer enters into peppercorn rentals but charges a rental equivalent to the minimum GRV land rate to all not for profit groups. The rental is reviewed annually in accordance with Council's budget and is subject to GST. For the 2004/2005 financial year the Council adopted minimum land rate is \$466.00 per annum plus GST.
10. All costs associated with this proposed new lease are to be borne by the applicant including both legal and advertising fees.

### **STRATEGIC IMPLICATIONS**

11. This request complies with Council's 'Albany 2020', which in part states as follows:  
  
*“Managed healthy land/harbour environment – To manage reserves for environmentally sustainable use, community enjoyment and benefit.”*

### **COMMENT/DISCUSSION**

12. The Albany Women's Rest House Association Inc has written to Council asking for a new lease to be prepared for a term of 21 years commencing on 1<sup>st</sup> January 2005.
13. The leased building is heritage listed and must be maintained to a standard acceptable to Council and the Heritage Council of Western Australia.
14. The Rest House is utilised by the Citizens Advise Bureau who give free advice to the community on a variety of issues.
15. The building also contains public toilet facilities that the City of Albany maintains. The City of Albany has been maintaining this heritage listed building in the past and it is proposed to continue this into the future.

### **RECOMMENDATION**

THAT;

- i) subject to approval from the Minister for Lands; Council agree to the request from the Albany Women's Rest House Association Inc for a new lease to be prepared for a period of 21 years, from 1 January 2005 until 31 December 2025 on a portion of Reserve 19464 Lot 826;

Item 12.2.2 continued

- ii) the rental be set at \$466.00 per annum, subject to GST, in accordance with Council’s 2004/2005 minimum land rate figure, with rent reviews being carried out annually based on the minimum land rate set by Council’s budget;
- iii) the lease be prepared in accordance with Council’s standard leasing terms and conditions, with all maintenance and repairs continuing to be carried out by the City of Albany in accordance with the Heritage Council of Western Australia requirements;
- iv) the Council agree to the City of Albany continuing to insure the premises on a cost recovery basis, with the Rest House continuing to insure their own building contents and public liability;
- v) all fees associated with this lease be payable by the Albany Women’s Rest House Association Inc; and
- vi) the Common Seal of the City of Albany be affixed to the documentation.

*Voting Requirement Simple Majority*

.....

<p><b>MOVED COUNCILLOR WATERMAN SECONDED COUNCILLOR WELLINGTON</b></p> <p><b>THAT;</b></p> <ul style="list-style-type: none"><li><b>i) subject to approval from the Minister for Lands; Council agree to the request from the Albany Women’s Rest House Association Inc for a new lease to be prepared for a period of 21 years, from 1 January 2005 until 31 December 2025 on a portion of Reserve 19464 Lot 826;</b></li><li><b>ii) the rental be set at \$466.00 per annum, subject to GST, in accordance with Council’s 2004/2005 minimum land rate figure, with rent reviews being carried out annually based on the minimum land rate set by Council’s budget;</b></li><li><b>iii) the lease be prepared in accordance with Council’s standard leasing terms and conditions, with all maintenance and repairs continuing to be carried out by the City of Albany in accordance with the Heritage Council of Western Australia requirements;</b></li><li><b>iv) the Council agree to the City of Albany continuing to insure the premises on a cost recovery basis, with the Rest House continuing to insure their own building contents and public liability;</b></li><li><b>v) all fees associated with this lease be payable by the Albany Women’s Rest House Association Inc; and</b></li></ul>
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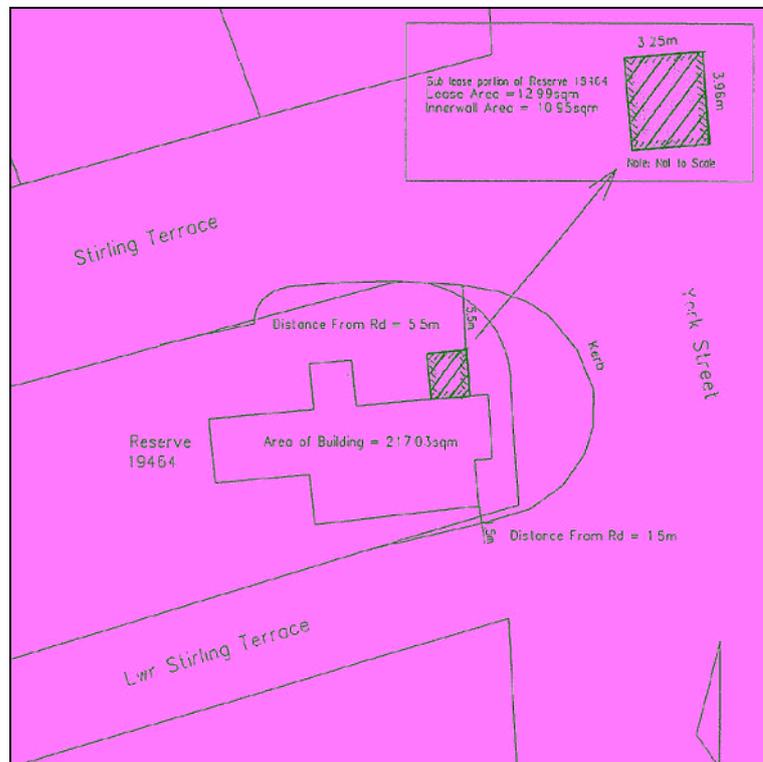
**vi) the Common Seal of the City of Albany be affixed to the documentation.**

**MOTION CARRIED 13-0**

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**12.2.3 Proposed New Sublease for Amity Taxis on a Portion of Reserve 19464**

<b>File/Ward</b>	:	PRO 045 (Frederickstown Ward)
<b>Proposal/Issue</b>	:	New Sublease
<b>Subject Land/Locality</b>	:	Reserve 19464, Albany Lot 826
<b>Proponent</b>	:	Amity Taxis
<b>Owner</b>	:	Crown Land – Department of Land Administration (Managed by the City of Albany)
<b>Reporting Officer(s)</b>	:	Corporate Services Officer (N Franich)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council approve the request for a new sublease to be prepared for a 10 year term from 1 January 2005
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	



Item 12.2.3 continued

### **BACKGROUND**

1. A request has been received from the Albany Women's Rest House Association Inc (Head Lessee) and Amity Taxis (Sub Lessee) for Council to consider renewing a sublease agreement to Amity Taxis which is due to expire on 31<sup>st</sup> December 2004. The current sublease is for a term of 4 years and 2 months, which commenced on 1<sup>st</sup> November 2000.
2. Amity Taxis is located on Reserve 19464 at the bottom of York Street and Council currently has a Management Order for the purpose of "Preservation of Historic Buildings" with power to lease for periods up to and including 21 years.

### **STATUTORY REQUIREMENTS:**

3. Section 3.58 of the Local Government Act 1995 – "Disposing of Property" requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
4. Council is however able to dispose of property by other means, provided that it gives statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
5. Clause 30 of the Local Government (Function and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural; educational, recreational, sporting or other like nature.
6. Amity Taxis is a commercial body, however as the land has already been disposed of to the Head Lessee, the Albany Women's Rest House Association Inc, the proposed disposition of land to the Sub Lessee Amity Taxis, is not required.
7. Section 18 (1) of the Land Administration Act 1997 requires 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". A preliminary approval for this lease has been sought from the Department of Land Administration and the Minister's agreement in principle has been granted.

### **POLICY IMPLICATIONS**

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

Item 12.2.3 continued

### **FINANCIAL IMPLICATIONS**

9. The current rent is \$3,055.00 per annum (paid weekly at \$58.75 per week). No GST is charged to Amity Taxis as the Albany Women's Rest House Association Inc receives all money from this sublease rental fee and they are not registered for GST purposes.
10. All costs associated with this proposed new sublease are to be borne by the applicant including any legal fees.

### **STRATEGIC IMPLICATIONS**

11. This request complies with Council's 'Albany 2020', which in part states as follows:  
  
*“Managed healthy land/harbour environment – To manage reserves for environmentally sustainable use, community enjoyment and benefit.”*

### **COMMENT/DISCUSSION**

12. Amity Taxis has written to Council asking for a new sublease to be prepared for a term of 10 years commencing on 1 January 2005.
15. The leased building is heritage listed and must be maintained to a standard acceptable to the Heritage Council of Western Australia.
16. The Albany Women's Rest House Association Inc lease area is utilised by the Citizens Advice Bureau, who sublease a small portion of the building for use by Amity Taxis as a taxi office.
17. In addition to providing a public transport service to Albany residents, Amity Taxis also have a positive effect on security around this heritage listed building being that they occupy the office 24 hours a day, 7 days a week, 365 days a year.

### **RECOMMENDATION**

THAT;

- i) subject to approval from the Minister for Lands; Council agree to the request from Amity Taxis for a new sublease to be prepared for a period of 10 years, from 1<sup>st</sup> January 2005 until 31<sup>st</sup> December 2014 on a portion of Reserve 19464 Lot 826;
- ii) the rental be set at \$3,055.00 per annum (exclusive of GST), with all payment being made directly to the Head Lessee being Albany Women's Rest House Association Inc;

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Item 12.2.3 continued

- iii) the sublease be prepared in accordance with Council’s standard leasing terms and conditions, in line with the Head Lease;
- iv) Council agree to the City of Albany continuing to insure the premises on a cost recovery basis, with Amity Taxis continuing to insure their own contents and public liability;
- v) all fees associated with this sublease be payable by Amity Taxis; and
- vi) the Common Seal of the City of Albany be affixed to the documentation.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR JAMIESON  
SECONDED COUNCILLOR WELLINGTON**

**THAT;**

- i) subject to approval from the Minister for Lands; Council agree to the request from Amity Taxis for a new sublease to be prepared for a period of 10 years, from 1<sup>st</sup> January 2005 until 31<sup>st</sup> December 2014 on a portion of Reserve 19464 Lot 826;**
- ii) the rental be set at \$3,055.00 per annum (exclusive of GST), with all payment being made directly to the Head Lessee being Albany Women’s Rest House Association Inc;**
- iii) the sublease be prepared in accordance with Council’s standard leasing terms and conditions, in line with the Head Lease;**
- iv) Council agree to the City of Albany continuing to insure the premises on a cost recovery basis, with Amity Taxis continuing to insure their own contents and public liability;**
- v) all fees associated with this sublease be payable by Amity Taxis; and**
- vi) the Common Seal of the City of Albany be affixed to the documentation.**

**MOTION CARRIED 13-0**

#### **12.2.4 Date for Future Local Government Elections**

<b>File/Ward</b>	:	MAN 016 (All Wards)
<b>Proposal/Issue</b>	:	WALGA seeking Council support to have election dates changed.
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	WA Local Government Association
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Executive Director Corporate & Community Services (WP Madigan)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 18/05/04 - Item 12.2.8
<b>Summary Recommendation</b>	:	That Council reiterate its previous decision and support a continuation of the current election date system for Mayor and Councillors.
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	Nil

#### **BACKGROUND**

1. In April 2004, the West Australian Local Government Association sought Council's comment on a request from several of the Association's Zones that consideration be given to changing the date for the conduct of biennial Local Government Elections. Currently all elections are held on the first Saturday in May each two years, with the next election due in 2005.
2. Zones suggested a date later in the year such as September/October to allow all newly elected members to participate in the budget process for the following financial year, rather than being elected in May when a larger number of Councils have already established their budget parameters. With the proposed change to the budget timetable where Councils will be able to adopt the budget during June, this situation could be exacerbated.
3. Council considered the impact of changing the election date at its meeting held 18 May 2004, and resolved the following recommendation 12-3:

*“THAT Council support a continuation of the current election date system for Mayor and Councillors.”*

Item 12.2.4 continued

4. WALGA has received responses from in excess of 100 member Councils, with over 60 members indicating their support for a broad change to the September/October period.
5. The State Council, in considering the report on the outcome of the request for comment from members, noted that a specific date was not proposed in the previous consultation process, and as such feels that before adopting a position on a possible date, the specific proposal of the third Saturday in October every two years should be canvassed with members.

**STATUTORY REQUIREMENTS**

6. Under Section 4.7 of the *Local Government Act 1995*, elections for a Mayor or President are to be held on the first Saturday in May each four years and in regard to the election of Councillors on the first Saturday in May every two years, with one half of the seats (or as near to) being filled for a four year term.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

9. This request is in accordance with the City of Albany’s 2020 Objectives and Council Activities:

*“Port of Call – a reputation of professional excellence.  
Governance – to comply with the statutory requirements of the organisation.”*

**COMMENT/DISCUSSION**

10. The State Council at its April meeting decided to survey all members to determine if there is general support for the suggested change in date for the biennial Local Government elections from May to October. It was felt that this change would enable Elected Members to be better informed before having to vote on the adoption of the Local Government’s annual budget.
11. WALGA has pointed out that as the Department of Local Government and Regional Development has already indicated that it is undertaking a review of the electoral provisions, it was seen as appropriate for the Association to develop a position on the proposal after consultation with members.

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Item 12.2.4 continued

12. The general consensus from this consultation indicates support from members for a broad change to the September / October period, and this matter is once again brought to Council's attention to seek support for a specific date of the third Saturday in October every two years.
13. In reaching its decision at the 18 May 2004 meeting to continue its support of the current election date system for Mayor and Councillors, Council believes the role of the elected member involves a great deal more than the annual budget process, and with greater emphasis being given to asset preservation and long term budgetary plans, the emphasis on the budgetary process is lessened.
14. The proposal was further analysed by the City's Manager of Finance, who, while acknowledging that it would allow new Councillors to participate meaningfully in the next budget process, this initial period would include a budget in which they had no impact.
15. It is also believed that an election held shortly after the annual rating levy, could politicise any rate increase.

**RECOMMENDATION**

THAT Council reiterate its previous decision and support a continuation of the current election date system for Mayor and Councillors.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WOLFE**

**THAT Council reiterate its previous decision and support a continuation of the current election date system for Mayor and Councillors.**

**MOTION CARRIED 12-1**

### 12.2.5 Extended Trading Hours within the City of Albany

<b>File/Ward</b>	:	LEG 005 (All Wards)
<b>Proposal/Issue</b>	:	Extended Trading Hours
<b>Subject Land/Locality</b>	:	City of Albany Municipality
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Chief Executive Officer (A Hammond)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	SCM 27/07/04 - Item 6.0 OCM 20/07/04 - Item 12.2.5 OCM 20/08/02 - Item 12.2.1 OCM 19/03/02 - Item 12.7.2
<b>Summary Recommendation</b>	:	That Council recommend to the Minister to extended trading hours within the municipality of the City of Albany.
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	Nil

### BACKGROUND

1. At the Ordinary Council Meeting on 19 March 2002, it was resolved:

*“THAT Council request the Albany Chamber of Commerce, Albany Merchants Association and Albany Visitors Centre to undertake a joint survey of their membership by the 15<sup>th</sup> May 2002 on the issue of extended trading hours and the results of that survey be used to prepare a proposal for consideration by the Council that provides for transition from the current situation to a situation that accommodates extended trading. The proposal to be subject to 30 days community consultation prior to being submitted to Council for consideration.”*

2. Subsequently at the Ordinary Council Meeting on 20 August 2002, it was resolved:

*“THAT Council supports the Albany Chamber of Commerce and Industry Inc proposal to deregulate trading hours as follows:*

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Item 12.2.5 continued

*THAT the City of Albany adopt extended retail trading for the Christmas school holiday period (i.e. The standard Christmas school holidays determined by the Education Department of WA), with the exception of Christmas Day, and the Easter holidays excluding Good Friday. That the hours be limited to between 8.00am and 6.00pm on Monday, Tuesday, Wednesday and Friday. 8.00am to 5.00pm on Saturday. 8.00am to 9.00pm on Thursday and 9.00am to 5.00pm on Sunday. Albany Chamber of Commerce and Industry recommends that this be definitely considered as a ‘trial’ for two years with a review at the end of June 2004. This review should involve all relevant parties, namely the Albany Visitor Centre, Albany Chamber of Commerce and Industry and the Albany Merchants Association, and should definitely allow for a period of public consultation.”*

3. The trial has now ended and a complete review of trading hours was carried out.
4. At the Ordinary Council Meeting of 20 July 2004 it was resolved:

*“That Council recommend to the Minister for Consumer and Employment Protection to extend the retail trading hours for the municipality of the City of Albany for three years until 30<sup>th</sup> April 2007 as follows:*

*December 1<sup>st</sup> to April 30<sup>th</sup>. (Summer period)*

<i>Monday to Friday</i>	<i>8.00 a.m. - 6.00 p.m.</i>
<i>Saturday</i>	<i>8.00 a.m. - 6.00 p.m.</i>
<i>Sunday</i>	<i>10.00 a.m - 6.00 p.m.</i>
<i>Public holidays (excluding Good Friday and Christmas Day)</i>	<i>12.00 p.m. - 6.00 p.m.</i>

*May 1<sup>st</sup> to November 30<sup>th</sup> (Winter period)*

<i>Monday to Saturday including Public Holidays</i>	<i>8.00 a.m. - 6.00 p.m.”</i>
---	-------------------------------

5. Then at the Special Council Meeting of 27 July 2004 it was resolved:

*“THAT Council rescind the decision take at the Ordinary Council Meeting on Tuesday 20<sup>th</sup> July 2004, at item 12.2.5 which states: -*

*THAT Council recommend to the Minister for Consumer and Employment Protection to extend the retail trading hours for the municipality of the City of Albany for three years until 30<sup>th</sup> April 2007 as follows:*

*December 1<sup>st</sup> to April 30<sup>th</sup>. (Summer period)*

<i>Monday to Friday</i>	<i>8.00 a.m. - 6.00 p.m.</i>
<i>Saturday</i>	<i>8.00 a.m. - 6.00 p.m.</i>
<i>Sunday</i>	<i>10.00 a.m. - 6.00 p.m.</i>
<i>Public holidays (excluding Good Friday and Christmas Day)</i>	<i>12.00 p.m. - 6.00 p.m.</i>

Item 12.2.5 continued

*May 1<sup>st</sup> to November 30<sup>th</sup> (Winter period)*  
*Monday to Saturday including*  
*Public Holidays* 8.00 a.m. - 6.00 p.m

*THAT consideration of any future motion for seven (7) day trading within the City of Albany be deferred until a Council working party and Council Officer prepare a suitable motion for consideration by Council. This motion is to be circulated to the public and members of the public including businesses invited to submit comments following which the motion will be presented to Council for consideration.”*

### **STATUTORY REQUIREMENTS**

6. Under the Retail Trading Hours Act 1987, Section 15 empowers the Minister to vary trading hours.

### **POLICY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS**

9. In the City of Albany’s 2020 – Charting our Course, the following Port of Call is identified:
  - A reputation for professional excellence
  - Governance
  - To comply with statutory requirements of the organisation

### **COMMENT/DISCUSSION**

10. A Council working party met to discuss the ongoing issue of extended retail trading hours and has recommended that the following course of action be taken.
11. Extended retail trading is recommended for the Christmas School Holiday period and the Easter Holidays, excluding Christmas Day and Good Friday. The opening hours in the extended retail trading period will be:
  - 8.00am to 6.00pm Monday, Tuesday, Wednesday and Friday
  - 8.00am to 9.00pm on Thursday
  - 8.00am to 5.00pm on Saturday and
  - 9.00am to 5.00pm on Sunday

Item 12.2.5 continued

12. Also proposed is to allow for the existing extended trading hours rights at the Woolworths Chester Pass Road premises continue for an interim period and then be transferred to the new supermarket premises currently under construction at the same location. Extended trading rights would cease for the vacated premises. Any future review of trading hours would not be undertaken until 2009.”

**RECOMMENDATION**

THAT Council recommend to the Commissioner for Fair Trading that:

- i) extended retail trading hours be permitted for the Christmas school holiday period and the Easter holidays excluding Christmas Day, Good Friday and Anzac Day (until noon) with the opening hours being –
- 8.00am to 6.00pm Monday, Tuesday, Wednesday and Friday;
  - 8.00am to 9.00pm on Thursday;
  - 8.00am to 5.00pm on Saturday; and
  - 9.00am to 5.00pm on Sunday;
- ii) existing extended trading rights covering Woolworths’ operations on Chester Pass Road continue for an interim period and then be transferred to the proposed new Woolworths Supermarket currently under construction at the same location. Extended trading rights are to cease as soon as the current premises is vacated or upon the commencement of trading of the new facility which ever occurs sooner; and
- iii) a review of trading hours will not be undertaken until 2009.

*Voting Requirement Simple Majority*

.....

Councillor Barton declared an interest and left the chambers at 8.25pm.  
The nature of Councillor Barton’s interest is that she is an employee of Coles.  
Councillor Lionetti declared an interest and left the chambers at 8.25pm.  
The nature of Councillor Lionetti’s interest is that he is a retailer.  
Councillor Waterman declared an interest and left the chambers at 8.25pm.  
The nature of Councillor Waterman’s interest is that she is a retailer.  
Councillor Wellington declared an interest and left the chambers at 8.25pm.  
The nature of Councillor Wellington’s interest is that he is a retailer.

Andrew Hammond left the Chamber at 8.27pm.

Andrew Hammond returned to the Chamber at 8.29pm

Item 12.2.5 continued

**MOVED COUNCILLOR DEMARTEAU  
SECONDED COUNCILLOR EVANS**

**THAT Council recommend to the Commissioner for Fair Trading that:**

- i) **extended retail trading hours be permitted for the Christmas school holiday period and the Easter holidays excluding Christmas Day, Good Friday and Anzac Day (until noon) with the opening hours being –**
- **8.00am to 6.00pm Monday, Tuesday, Wednesday and Friday;**
  - **8.00am to 9.00pm on Thursday;**
  - **8.00am to 5.00pm on Saturday; and**
  - **9.00am to 5.00pm on Sunday; and**
- ii) **existing extended trading rights covering Woolworths' operations on Chester Pass Road continue for an interim period and then be transferred to the proposed new Woolworths Supermarket currently under construction at the same location. Extended trading rights are to cease as soon as the current premises is vacated or upon the commencement of trading of the new facility which ever occurs sooner.**

**MOTION CARRIED 6-3**

**Reason:**

If clause iii) was included in the motion it would effectively result in Council undergoing a further 5 year trial period, which is not considered to be necessary.

Councillor Paver voted against this motion.

Councillor Barton returned to the Chamber at 8.42pm

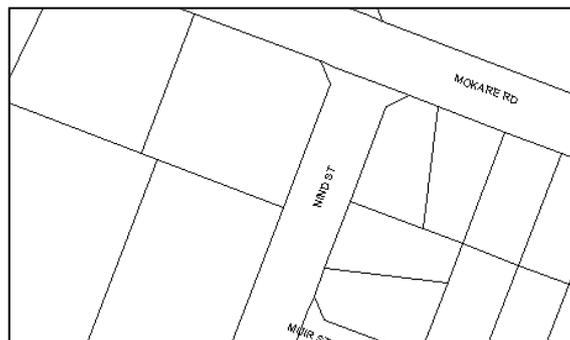
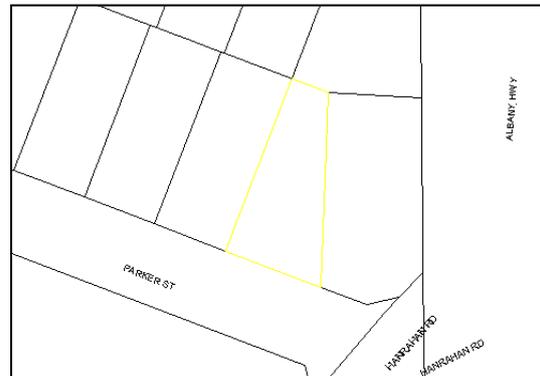
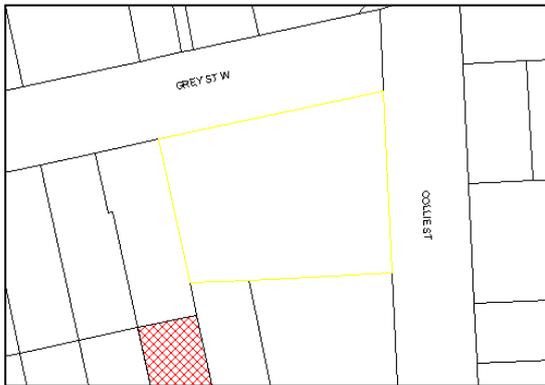
Councillor Lionetti returned to the Chamber at 8.42pm

Councillor Waterman returned to the Chamber at 8.42pm

Councillor Wellington returned to the Chamber at 8.42pm

**12.2.6 Management of Child Infant Health Clinics**

- File/Ward** : PRO 006 (Frederickstown/ Vancouver & Breaksea Wards)
- Proposal/Issue** : Management of Child Infant Health Clinics
- Subject Land/Locality** : Albany Suburban Lot 60, Parker Street Portion of Plantagenet Location 6906, Reserve 26860
- Proponent** : City of Albany
- Owner** : City of Albany
- Reporting Officer(s)** : Corporate Services Officer (J Twaddle)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : That Primary Health Services pays all operating and maintenance costs associated with the Child Infant Health Clinics
- Bulletin** : State Government Policy
- Locality Plan** :



Item 12.2.6 continued

**BACKGROUND**

1. On 22<sup>nd</sup> June 1953 the State Government developed a “Policy on the government of Child Infant Health Clinics”, which is contained in the Elected Member’s Report/Information Bulletin.
2. Three Child Infant Health Clinics are located within the municipality of the City of Albany.
3. Collie Street Clinic is located on Albany Town Lot 186 being City of Albany freehold land on Certificate of Title Volume 1322 Folio 503.
4. Parker Street Clinic is located on Albany Suburban Lot 60 being City of Albany freehold land on Certificate of Title Volume 1228 Folio 679.
5. Mokare Road Clinic is located on Plantagenet Location 6906 being a portion of Reserve 26860, which is vested in the City of Albany for community purposes.

**STATUTORY REQUIREMENTS:**

6. Section 18 (1) of the Land Administration Act 1997 states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on crown land.
7. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
8. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

10. The City of Albany currently pays all charges associated with building and contents insurance, cleaning, gardening, water rates and consumption, electricity, gas and maintenance. The City of Albany’s total annual contribution is approximately \$25,000.00.
11. The costs associated with management of these facilities have escalated considerably over recent years by an average of 17 percent.

Item 12.2.6 continued

### **STRATEGIC IMPLICATIONS**

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

### **COMMENT/DISCUSSION**

13. On 4<sup>th</sup> February 2004 the WA Country Health Service – Great Southern Health Region wrote to Council, requesting the negotiation of a formal agreement for the management of the Child Infant Health Clinics.
14. As no formal Lease was originally entered into, each party was unsure of their responsibilities, and as the WA Country Health Service has not indemnified the City of Albany against their actions, the City of Albany is still liable for these properties over which the City has no control.
15. On 17<sup>th</sup> February 2004 a meeting was held with representatives from the WA Country Health Service – Great Southern Health Region and the City of Albany and it was agreed that the best way to formalise the management of the clinics and indemnity issues, was to execute Lease agreements for each site.
16. It was proposed that the Lease agreements contain all provisions of Council’s standard leasing terms and conditions, with the following additional clause:  
*“The Lessor will carry out scheduled maintenance as outlined in the Building Master Plan only.”*
17. The 15-year scheduled maintenance for all three clinics would be undertaken at a cost of over \$65,000.00 to Council, which was proposed to be collected from the WA Country Health Service – Great Southern Health Region by way of Lease fees over the 15-year Lease terms.
18. On 10<sup>th</sup> August 2004 the Great Southern Health Region advised that the WA Country Health Service would not be entering into Lease agreements as the WA Country Health Service relied on the long-standing government policy dated 22 June 1953, to provide direction with relation to the management of the Clinics.
19. On 10<sup>th</sup> August 2004, the City of Albany obtained the ‘Policy of Government on Infant Health Centres’. Under this policy ‘the building must be vested in the Government or local authority and must not be used for any purpose other than an Infant Health Centre’. The City of Albany complies with this policy, as all buildings are constructed on either City of Albany freehold land or reserves managed by the City of Albany, however Collie Street Infant Health Clinic is being used by Great Southern Health Region as additional office/staff training space.

Item 12.2.6 continued

RECOMMENDATION

THAT Council advise the WA Country Health Service – Great Southern Health Region that they must either:-

i) Enter into Lease Agreements for the Child Infant Health Clinics;

OR

ii) Remit to the City of Albany all costs associated with the management, operation, maintenance and insurance of the clinics, and provide the City of Albany with a declaration stating that they indemnify the City of Albany against all their actions whilst occupying the sites;

OR

iv) Vacate the premises.

*Voting Requirement Simple Majority*

.....

The Executive Director of Corporate and Community Services advised that the applicant has requested that this item be withdrawn until the next Ordinary Council Meeting of Council.

Councillor Demarteau disclosed an impartiality interest in this item.

**12.3 LIBRARY SERVICES**

Nil.

**12.4 DAY CARE CENTRE**

Nil.

**12.5 TOWN HALL**

Nil.

**12.6 ALBANY LEISURE AND AQUATIC CENTRE**

Nil.

**12.7 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS**

Nil.

**12.8 CORPORATE & COMMUNITY SERVICES COMMITTEE**

**12.8.1 Albany Town Hall Theatre Advisory Committee meeting minutes – 4<sup>th</sup> August 2004**

- File/Ward** : SER 047 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Town Hall Theatre Advisory Committee held on 4<sup>th</sup> August 2004 be adopted.

RECOMMENDATION

THAT Trina Butko is appointed as a member of the Town Hall Theatre Advisory Committee.

*Voting Requirements Absolute Majority*

.....

THAT the minutes of Albany Town Hall Theatre Committee held on 4<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR JAMIESON**

**THAT Trina Butko is appointed as a member of the Town Hall Theatre Advisory Committee.**

.....

**THAT the minutes of Albany Town Hall Theatre Committee held on 4<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

ORDINARY COUNCIL MEETING MINUTES– 21/09/04  
\*\* REFER DISCLAIMER \*\*  
CORPORATE & COMMUNITY SERVICES REPORTS

**12.8.2 Disability Services and Community Access Advisory Committee meeting minutes – 11<sup>th</sup> August 2004**

- File/Ward** : MAN 134 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Disability Services and Community Access Advisory Committee held on 11<sup>th</sup> August 2004 be adopted.

RECOMMENDATION

THAT the minutes of Disability Services and Community Access Advisory Committee held on 11<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

*Voting Requirement Simple Majority*

.....

<p><b>MOVED COUNCILLOR EVANS SECONDED COUNCILLOR DEMARTEAU</b></p> <p><b>THAT the minutes of Disability Services and Community Access Advisory Committee held on 11<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).</b></p> <p style="text-align: right;"><b>MOTION CARRIED 13-0</b></p>
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ORDINARY COUNCIL MEETING MINUTES– 21/09/04  
\*\* REFER DISCLAIMER \*\*  
**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.8.3 Albany Arts Advisory Committee meeting minutes – 11<sup>th</sup> August 2004**

- File/Ward** : MAN 116 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Albany Arts Advisory Committee held on 11<sup>th</sup> August 2004 be adopted.

RECOMMENDATION

THAT the minutes of Albany Arts Advisory Committee held on 11<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WATERMAN  
SECONDED COUNCILLOR JAMIESON**

**THAT the minutes of Disability Services and Community Access Advisory Committee held on 11<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 13-0**

**12.8.4 Seniors Advisory Committee meeting minutes – 19<sup>th</sup> August 2004**

- File/Ward** : MAN 131 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)
- Summary Recommendation** : That the Minutes of Seniors Advisory Committee held on 19<sup>th</sup> August 2004 be adopted.

RECOMMENDATION

THAT the minutes of Seniors Advisory Committee held on 19<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WEST**

**THAT the minutes of Seniors Advisory Committee held on 19<sup>th</sup> August 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 13-0**

# **General Management Services**

## **REPORTS**

## 14.1 STRATEGIC DEVELOPMENT

### 14.1.1 Sale of Surplus Land

<b>File/Ward</b>	:	PRO 138 (All Wards)
<b>Proposal/Issue</b>	:	Disposal of Surplus Land
<b>Subject Land/Locality</b>	:	Various
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Project/Admin Officer(W Parker) and Manager – Finance (S Goodman)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council authorise the sale of up to 9 properties in 2004/05
<b>Bulletin Attachment</b>	:	Nil
<b>Locality Plan</b>	:	Nil

### BACKGROUND

1. The adopted 2004/05 Budget included revenue of \$ 1 million from the sale of surplus land to fund Asset Masterplans. It is now proposed to identify land to be offered for sale to achieve the necessary revenue prior to 30<sup>th</sup> June 2005.

### STATUTORY REQUIREMENTS

2. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council dispose of property to the highest bidder at public auction, or by public tender to the person making the most acceptable tender, or by some other method after giving Statewide public notice of the proposed disposition.

### POLICY IMPLICATIONS

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

### FINANCIAL IMPLICATIONS

4. Sale of surplus land is necessary to partially fund the Asset Masterplan expenditure for the year.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.1.1 continued

**STRATEGIC IMPLICATIONS**

5. In the City of Albany’s 2020 – Charting Our Course, the following Ports of Call are identified:

*“The continual development of Council services and facilities to meet the needs of all stakeholders”*

*“Quality parks, gardens and reserves maintaining their feature status”*

*“Outstanding municipal and privately owned heritage assets”*

*“Transport systems and services designed to meet current and future needs”*

**COMMENT/DISCUSSION**

6. The blocks of land proposed for sale have been selected on the basis of current appropriate zoning and the ability to clear them prior to 30<sup>th</sup> June 2005. Properties which require rezoning, or may be subject to a future subdivision decision have been excluded. The proposed property sales are:

Assessment #	Address	Zoning	Note
A73695	11 Kitson St , Gledhow	Industrial	1
A160111	60 Regent St , Gledhow	Residential	
A138003	29-31 Cockburn Rd, Mira Mar	Multiple	
A136982	11-23 Vancouver St, Albany	Residential –special Site 5	
A134091	132 North Rd , Yakamia	Future Urban	1
A134122	134 North Rd , Yakamia	Future Urban	1
A134154	136 North Rd , Yakamia	Future Urban	1
A134186	138 North Rd , Yakamia	Future Urban	1
A141222	47-55 Cockburn Rd, Mira Mar	Residential	2

Notes :

- a) May be sold individually or in combination. Zoning for North Road blocks as per the Yakamia Structure Plan.
  - b) Will require a caveat to ensure that the buyer installs suitable underground drainage.
7. The estimated sales value for the above properties exceeds the total requirement as per the 2004/05 budget to allow for the eventuality that not all properties will be sold prior to 30<sup>th</sup> June 2005.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 14.1.1 continued

8. Expressions of interest will be sought from local real estate agents for the marketing of the properties and the conducting of an auction in late November or early December 2004. Reserves for the auction would be set at a level no less than the most recent valuations. If the City’s revenue requirement is not satisfied at the auction due to properties being passed in, other methods would be used to sell one or more of the remaining blocks. To allow the auction to be carried out prior to Christmas, it is proposed that the Chief Executive Officer be given delegated authority to award a tender to the successful real estate agent.
  
9. If the auction results in net proceeds in excess of the City’s 04/05 revenue requirement, any surplus funds would be transferred to reserves to assist in funding the 05/06 asset management program.

**RECOMMENDATION**

THAT Council:

- i) authorise the sale of the following properties:

Assessment #	Address
A73695	11 Kitson St , Gledhow
A160111	60 Regent St , Gledhow
A138003	29-31 Cockburn Rd, Mira Mar
A136982	11-23 Vancouver St, Albany
A134091	132 North Rd , Yakamia
A134122	134 North Rd , Yakamia
A134154	136 North Rd , Yakamia
A134186	138 North Rd , Yakamia
A141222	47-55 Cockburn Rd, Mira Mar

- ii) give the Chief Executive Officer delegated authority to award a tender for marketing /auctioning the properties; and
  
- iii) agree that in the event of net sales proceeds exceeding the 2004/05 budget allowance, any surplus funds be transferred to a reserve to assist in funding the 2005/06 asset management program.

*Voting Requirement Absolute Majority*

.....

Item 14.1.1 continued

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR PAVER**

**THAT Council:**

- i) **authorise the sale of the following properties:**

<b>Assessment #</b>	<b>Address</b>
<b>A73695</b>	<b>11 Kitson St , Gledhow</b>
<b>A160111</b>	<b>60 Regent St , Gledhow</b>
<b>A138003</b>	<b>29-31 Cockburn Rd, Mira Mar</b>
<b>A136982</b>	<b>11-23 Vancouver St, Albany</b>
<b>A134091</b>	<b>132 North Rd , Yakamia</b>
<b>A134122</b>	<b>134 North Rd , Yakamia</b>
<b>A134154</b>	<b>136 North Rd , Yakamia</b>
<b>A134186</b>	<b>138 North Rd , Yakamia</b>
<b>A141222</b>	<b>47-55 Cockburn Rd, Mira Mar</b>

- ii) **give the Chief Executive Officer delegated authority to award a tender for marketing /auctioning the properties; and**
- iii) **agree that in the event of net sales proceeds exceeding the 2004/05 budget allowance, any surplus funds be transferred to a reserve to assist in funding the 2005/06 asset management program.**

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

**14.2 ORGANISATIONAL DEVELOPMENT**

Nil.

**14.3 ECONOMIC DEVELOPMENT**

Nil.

**14.4 GENERAL MANAGEMENT SERVICES COMMITTEES**

Nil.

**15.0 ELECTED MEMBERS' MONTHLY REPORT/INFORMATION BULLETIN**

15.1 Elected Members' Report/Information Bulletin

DRAFT MOTION

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

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR WOLFE**

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

**MOTION CARRIED 13-0**

**16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**17.0 MAYORS REPORT**

*"Fellow Councillors*

*It is a great pleasure for me to present my report to you tonight, outside of the conventional Council Chambers, in the town of Wellstead. I thank the community of Wellstead for hosting the meeting and for their hospitality this evening.*

*In the last week of August I attended two important Strategy Workshops; the Albany Safe City Strategy Review Workshop and the Defining Central Albany Workshop.*

- *The Albany Safe City Workshop looked at ways of improving community safety and crime prevention by increasing public and community participation in safety, security and neighbourhood watch type projects. It looked at the possible links between drugs, alcohol and solvent abuse on crime, domestic violence and anti-social behaviour. The next stage will be to develop a strategy, assemble a Taskforce and employ a Project Coordinator to keep Albany on track as a "Safe City".*
- *The Defining Central Albany Workshop sought input from stakeholders on developing a strategic land use plan that will establish, guide and co-ordinate the future development and form of the CBD and its surrounds, as a well-planned and vibrant regional centre over the next 20 years. There will be an ongoing consultative process, which will culminate with the release of the final report.*

*On the 24<sup>th</sup> August, Andrew and I had the pleasure of hosting a morning tea, in conjunction with the Australian Institute of Management, for Graduates of the Advanced Diploma of Management. Several City of Albany staff members successfully completed the Diploma and I extend my congratulations to them for their efforts and success.*

*Premier Geoff Gallop and Opposition Leader Colin Barnett, met with both Andrew and I on their respective visits to Albany this month. Both were given a presentation on the City's proposed Entertainment and Convention Centre, which they seemed very impressed with.*

*We also met with Senator Brian Greig of the Democrats when he visited Albany on 26 August.*

*Over the month, there has been great interest shown in Albany, from three separate organizations, for projects that would not only promote Albany on the world stage but return economic benefits to the region:-*

- 1. The producers of RB Films met with Jon Berry and myself on 1<sup>st</sup> September to provide a briefing on their plans to film an episode of the successful children's book "Lochie Lenard" in this region. Written by successful author Tim Winton, the story is about a fictitious character who moves to Albany as a 12 year old child.*
- 2. Jon Berry and Mark Weller met with representatives of EventsCorp and the French company Saga D'Adventures, who are investigating the possibility of holding the 2005 Cross-Adventure Raid Series, in Albany in April next year. The race comprises of teams of four athletes competing in different extreme sports covering a distance of 200 kilometres over 2 days. It is an event that is extremely popular in Europe and receives extensive international television coverage. With the proposed route devised to showcase our stunning natural scenery, the event would return great publicity to Albany.*
- 3. Lignor Pty Ltd briefed Councillors about the Engineered Strand Lumber Plant at a breakfast briefing on 15 September. Using a process that converts plantation and forest hardwoods into structural timber said to challenge the strength and durability of steel, the project would value-add to the timber industry in this region.*

*In brief, I attended and laid wreaths at RSL Memorial Services for Victory in the Pacific and Vietnam Veterans on 15<sup>th</sup> & 18<sup>th</sup> August respectively. I also formally received a photo of Anzac legend, Richard Price MBE from Peter Watson MLA on 16 August. Peter saw the photo in Parliament House and managed to get a copy of it to add to Albany's historical collection at Princess Royal Fortress. Richard Price was the local Member for the Legislative Assembly for the period 1909 to 1917 and also served with distinction in World War I from 1915 to 1918.*

*In conclusion I would like to sincerely thank Lynda Tyler for her invaluable assistance to Council staff to coordinate the meeting here in Wellstead, and once again I extend sincere appreciation to the Wellstead Community, on behalf of the City of Albany Councillors and Staff, for their hospitality.*

*Thank you.*

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR SANKEY**

**THAT the Mayor's report be received.**

**MOTION CARRIED 13-0**

**18. URGENT BUSINESS APPROVED BY MAYOR OR BY DECISION OF THE MEETING**

Nil.

**19.0 CLOSED DOORS**

Nil.

**20.0 NEXT ORDINARY MEETING DATE**

Tuesday 19<sup>th</sup> October 2004, 7.30pm

**21.0 CLOSURE OF MEETING**

There being no further business, the meeting closed at 8.59pm.

Confirmed as a true and correct record of proceedings.

---

**A Goode, JP**  
*Mayor*

**APPENDIX A**

**WRITTEN NOTICE OF DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
Councillor Barton	11.1.2	Employee of Coles
Councillor Barton	12.2.5	Employee of Coles
Councillor Demarteau	12.2.6	Employee of Great Southern Health Region
Councillor Lionetti	12.2.5	Retailer
Councillor Waterman	12.2.5	Retailer
Councillor Wellington	12.2.5	Retailer

**APPENDIX B**

**INTERESTS DISCLOSED DURING THE COURSE OF THE MEETING**

Nil.

**INTERESTS DISCLOSED BY OFFICERS**

Nil.

[Agenda Item 12.1.1 refers]  
[COUNCIL –21<sup>st</sup> September 2004]



## SUMMARY OF ACCOUNTS

Municipal Fund		
Cheques	totalling	202,917.92
Electronic Fund Transfer	totalling	1,707,666.65
Payroll	totalling	663,109.70
<b>TOTAL</b>		<b><u>\$2,573,693.27</u></b>

### CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling \$2,573,693.27 was submitted to each member of the Council on 21<sup>st</sup> September 2004 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

---

**CHIEF EXECUTIVE OFFICER**  
(A Hammond)

**MAYOR**

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$2,573,693.27 which was submitted to the Council on 21<sup>st</sup> September 2004 and that the amounts are recommended to the Council for payment.

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**MAYOR**  
(A Goode JP)