



MINUTES

ORDINARY MEETING OF COUNCIL

**on
Tuesday, 15th June 2004
7.30pm
Mercer Road Council Chambers**

City of Albany

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Signed _____

Date: 17th May 2004

Andrew Hammond
Chief Executive Officer

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1.0 DECLARATION OF OPENING

Her Worship the Mayor declared the meeting open at 7.30pm 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 |
| | - | SM Bojcun |
| | - | DJ Wolfe |
| | - | DW Wellington |
| | - | JD Williams |
| | - | RH Emery |
| | - | J Waterman |
| | - | E Barton |
| | - | R Paver (arrived at 7.35pm) |
| | - | J Jamieson |
| | - | G Sankey |
| | - | I West |

Executive Director Corporate &
Community Services

- WP Madigan

Executive Director Works & Services

- B Joynes

Executive Director Development Services

- R Fenn

Minute Secretary

- SM Day

Approximately 26 members of the public
2 media representatives

Apologies / Leave of Absence:

- P Lionetti

- AHM Demarteau

Chief Executive Officer

- AC Hammond

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.

***J Webb**

Mrs Webb address Council in regard to SCRIPT and the recently compiled strategy plan. Mrs Webb presented Council with a copy of this plan and an invitation to attend the launch.

***F Crugnale**

Mr Crugnale addressed Council in regard to item 18.1 and thanked Council for attending a site visit to his property adjoining 11 Festing Street.

***K Gargett**

Mrs Gargett addressed Council in regard to Old Farm, Strawberry Hill and presented Council with a petition seeking Council approval to rezone this area, which will enable Concerts to be held on the property.

***A Partington**

Mr Partington addressed Council in regard to Item 12.6.2. Mr Partington advised Council that he was the previous owner of BodyCare and believed that it was recommended that Council work in conjunction with private operators in this regard. Mr Partington did not believe Albany could sustain a third gymnasium.

***K Macintyre**

Mr Macintyre addressed Council in regard to a proposed scheme amendment along Chesterpass Road. He thanked Councillors for attending a site visit and outlined some facts regarding this development.

***A Kerruish**

Miss Kerruish addressed Council in regard to item 12.6.2 as the owner Bodycare. Miss Kerruish advised Council that both Bodycare and Green Door are increasing their memberships and asked Council why is the City upgrading when there are currently two fully equipped gymnasiums. She asked that Council give small businesses a go.

***V Milne**

Mrs Milne addressed Council in regard to Old Farm Strawberry Hill and seeks Council support in allowing concerts to be held at the Old Farm. Mrs Milne outlined the history and advised that gardens are run by volunteers. The concerts would be of great benefit to the Old Farm and the community.

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 18th May 2004;
as previously distributed be confirmed as a true and accurate record of proceedings.

**MOVED COUNCILLOR EMERY
SECONDED COUNCILLOR WOLFE**

THAT the following minutes:

- **Ordinary Council meeting held on 18th May 2004;
as previously distributed be confirmed as a true and accurate record
of proceedings.**

MOTION CARRIED 15-0

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 – Items 11.3.2

9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Old Farm Strawberry Hill – Seeking re-zoning to allow concerts on the property.

Development Services

REPORTS

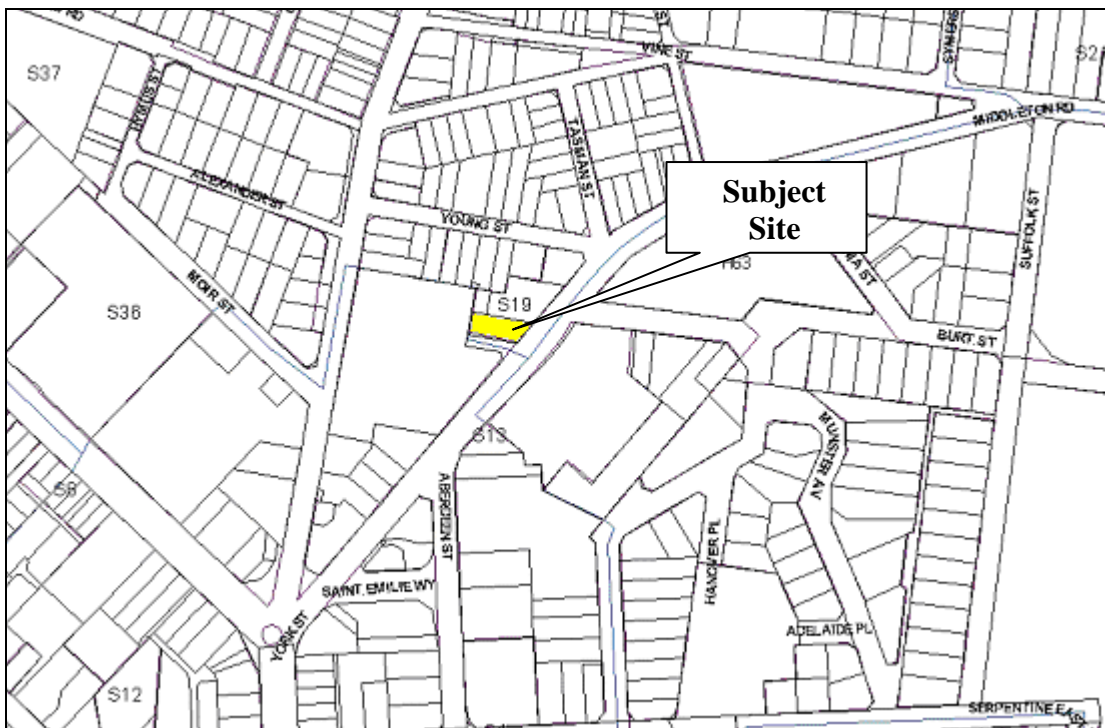
DEVELOPMENT SERVICES REPORTS

- R E P O R T S -

11.1 DEVELOPMENT

11.1.1 Development Application – Dental Surgery and Professional Offices – 298 Middleton Road, Centennial Park

- File/Ward** : A98621 (Frederickstown Ward)
- Proposal/Issue** : Application for Dental Surgery and Professional Offices
- Subject Land/Locality** : Lot 8, (298) Middleton Road, Centennial Park.
- Proponent** : Ian Howard and Associates
- Owner** : Colin Bales
- Reporting Officer(s)** : Planning Officer (A Nicoll)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : Recommend Refusal
- Bulletin Attachment** : Nil
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

BACKGROUND

1. Council received a planning application on the 18th March 2004 for the development of a new building to be located directly behind Dog Rock at Lot 8, (298) Middleton Road. The proposal involves the demolition of the existing building and the construction of a new contemporary building for the uses of dental surgery and professional offices.
2. The application for planning approval was advertised in the local newspaper and a sign placed on site for a period of three weeks closing on the 22nd April 2004. The application was also referred to the Heritage Council of Western Australia for comment.
3. The proponent previously applied for planning approval to demolish the existing building at the Council meeting of 15th January 2002. Council resolved to:

“grant a conditional Planning Scheme Consent for the demolition of the existing dwelling at 298 Middleton Road, Centennial Park once an application for a replacement building to house Professional Offices has been approved”.

STATUTORY REQUIREMENTS

4. The property has a base zoning of ‘Residential’.
5. In addition to the base zoning, the subject land is zoned ‘Special Site (19)’ which invokes two parts of the Scheme; clause 3.8 and Appendix II, which read:

“Clause 3.8 - Notwithstanding that a parcel of land described as a Special Site is within another zone, the land or any building thereon may be used for the purpose set against that parcel in the Schedule in addition to the uses permitted in the zone in which the land is situated, unless any of those uses is excluded or modified by a condition specified in the Schedule. The use of the parcel of land is also subject to any other conditions considered appropriate by the Council and stated opposite the parcel in the Schedule.”

“Appendix II - Development provisions of the Residential zone to apply with the exception of car parking provision which shall be in accordance with Council’s car parking policy for professional offices.

- *Vehicular access and car parking provision to be designed to Councils satisfaction. All storm-water runoff to be contained on site and disposed of to Council’s satisfaction.*
- *The existing cottages on the lot are to be retained and refurbished and the gardens are to be upgraded and maintained to Councils satisfaction.*
- *Extensions and additions to the premises should recognize the residential character of the buildings and be sympathetic with the Middleton Road streetscape and the adjacent place of heritage value.”*

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

6. The applicant, under advice from staff, has lodged this application for consideration. In order for Council to consider this application, Council must follow clause 4.10 of the Scheme, as the proposal does not comply with a requirement of the Scheme. Council staff advertised the application so that clauses 4.10.1 and 4.10.2 could be used.

Clause 4.10 of Scheme 1A states:

“Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning consent and does not comply with a standard or requirement prescribed under the Scheme, the Council may, despite that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.”

Clause 4.10.1 of Scheme 1A states:

“In considering an application for planning consent under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration of the variation, the Council is to;

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 7.5; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation.”*

Clause 4.10.2 of Scheme 1A states:

“The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 7.8; and*
- (b) the non compliance will not have an adverse effect upon the occupiers and users of the development or the inhabitants of the locality or upon the likely future development of the locality.”*

7. In relation to clause 4.10.2 (b) the applicant needs to satisfy Council that the demolition and redevelopment will not have an adverse effect on the locality.

POLICY IMPLICATIONS

8. The application at hand does not provide the required car parking as per the Policy Guideline 7 of TPS1A for Special Sites, which requires car parking at the following rate for Professional Office: *3 bays per professional for the first 2 professionals and 2 bays per 20sqm Gross Floor Area thereafter.* At this rate, the application is approximately 20 car bays short.

FINANCIAL IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

11. Aspects to be considered in this report include the Dog Rock precinct, comments made by the public and the heritage Council, the demolition of the existing building and the replacement by a new building.

12. Dog Rock

Dog Rock is a place of heritage significance; which, as stated in the Municipal Inventory, *requires conservation for the significance of the place*. Therefore any demolition/construction should be sympathetic to the Rock.

13. Public Comment

On the completion of advertising, one submission was received making the comment that the property should be improved, as it is currently a community eye-saw and detracts from Dog Rock's status as a tourist attraction.

14. Heritage Comment

The Heritage Council made the comment that *“retention of the cottage and appropriate refurbishment, with the possibility of sympathetic extension/addition is the preferred option; however, should Council uphold the decision to allow demolition, the replacement development should maintain the residential character of the area near Dog Rock”*.

15. Demolition

In accordance with the Scheme, clause 7.2 *permitted development*, demolition may be permitted except where the building is *heritage listed* or in this case *except as otherwise provided in the scheme*. The Scheme requirements specifically state that; *the existing cottages on the lot are to be retained and refurbished and the gardens are to be upgraded and maintained to Councils satisfaction*. If this clause is read in isolation, the existing building should be retained.

16. Replacement Building

It is provided in the Scheme that; *“extensions and additions to the premises should recognize the residential character of the buildings and be sympathetic with the Middleton Road streetscape and the adjacent place of heritage value”*. Plans illustrating the existing building and the proposed development have been included in this report for Council deliberation. The plans show building setbacks, heights, and materials. The setbacks and heights are similar between the old and new however the use of materials and building form are somewhat different. To build in the style proposed, would be consistent with the provisions of the Scheme.

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

17. Additionally it should be noted that Council previously amended Town Planning Scheme 1A, (via amendment 111) to specifically retain the existing buildings. The amendment was gazetted at the end of 1997 and it is of the opinion of staff that no significant changes have occurred in this area to change the policy direction of Council. If Council is to change direction, a Scheme amendment process should be undertaken.
18. Other properties that form part of the Special Site, have undertaken maintenance and upgrading of the structures. Within this area this site is the only structure not to have this occur, within this area.
19. In considering the requirements of the Scheme and the comments made by the public and the Heritage Council, staff recommend that the application involving demolition and redevelopment be refused.

RECOMMENDATION

THAT Council, issue a planning scheme consent refusal under Town Planning Scheme 1A for the demolition and proposed new development of lot 8 (298) Middleton Road, Centennial Park for the following reasons:

- i) the proposed development is inconsistent with Clause 4.10 of the Scheme;
- ii) the existing cottage should be retained and restored pursuant to condition 2 of item 19 of Schedule 11 of the Scheme; and
- iii) the proposed building is of contemporary design and inconsistent with condition 3 of item 19 of Schedule 11 of the Scheme.

Voting Requirement Absolute Majority

.....

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR WELLINGTON**

THAT Council;

- i) issue a conditional Notice of Planning Scheme Consent to Ian Howard and Associates to allow for the demolition of the cottage at lot 8 (298) Middleton Road, Centennial Park;**
- ii) lay on the table the application for approval for a new development on lot 8 (298) Middleton Road to allow the owner and architect time to modify the contemporary façade of the building and make it more consistent with the scheme requirements for the lot, particularly clause 4.10.2 of the scheme.**

MOTION CARRIED 10-3

DEVELOPMENT SERVICES REPORTS

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR WILLIAMS**

- iii) issue delegated authority to the Manager Development to issue a Conditional Planning Scheme Consent for the demolition of the building at lot 8 (298) Middleton Road pursuant to clause 7.21 of Town Planning Scheme 1A.**

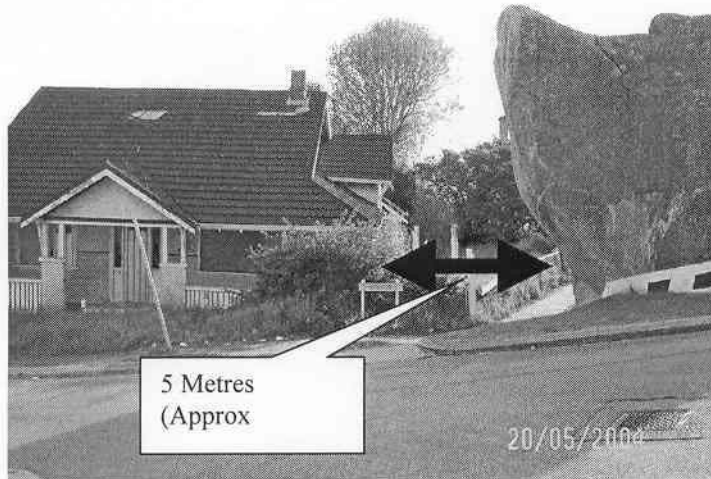
**MOTION CARRIED 10-3
ABSOLUTE MAJORITY**

Reason:

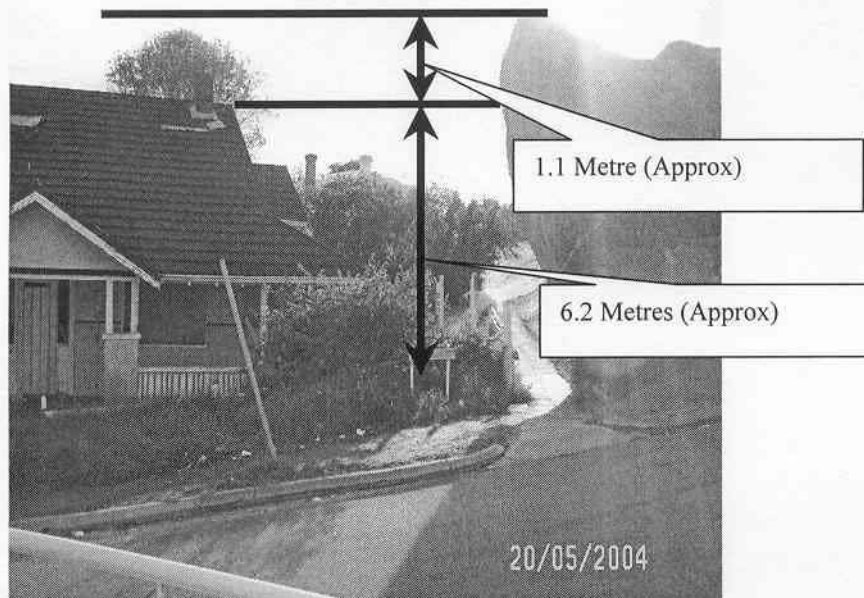
- There is a dilapidated building alongside a City icon and the City's reputation is being tarnished whilst Council maintains the standoff with the owner. The Middleton Road streetscape needs to be protected and the architectural solution being offered is inconsistent with that streetscape. The motion allows the existing building to be removed but requires greater effort from the architect on its replacement.

Item 11.1.1 continued

Development In Relation to Dog Rock Dog Rock



Height Relationship

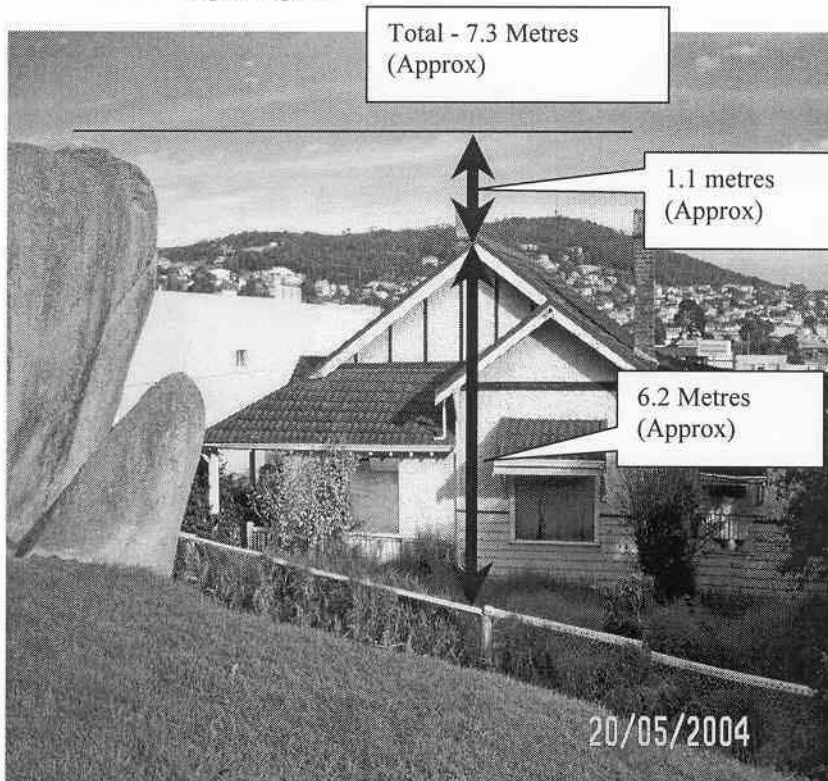


Item 11.1.1 continued

Neighbouring Building



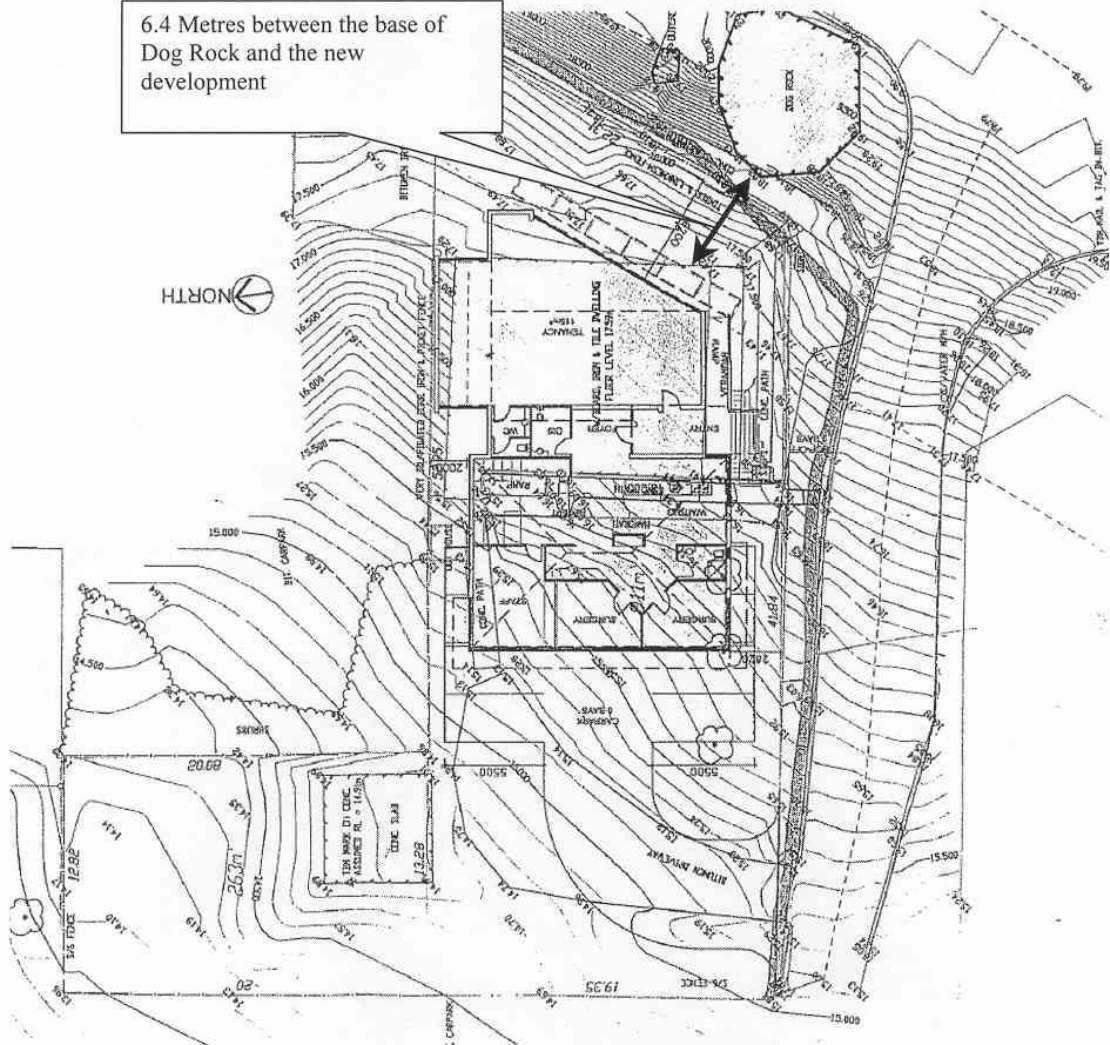
Building Heights



Item 11.1.1 continued

Site Plan – Proposed Development

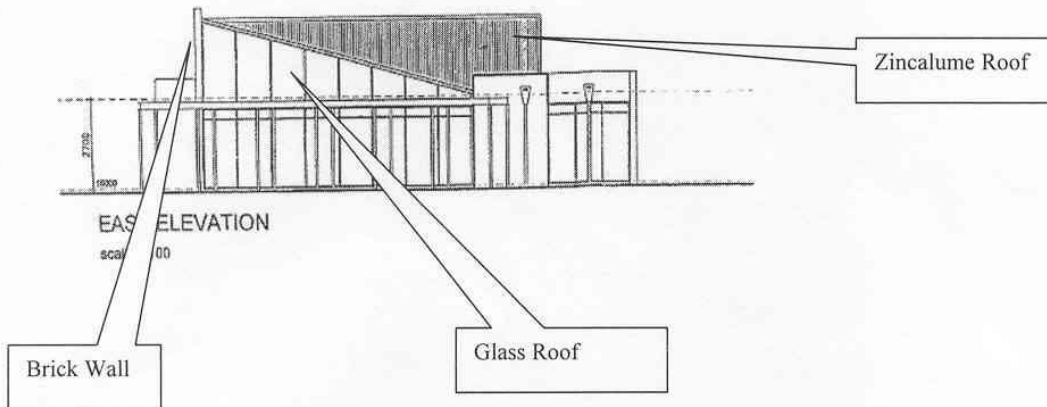
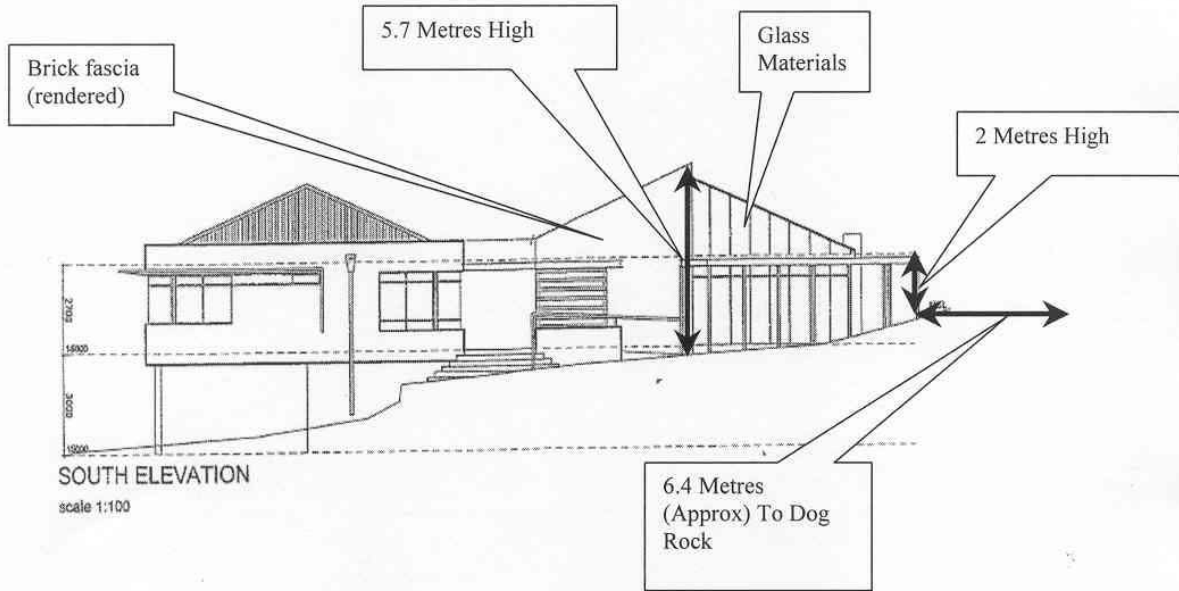
6.4 Metres between the base of Dog Rock and the new development



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

Elevations – Proposed Development



DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

From: 08 94721436 Page: 2/3 Date: 25/05/2004 10:09:23 PM

Regional Heritage Advisory Service



**HERITAGE
COUNCIL**
OF WESTERN AUSTRALIA

Your Ref: A98621/PA6392/P245124

Our Ref:

Enquiries: Jacqui Sherriff 9472 1436
0400 050 115

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

Attention: Adrian Nicoll, Planning Officer

Dear Mr Hammond

Application for Planning Consent – Consulting Rooms – Dental Surgery

Thank you for the opportunity to provide additional comment on the application to establish Consulting Rooms – Dental Surgery at 298 Middleton Road, Centennial Park.

As discussed, there are several issues involved in previous council decisions and the present proposal.

1. Notwithstanding Council's decision on 15 January 2002 to grant conditional Planning Consent for demolition of the existing cottage, the TPS1A conditions specific to the Special Site zoning for the property is strongly supported. Namely, that the existing cottage on the lot is to be retained in the garden setting and that extensions and additions recognise the residential character of the buildings and be sympathetic to the Middleton Road streetscape and the adjacent Dog Rock.

Retention of the cottage and appropriate refurbishment, with the possibility of sympathetic extension/addition is the preferred option.

2. Should Council uphold the decision to allow demolition, the replacement development should maintain the residential character of the area near Dog Rock in terms of scale, materials and setback from the street frontages. Any development should incorporate gardens. The development should also be in line with the City of Albany's Design Guidelines.
3. Comments on the present proposal have previously been provided in correspondence dated 17 May 2004.

Retention or redevelopment of garden elements should be condition of any approval.



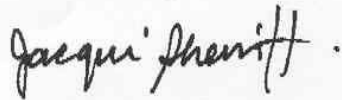
DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

From: 08 94721436 Page: 3/3 Date: 25/05/2004 10:09:23 PM

Once again, thank you for the opportunity to comment on this proposal and please do not hesitate to contact me should you require clarification or further information.

Yours sincerely

A handwritten signature in black ink that reads "Jacqui Sherriff". The signature is written in a cursive style with a period at the end.

Jacqui Sherriff
Great Southern Regional Heritage Advisor

25 May 2004

DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

A98621
PLAN 3

| | |
|--------------------------|---------|
| CITY OF ALBANY - RECORDS | |
| FILE: | A98621 |
| DOC: | 1402886 |
| 19 APR 2004 | |
| OFFICER: | PLAN 3 |
| Attach: | |

5 Cardington Way,
Huntingdale, 6110.

Dear Mr Hammond,
CEO, City of Albany.

As a regular visitor to Albany, I have noticed the deteriorating condition of a property below one of Albany's Tourist Icons, being Dog Rock below Middleton Rd.

On my last visit over Easter, a PUBLIC NOTICE had been placed in front of the property, indicating the owner wishes to develop for use as a Dental Surgery and inviting comment.

Whether this proposal is approved or not, I believe the condition of this property should be improved as soon as possible, as it is a community eye sour and detracts from Dog Rock's status as a well known and long standing tourist attraction.

In the short time I was reading the PUBLIC NOTICE, 2 visitors took photos of Dog Rock and made comment on the condition of the house below it. This property, which I have been told is Heritage Listed, has in the past been kept in excellent condition.

I hope that it can be returned to a more attractive state upon resolution of this matter at your forthcoming Council Meeting.

Yours sincerely,
John Bairstow.

DEVELOPMENT SERVICES REPORTS

11.2 INSPECTION SERVICES

11.2.1 Environmental Protection Act – Role of Environmental Health Officers

| | |
|-------------------------------|----------------------------------------------------------------------------------------------------|
| File/Ward | : GOV 024 (All Wards) |
| Proposal/Issue | : Council involvement in policing the Environmental Health Act |
| Subject Land/Locality | : N/A |
| Proponent | : N/A |
| Owner | : N/A |
| Reporting Officer(s) | : Executive Director Development Services (R Fenn) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Nil |
| Summary Recommendation | : Reduce Council involvement in policing Act and Regulations |
| Bulletin Attachment | : Letter from Department of Environment on Environmental (Unauthorised Discharge) Regulation 2004. |
| Locality Plan | : Nil |

BACKGROUND

1. At the March 2004 meeting of Council an agenda item was considered which had supporting information supplied by the City's Environmental Health Officers (EHO's) on the noise generated upon the subject land. Concern was raised by some Councillors on the City's EHO's involvement in noise monitoring and enforcement.
2. This agenda item provides an opportunity for Councillors to determine the City's service delivery standards in this area.

STATUTORY REQUIREMENTS

3. The *Environmental Protection (Noise) Regulations 1997* were gazetted on the 31st August 1997 as subordinate legislation under the Environmental Protection Act 1986. That legislation replaced the Noise Abatement (Neighbourhood Annoyance) Regulations 1979 which were administered under the Health Act 1911.
4. The City of Albany's Chief Executive Officer and the EHO's are authorised officers under the *Environmental Protection (Noise) Regulations 1997* and they have the delegated powers, but not the statutory obligation to administer the Regulations.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

5. Section 182 of the Health Act 1911 defines a nuisance as follows:

“A nuisance shall be deemed to be created in any of the following cases :

- (1) where a pool, ditch, gutter, watercourse, sanitary convenience, or drain is so foul or out of repair, or otherwise in such a state as to be offensive or injurious or dangerous to health; or*
- (2) where any animal is so kept as to be a nuisance or injurious or dangerous to health; or*
- (3) where there exists an accumulation or deposit which is offensive or injurious or dangerous to health; or*
- (4) where any house or premises are in such a state as to be a nuisance or injurious or dangerous to health; or*
- (5) where any way, lane, passage, yard, land, or premises are in such a state in regard to drainage as to be offensive or injurious or dangerous to health; or*
- (6) where any house or part thereof is so overcrowded as to be injurious or dangerous to the health of the inmates; or*
- (7) where any factory, workroom, laundry, shop, office, warehouse, or other business-place, or any portion thereof :*
 - (a) is so structurally defective, or is so dilapidated as to be unsafe or dangerous or injurious to the health of the inmates; or*
 - (b) is so unclean as to be offensive or injurious or dangerous to health; or*
 - (c) is not with regard to the inmates sufficiently supplied with fresh air; or*
 - (d) is not so ventilated as to render harmless, as far as practicable, all gases, fumes, dust, or other impurities generated in the course of the work carried on therein; or*
 - (e) is so overcrowded as to be injurious or dangerous to the health of the persons employed therein; or*
 - (f) is insufficiently supplied with natural light; or*
 - (g) is not provided with sufficient sanitary conveniences; or*
- (8) where any house or premises are in such a state as to harbour rats; or*
- (9) where an offensive trade is so carried on as to be injurious or dangerous to health or unnecessarily offensive to the public; or*
- (10) where any fireplace or furnace is used in working engines by steam or in any manufacturing or trade process whatever and does not as far as practicable consume its own smoke; or*
- (11) where any chimney (not being the chimney of a private dwelling-house) sends forth smoke in such quantity or of such a nature as to be offensive to the public, or injurious or dangerous to health; or*

DEVELOPMENT SERVICES REPORTS

- (12) *where any drainage falls into any harbour or river or on to any foreshore so as to be offensive or injurious or dangerous to health; or*
- (13) *where any building or portion of any building set aside for the purpose of parking more than 3 vehicles is not so ventilated as to prevent the presence therein of carbon monoxide in excess of the concentration that is prescribed for the purposes of this subsection,*

and any such nuisance may be abated and dealt with under any of the provisions of this Act applicable for the purpose:

Every person by whose act, default, or sufferance any nuisance within the meaning of this Act arises or continues commits an offence. “

POLICY IMPLICATIONS

6. The *Environmental Protection (Noise) Regulations 1997* deal with all noise passing from one premise to another, noise from public places which affect adjoining premises and they provide a basis for determining acceptable noise levels in relation to land uses. The Regulations do not deal with noise inside a building, road and train traffic, aircraft in flight or safety warning devices. There are also special exemptions in place for certain agricultural and household activities, blasting, the construction industry, community activities and outdoor concerts.
7. The impact of noise can be assessed either by the measurement of the sound levels or by ear (only by a police officer or an authorised person).

FINANCIAL IMPLICATIONS

8. The City of Albany owns, in partnership with several other Councils in the Lower Great Southern, a noise meter, which is capable of accurately recording noise levels, generated on a property. That meter is returned to the manufacturer biennially to be calibrated to ensure any recordings taken are accurate.
9. The City’s sound meter is of “reasonable to good quality” and considerable further investment in officer training and technology (eg. Modifying the meter so that it can read real time, third octave filters) could be undertaken if Council wished to become proficient in the field of noise measurement and enforcement. Modifying the meter would cost in the order of \$4000.

STRATEGIC IMPLICATIONS

10. The City’s EHO’s are employed by the City of Albany and they are authorised officers under various pieces of legislation. More importantly, the City engages an EHO to administer primarily the Health and Local Government Acts and the officer must be gazetted by the Director General of Public Health as part of their employment conditions. Delegation of EHO’s under certain sections of the Environment Act has allowed the State Government to downsize the Department of Environment and transfer environmental management to Local Government through traditional cost shifting processes.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

COMMENT/DISCUSSION

11. The Department of Environment has historically called upon Local Authorities to administer legislation created by the Minister for the Environment under the *Environmental Protection Act 1986*. As an example, the *Environmental (Unauthorised Discharge) Regulations 2004* were gazetted in March 2004 and the Acting Director of the Environmental Management Division of the Department wrote to Council advising that “*the regulations are available for use by local governments that elect to have officers authorised to do so*”.
12. A copy of the above correspondence is included in the Elected Members Report / Information Bulletin and it is interesting to note that the DoE Officer who wrote the letter mentions that “*.....the regulations are not compulsory. Concern was raised in the above correspondence that there may be some cost shifting or devolution of duties from state government to local government. This is not the case, as the DoE will continue to manage large industries (those licensed or registered...)*”. In the City of Albany there are only 19 premises licensed (nine are liquid and solid waste sites) and 22 registered premises (five are Water Corporation facilities). The commitment only extends to 41 premises, meaning the DoE would be expecting Council to administer the new regulations on all other sites in the City and the DoE will continue to set staffing levels in the Great Southern accordingly (i.e. one full time inspector). If the Minister for the Environment feels it necessary to legislate to control unauthorised discharges, noise nuisances, etc, on behalf of the community, she must then supply the resources needed to implement that action and not rely upon others to do so.
13. The Inspection Services team at the City of Albany recently reviewed its service delivery requirements and was concerned that the health inspection task of the City’s EHO’s had been eroded over time, resulting primarily from those officers assumed a greater role in environmental management and policing on behalf of the DoE. A decision was taken in 2002 by executive staff that the EHO’s should concentrate on the inspection of food premises and resolving health and sanitation issues. The resultant change in service focus has forced several premises to upgrade work practices to meet acceptable food and health standards and it forced the DoE to place an environmental inspector into the region.
14. An ingrained culture in the DoE that local government has the resources and the personnel to resolve all “nuisance complaints” has caused considerable anxiety amongst ratepayers who have traditionally sought help from the City and that help is no longer being extended. The EHO’s involvement in noise nuisances has been reduced to simple investigations dealing with residential nuisances (using sheds for band practice, etc) which are resolvable through negotiation or an infringement process. No actions have been accepted by City staff on industrial, commercial or agricultural noise complaints over the past 12 months or so, due to the complexity of the enabling legislation and the need to engage experts in noise measurement to record and resolve those complaints. Also, unauthorised discharges into the environment have been referred elsewhere as they are capable of being dealt with more expediently through environmental, land care and water management legislation administered and policed by other agencies.

DEVELOPMENT SERVICES REPORTS

Item 11.2.1 continued

- 15. A Health Plan for the City is currently being drafted which will set out Environmental Health service delivery expectations for the City into the future and that plan will concentrate on the City’s obligations to the Director General of Public Health, plus those areas where Council has introduced a Local Law to deal with nuisance (eg sand drift). The following recommendation seeks to gain Council acknowledgement of a greatly reduced role for the EHO’s in the area of policing and investigating environment nuisances.

RECOMMENDATION

THAT Council, as a matter of policy;

- i) refer any complaints received from the public regarding noise nuisances, other than those of a minor nature and associated with residential land use activities, to the Department of Environment to resolve; and
- ii) not become involved in the policing or investigation of complaints of environmental nuisance where the cause may be a breach of the Environmental Protection Act 1986, or Regulations created under that Act.

AND

THAT Council support the action taken by the Inspection Services Team to review their service delivery obligations and that Council receive, at the appropriate time, a briefing from the Manager of Inspection Services on the contents of the proposed City of Albany Health Plan.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR EVANS
 SECONDED COUNCILLOR BARTON**

THAT Council lay this item on the table for a period of one month.

MOTION CARRIED 13-0

Reason:

The Department of Environment’s Regional Manager for the South Coast Region has raised a number of issues relating to this matter which need to be more fully discussed by Staff and Councillors.

DEVELOPMENT SERVICES REPORTS

11.2.2 Appointment of Chief Bush Fire Control Officer

| | |
|-------------------------------|----------------------------------------------------|
| File/Ward | : SER 042 (All Wards) |
| Proposal/Issue | : Appointment of Chief Bush Fire Control Officer |
| Subject Land/Locality | : N/A |
| Proponent | : City of Albany |
| Owner | : N/A |
| Reporting Officer(s) | : Executive Director Development Services (R Fenn) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Nil |
| Summary Recommendation | : Appoint Chief Bush Fire Control Officer. |
| Bulletin Attachment | : Nil |
| Locality Plan | : Nil |

BACKGROUND

1. At it's meeting on the 16th March 2004, Council unanimously resolved:
“THAT Council;
 - i) *advise the Bush Fire Advisory Committee that it does not consider that the appointment of the Chief Bush Fire Control Officer with a fully qualified, trained, paid employee of the City of Albany is an option and that the committee be requested to provide alternate options for the appointment;*
 - ii) *advertise for expressions of interest from suitable people to fill the voluntary role of Chief Bush Fire Control Officer at the City of Albany for a period of 12 months; and*
 - iii) *receive a briefing and a supplementary report from the Executive Director Development Services, no later than the May 2004 meeting, advising on the options available to Council to allow a staff member to be a caretaker for the Chief Bush Fire Control Officer for a period of 12 months, should a suitable volunteer not come forward.”*
2. A supplementary report was then provided to the City of Albany's Bushfire Advisory Committee Meeting held on the 19th April 2004 by the Executive Director Development Services, outlining a number of operational and strategic issues associated with the appointment of a Chief Bush Fire Control Officer.

DEVELOPMENT SERVICES REPORTS

Item 11.2.2 continued

3. After considerable debate the Bush Fire Advisory Committee unanimously passed six recommendations, which they submitted for Council's consideration. Those recommendations are:
 - i) *“THAT, prior to the 2004/05 fire season, the City of Albany review the Strategic Bushfire Plan 2000-2005, in consultation with the Bush Fire Advisory Committee, to redefine the roles of the CBFCO, DCBFCO's and FCO's during type 1, 2 and 3 fire incidents and the relevant Bushfire Brigade Operating Procedures dealing with response procedures.*
 - ii) *THAT the City be requested to provide an appropriate person to fill the position of Chief Bush Fire Control Officer for a minimum period of 12 months, with particular emphasis being made, when filling the position, to appointing an individual who has the capacity to interact with the City's VBFB members and the agencies responsible for emergency response and prevention.*
 - iii) *THAT the City be encouraged to maintain appropriately skilled and qualified officers to assist the CBFCO during type 2 and 3 fire incidents.*
 - iv) *THAT a report be submitted to the April 2005 meeting of the Bushfire Advisory Committee highlighting any operating anomalies resulting from the first year's operation of the modified procedures and the Bushfire Advisory Committee be provided the opportunity to provide recommendations to the Council of the City of Albany on modifications to any operating or management procedures, if deficiencies exist, prior to those modifications being implemented.*
 - v) *THAT the appointed CBFCO be requested to, as a high priority, liaise with VBFB's on appropriate succession planning within the VBFB network to ensure appropriately motivated and trained volunteers are available to maintain and advance the VBFB network within the City of Albany into the future.*
 - vi) *THAT an investigating committee be established to document the role and qualifications of all senior officers. The committee be comprised of five (5) representatives from each sector, the interim CBFCO, the Administration Officer (Bushfire) and Executive Director Development Services.”*
4. Advertisements have been placed in local newspapers calling for expressions of interest for volunteers wishing to fill the role of Chief Bush Fire Control Officer with the City of Albany for a period of twelve months. Nominations were to be lodged with the City by 5pm Wednesday 12 May 2004 and Mr Charlie Butcher, the Senior Fire Control Officer for the South West Sector was the only person to nominate for the position. A copy of Mr Butcher's submission follows this report.

DEVELOPMENT SERVICES REPORTS

Item 11.2.2 continued

STATUTORY REQUIREMENTS

5. Section 38 of the Bush Fires Act, 1954 requires a local authority to appoint a Chief Bush Fire Control Officer and the Act further sets out a range of powers that are available to the Chief, to Deputy Chief Bush Fire Control Officers and to Fire Control Officers when they are required extinguish or prevent the spread of a bush fire.

POLICY IMPLICATIONS

6. The City of Albany does not have a written policy on the appointment of its Chief Bush Fire Control Officer, the volunteer bush fire brigades have previously been able to recommend to Council a suitable applicant for the position from amongst their ranks.

FINANCIAL IMPLICATIONS

7. The Emergency Services Levy, introduced by the State Government, covers all costs associated with the operation of volunteer bush fire brigades and the extinguishing of wild fires lit throughout the district. Funding made available to local governments through the levy is not capable of being applied for fire prevention or the employment of staff. The “reasonable cost” incurred by Senior Bush Fire Officers can be met from the levy.

STRATEGIC IMPLICATIONS

8. The report considered by the Bush Fire Advisory Committee highlighted that the role of the Chief Bush Fire Control Officer needs to be more focused on the individual interacting with the City’s Volunteer Bush Fire Brigade members and the agencies responsible for emergency response and provision. The need for the Chief Bush Fire Control Officer to be actively involved in managing fires has been greatly reduced by the Bush Fire Advisory Committee’s decision to appoint Deputy Chief Bush Fire Control Officers for the North East and South West sectors of the district. Those two officers have the capacity to focus their attention on a smaller number of brigades, to be more specialised in fire suppression requirements for the areas within which they operate and to have a significantly reduced workload to that which is currently experienced by the Chief Bush Fire Control Officer.
9. As detailed in the recommendations from the Bush Fire Advisory Committee, a review of the City’s Strategic Bush Fire Plan 2000 – 2005 is required to ensure that the roles of the senior officers in the bush fire network are appropriately described, and the operating procedures expected of those officers is appropriately documented.

DEVELOPMENT SERVICES REPORTS

Item 11.2.2 continued

COMMENT/DISCUSSION

10. The Volunteer Bush Fire Brigade network has requested that Council provide an appropriate person to fill the position of Chief Bush Fire Control Officer for a minimum period of twelve months, with particular emphasis being made to appointing an individual who has the capacity to interact with the City's Volunteer Bush Fire Brigade members and the agencies responsible for emergency response and protection. The person filling that position should also, in some point in their life, have filled the position of Fire Control Officer in a volunteer bush fire brigade as they may be called upon to take charge of a wild fire. Notwithstanding that there may be individuals in the community who have outstanding public relations skills, Council would be subjecting itself, the individual and the City's insurers to considerable risk if the Chief Bush Fire Control Officer did not have some operational experience and suitable training as a volunteer bush fire brigade member.
11. A considerable depth of technical skills has been developed within the staff of the City of Albany to deal with major emergency management incidents. Council officers would continue to be available when called upon by the Chief Bush Fire Control Officer for incident control. Staff would prefer that they not be called upon to fill the position of Chief Bush Fire Control Officer.
12. There are currently a number of Councillors who are either serving or past members of volunteer bush fire brigades and an elected member could assume the CBFCO's position if required.
13. Mr Butcher's nomination was discussed at the most recent meeting of the Bush Fire Management Committee and that committee has promoted Mr Butcher as a suitable candidate to move the debate forward.

RECOMMENDATION

THAT Mr Charlie Butcher be nominated as the Chief Bush Fire Control Officer for the City of Albany for the 2004/5 Fire Season and that the City's Strategic Bush Fire Plan 2000 – 2005 be modified to reflect a changed role for Senior Officers within the Volunteer Bush Fire Brigade network into the future.

Voting Requirement Simple Majority

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| <p>MOVED COUNCILLOR JAMIESON SECONDED COUNCILLOR BOJCUN</p> <p>THAT Mr Charlie Butcher be nominated as the Chief Bush Fire Control Officer for the City of Albany for the 2004/5 Fire Season and that the City's Strategic Bush Fire Plan 2000 – 2005 be modified to reflect a changed role for Senior Officers within the Volunteer Bush Fire Brigade network into the future.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p> |
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DEVELOPMENT SERVICES REPORTS

Item 11.2.2 continued

Charlie Butcher.
RMB 9092b,
Lower Denmark Road,
Young's Siding,
Albany. WA. 6003.
Phone/fax 98 452 096.

Mr Robert Fenn,
Executive Directive Development Officer,
City of Albany,
PO Box484,
Albany. WA 6330. 12th may 2004.

Re “Volunteer Chief Bush Fire Control Officer”

Dear Robert,

Several Bush Fire Brigade Members, from several Volunteer Brigades have approached me. to apply for the above position At my age I am not looking for full time work and nor did I intend to apply for this position, but after conversation's with several Brigade Members from the South West Section, I will register an interest in the position.

As part of my duties to “Li’aise with Volunteer Bush fire brigades” as the South West Senior Fire Control Officer, I am presently attending as many as possible, Volunteer brigade meetings within the South West District.

I have had 15 years experience as an industrial advocate before both the Federal and State Industrial commissions as well as acting as a member of “Board of References” handing down written decisions, with the WA State Industrial Commission. I have also been heavily involved with major Industrial Labor agreement negotiations, which involved liaison and investigation with all parties, and took several months to complete each agreement, under very difficult conditions.

If the fire community, wish to use the above skills, to assist with the setting up of the Albany Bush Fire network for the future, then I am more than willing to be involved. I would approach the task with a “confidential” and completely open mind to all views and all parties with an interest without exception.

This late application does not allow me to approach “recent referees” But will do so if that is the wish of the selection panel.

In the task involved, as set out in the advertisement for the position, I see the need to have assistance with secretarial, legal, organizational correspondence, and transport problems because of the area that would need to be physically covered. Please contact me at any time if you need further information

Yours faithfully,

Charlie Butcher. Senior Fire Control Officer for the South West.
e-mail, charlieb7@bigpond.com

DEVELOPMENT SERVICES REPORTS

11.3 DEVELOPMENT POLICY

11.3.1 Planning Consultancy Report - Request to Adopt Concept Paper - Defining Central Albany

| | |
|-------------------------------|-----------------------------------------------------------|
| File/Ward | : STR 128 (Frederickstown Ward) |
| Proposal/Issue | : Draft Concept Paper for Defining Central Albany project |
| Subject Land/Locality | : Various |
| Proponent | : Taylor Burrell Barnett |
| Owner | : Various |
| Reporting Officer(s) | : Strategic Planning Officer (P Shephard) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Nil. |
| Summary Recommendation | : Adopt draft for public consultation purposes |
| Bulletin Attachment | : Nil. |
| Locality Plan | : Nil. |

BACKGROUND

1. Councillors were briefed by Bill Burrell (Taylor Burrell Barnett) on 25th May 2004 on the outcomes contained within the Concept Paper (Stage 1) of the Defining Central Albany project.
2. The next stage of the project involves undertaking stakeholder workshops/public consultation on the Concept Paper followed by preparation of the draft Strategy. These workshops have been planned for 25th August 2004.

STATUTORY REQUIREMENTS

3. The Defining Central Albany project is subject to a contract requiring the consultant to complete the requirements of the project brief.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

5. There are financial implications relating to this item.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

STRATEGIC IMPLICATIONS

6. The Defining Central Albany project has as an objective:

“The main aim is to develop 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.”

COMMENT/DISCUSSION

7. As a result of an internal referral of the draft Concept Paper, the following matters were raised:

- Transport planning does not appear to be based around trip destinations but merely improving traffic flow. Staff consider that more background/detail needs to be provided within the report to substantiate and explain the solutions proposed (eg. bicycle/pedestrian routes, traffic lights, channelisation, north-south links through to Stirling Terrace, impacts of solutions etc.)
- The integration of transport planning within the Defining Central Albany project must be a key outcome to support the implementation of the planning proposals.
- The draft should simply highlight the issues identified through the literature review and the analysis undertaken by the consultant so far.
- The Concept Paper could be simplified to:
 - include the literature review as an appendix to the Concept Paper.
 - include the context analysis as an appendix to the Concept Paper.
 - combine the individual precincts into the 4 main areas.
 - delete the specific traffic solutions shown in the Concept Paper and for them to be presented as options for discussion at the stakeholder workshops/public consultation.
- There is a clear need to identify to the public that the “Concept Paper” primarily quantifies the issues affecting the study area, as defined by the consultant and that the City has not formally agreed to any of the “planning solutions” contained in the paper.

8. The transport planning related issues highlighted in paragraph 5 above have been relayed to the consultants for their consideration and comment. It is important that these issues be addressed prior to the workshop.

9. Staff have the capacity to undertake the alterations to the draft Concept Paper prior to advertising.

DEVELOPMENT SERVICES REPORTS

Item 11.3.1 continued

- 10. It is important that the initial public consultation phase of the project look only at broad concepts that may address the issues identified by the consultant. It is equally important that the public be provided an opportunity to consider the issues affecting the study area and highlight any additional issues that may have been missed by the consultants. Some of the potential detailed solutions contained within the consultant’s draft Concept Paper may not be acceptable to the City or community and the workshops/consultation phase will allow for detailed solutions to be discussed and debated with input from appropriately qualified consultants. The “solutions” from the workshop will then be used as the basis for a second, more comprehensive consultation process.

- 11. This document is prepared to engender discussion on the issues affecting Defining Central Albany. It is not intended to provide detailed decisions on intersection treatments etc. Staff feel that where the plan has currently provided detailed design solutions, it should be adjusted accordingly. The land usage activities proposed in the Concept Paper need to be capable of being supported by the transport network and vice versa, with adequate supporting documentation to justify the outcome being proposed.

RECOMMENDATION

THAT Council support the advertising of the draft Defining Central Albany Concept Paper and its use in the stakeholder workshops/public consultation phase of the project, subject to the alterations contained within paragraph 5 of the Officer’s report being completed to the satisfaction of the Executive Director Development Services, prior to advertising.

Voting Requirement Simple Majority

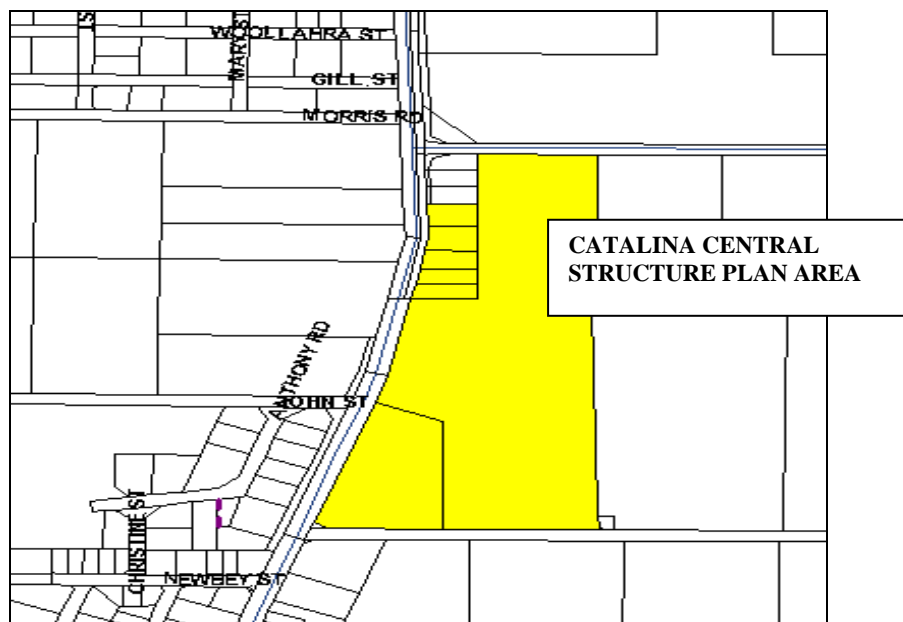
.....
Executive Director Development Services advised that there was a typographical error in the recommendation and paragraph 8 of the report. Reference should be made to paragraph 7 instead of paragraph 5.

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| <p>MOVED COUNCILLOR JAMIESON SECONDED COUNCILLOR BARTON</p> <p>THAT Council support the advertising of the draft Defining Central Albany Concept Paper and its use in the stakeholder workshops/public consultation phase of the project, subject to the alterations contained within paragraph 5 of the Officer’s report being completed to the satisfaction of the Executive Director Development Services, prior to advertising.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p> |
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DEVELOPMENT SERVICES REPORTS

11.3.2 Scheme Policy – Request to Adopt Policy - Catalina Central Planning Framework

- File/Ward** : STR 049 (Yakamia Ward)
- Proposal/Issue** : Revised Catalina Central Planning Framework (CCPF)
- Subject Land/Locality** : Lots 6, 7, 8, 12, 13, 39, 40, 101 & 293 Chester Pass/Catalina/Mercer Roads, Lange
- Proponent** : Taylor Burrell Barnett
- Owner** : Kingopen Pty Ltd
- Reporting Officer(s)** : Strategic Planning Officer (P Shephard)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 18/05/04 - Item 18.2
OCM 17/06/03 - Item 11.3.2
OCM 18/03/03 - Item 11.3.1
OCM 18/02/03 - Item 11.3.3
OCM 16/10/01 - Item 11.3.2
OCM 26/06/01 - Item 11.1.2
- Summary Recommendation** : Adopt revised Catalina Central Planning Framework
- Bulletin Attachment** : Nil.
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

BACKGROUND

1. At its May 2004 meeting (Item 18.2), Council resolved as follows:

“THAT Council adopt the draft Catalina Central Planning Framework prepared in accordance with Clause 5.22 document and advertise for public comment in accordance with Clause 6.9.2 of the Town Planning Scheme No. 3, subject to the modifications contained in the attached schedule;

- i) make allowance within ‘Signage’ on page 35 for combined centre signs;*
- ii) altering ‘Landscaping’ on page 33 to require raised garden beds to be between 900 – 1500 mm in height (including the mounding/plants) in accordance with the Landscape Master Plan; and*
- iii) modify Clause 4.1.2.4 on page 20 of the Precinct Plan to allow flexibility in allocating the 6500m2 maximum Bulky Goods NLA throughout Precinct 1.”*

2. The document was advertised for a period of 21 days.

STATUTORY REQUIREMENTS

- 3. The existing Catalina Central Structure Plan (CCSP) is an adopted Town Planning Scheme Policy in accordance with Clause 6.9 of Town Planning Scheme No. 3.
- 4. A Town Planning Scheme Policy may only be altered or rescinded by following the procedures of Clause 6.9 of Town Planning Scheme No. 3.
- 5. Any adopted Town Planning Scheme Policy does not bind Council in making a decision, although the objectives and provisions of the Policy must be considered when determining an application for a development affected by the Policy.
- 6. The Precinct Plans and Design Guidelines are required to be adopted under Clause 5.22 of Town Planning Scheme No. 3.

POLICY IMPLICATIONS

- 7. There are various policies and strategies that have relevance to the CCPF including:
 - State Planning Strategy
 - WA Planning Commission Statement of Planning Policy No. 8 (SPP 8)
 - Albany Regional Strategy (1994)
 - Residential Expansion Strategy (1994)
 - Albany Commercial Centres Strategy 2001-2021 (1994)
 - Commercial Strategy Review (2000 – being revised)
 - Albany Local Planning Strategy (being prepared)
 - Yakamia Structure Plan (1998 - being revised)
- 8. The CCPF need to be adopted by Council under the provisions of Clauses 5.22 and 6.9 of Town Planning Scheme 3.

DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

FINANCIAL IMPLICATIONS

9. The proponents are required to advertise the final adoption of the CCPF in the local newspaper at it's own cost.

STRATEGIC IMPLICATIONS

10. Development of the subject property is required to be consistent with the objectives and provisions of the Albany Commercial Centres Strategy 2001-2021 (1994), Commercial Strategy Review (2000) and CCPF.

COMMENT/DISCUSSION

11. The advertising period concludes on Friday 10 June 2004 and staff will provide Council with a written report on the submissions prior to the meeting to allow a decision to be taken at the meeting.

RECOMMENDATION

THAT;

- i) Council, pursuant to Clause 6.9 'Power to Make Policies' of Town Planning Scheme No. 3, adopts the Catalina Central Structure Plan (Section 3 of the Catalina Central Planning Framework (CCPF)) as a final Town Planning Scheme Policy;
- ii) Council, pursuant to Clause 5.22, 'Mixed Business Zone' of Town Planning Scheme No. 3, adopts the Precinct Plans for Precincts 1 and 2 and Design Guidelines contained in sections 4 and 5 of the Catalina Central Planning Framework (CCPF); and
- iii) Pursuant to clause 6.9 of the City of Albany Town Planning Scheme No 3, Council resolve to rescind the Catalina Central Structure Plan policy adopted at the ordinary meeting on the 17th June 2003.

Voting Requirement Simple Majority

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DEVELOPMENT SERVICES REPORTS

Item 11.3.2 continued

Councillor Barton declared an interest in this item and left the Chambers at 8.02pm. The nature of her interest is that she is an employee with Coles Myers.

Executive Director Development Services advised that no submission had been received.

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR EMERY**

THAT;

- i) Council, pursuant to Clause 6.9 ‘Power to Make Policies’ of Town Planning Scheme No. 3, adopts the Catalina Central Structure Plan (Section 3 of the Catalina Central Planning Framework (CCPF)) as a final Town Planning Scheme Policy;**
- ii) Council, pursuant to Clause 5.22, ‘Mixed Business Zone’ of Town Planning Scheme No. 3, adopts the Precinct Plans for Precincts 1 and 2 and Design Guidelines contained in sections 4 and 5 of the Catalina Central Planning Framework (CCPF); and**
- iii) Pursuant to clause 6.9 of the City of Albany Town Planning Scheme No 3, Council resolve to rescind the Catalina Central Structure Plan policy adopted at the ordinary meeting on the 17th June 2003.**

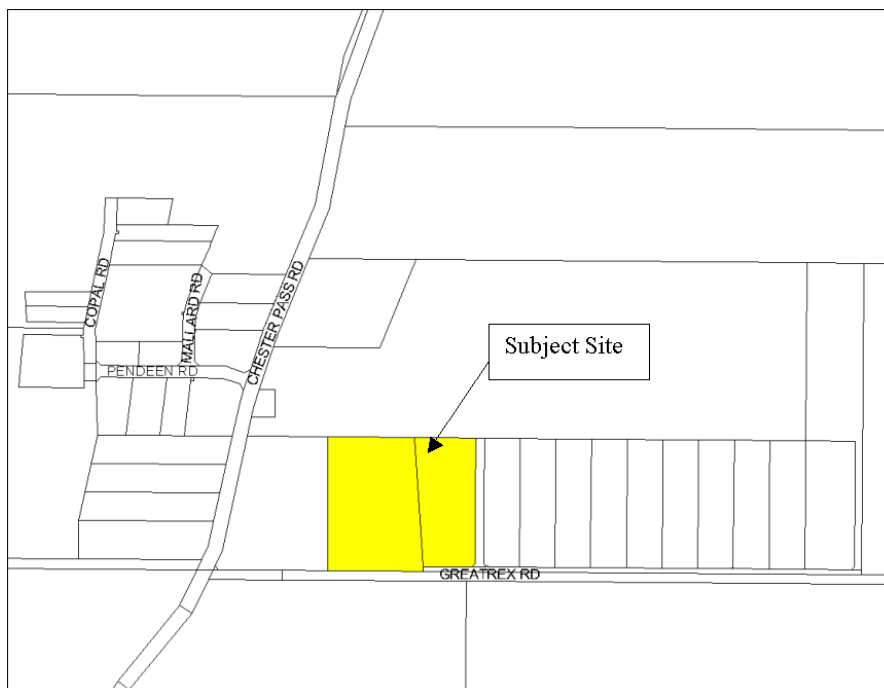
MOTION CARRIED 13-0

Councillor Barton returned to the Chambers at 8.03pm.

DEVELOPMENT SERVICES REPORTS

11.3.3 Scheme Amendment Request – Pt Lots 101 & 102, Chester Pass and Greatrex Roads, King River

- File/Ward** : A181432A (Kalgan Ward)
- Proposal/Issue** : Preliminary request to rezone Pt Lots 101 & 102, Chester Pass and Greatrex Roads, King River ‘Rural’ to ‘Special Rural Zone No. 17’
- Subject Land/Locality** : Pt Lots 101 & 102, Chester Pass and Greatrex Roads, King River
- Proponent** : Ayton Taylor Burrell
- Owners** : KJ & SM McIntyre, Nunagin Holdings Pty Ltd and Rebo (WA) Pty Ltd
- Reporting Officer(s)** : Planning Officer – Policy (R Hindley)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 20/04/04 - Item 11.3.4
- Summary Recommendation** : Decline the request.
- Bulletin Attachment** : Scheme Amendment Request
- Locality Plan** :



DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

BACKGROUND

1. An application was received from Ayton Taylor Burrell seeking Council's preliminary support to rezone Pt Lots 101 & 102, Chester Pass and Greatrex Roads, King River from 'Rural' to 'Special Rural Zone No. 17'.
2. The application seeks to facilitate the creation of four rural residential lots with an average size of 2 hectares. The subject land has an area of 8.25 hectares.
3. A copy of the applicant's proposal was provided to Council in the April agenda and at that meeting the Scheme Amendment Request was deferred to provide an opportunity for the landowners to meet with Councillors on site. An inspection took place on the 1st June 2004.

STATUTORY REQUIREMENTS

4. A Scheme Amendment Request (SAR) is not a statutory process under the Town Planning and Development Act 1928. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
5. If an applicant decides to pursue a Scheme Amendment, the Council will be required to formally consider that request.

POLICY IMPLICATIONS

6. 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);
7. 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.
8. The subject site is located within Oyster Harbour 9 Precinct of the City's Local Rural Strategy. The policy statement for this precinct states that Council may support proposals for 'rural residential' development subject to compliance with relevant general policies, the land being revegetated and the proponents being able to demonstrate that the constraints and management needs of the land can be overcome/met.
9. 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.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

12. A copy of the draft proposal was referred to the Western Australian Planning Commission and the Department of Environment. The major issues and concerns that were identified include:
- The proposed zoning is consistent with the recommendations of the City's Local Rural Strategy for Oyster Harbour Precinct No. 9;
 - This land is wet and has significant drainage line running through it;
 - Development should be restricted from Lot 101 of which a large portion is located on flood prone land.
 - The proposal would result in multiple boundaries crossing the creek line.
 - The proposal does not demonstrate how the creek line would be protected from damage as a result of crossings, fencing or firebreaks.
 - Building envelopes should not encroach into vegetation; and
 - Advice should be sought from Main Roads WA in relation to the proposed ring road.
13. Council's Senior Environmental Health Officer has advised that, should the SAR be supported, winter site testing needs to be undertaken to ensure 500mm vertical clearance can be obtained for both dwellings and effluent disposal systems to the water table below the land.
14. The SAR outlines that the subject land was not considered as part of the original proposal as it was to be retained as pasture for the adjoining Suffolk Sheep Stud. A review of the files pertaining to Amendment No. 150 shows that the subject land was shown as two lots on the original subdivision guide plan.
15. The portion of the subject site that is currently zoned 'Rural' was removed from Amendment No. 150. Comments contained in the file give the reason as ensuring the appropriate management of the creek line, the removal of 'Special Rural' use pressure from the creek line and to allow for the future public acquisition/reservation if deemed appropriate.
16. Acknowledging the presence of the creek line on the site, and a preliminary site analysis showing that the site has a moderate to moderately high flood risk, it is still the belief of staff that Lot 101 is not suitable for Special Rural development and a recommendation supporting that position follows.

DEVELOPMENT SERVICES REPORTS

Item 11.3.3 continued

RECOMMENDATION

THAT Council advise the applicant that it is not prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Pt Lots 101 & 102, Chester Pass and Greatrex Roads, King River from 'Rural' to 'Special Rural Zone No. 17'.

Voting Requirement Simple Majority

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR WELLINGTON**

THAT Council advise the applicant that it is prepared to support the request for an amendment to Town Planning Scheme No 3 to rezone Pt Lots 101 & 102 Chester Pass Road and Greatrex Road, King River from "Rural" to "Special Rural No 17" subject to the Scheme Amendment addressing the following:

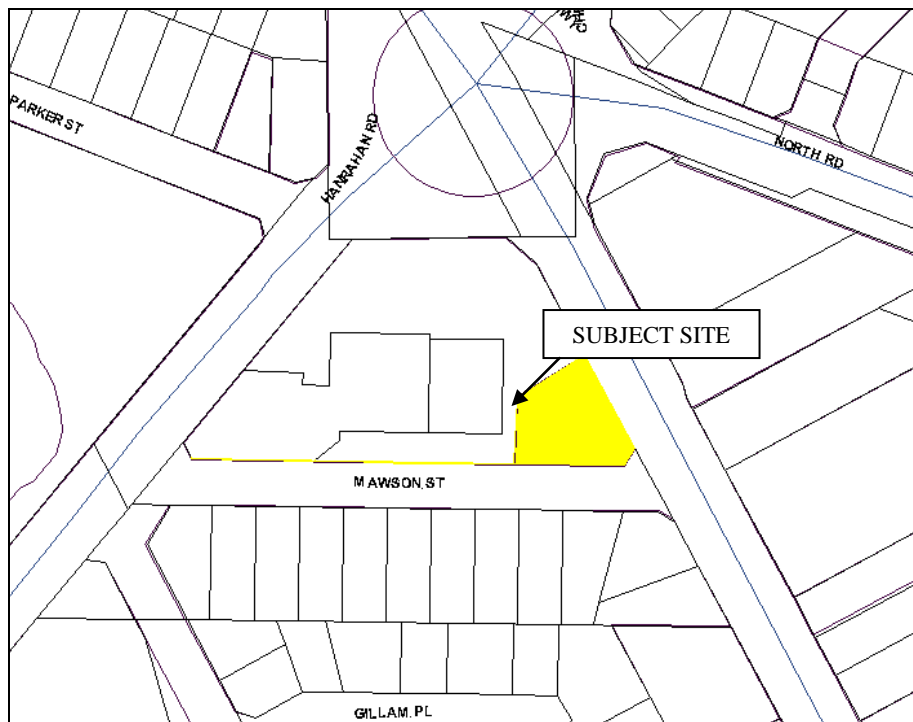
- i) management of the lower portions of each lot so that drainage functions across the land are not impaired;**
- ii) provision of access to the western portions of each lot during periods of lot inundation;**
- iii) the retention and enhancement of vegetation along the escarpment; and**
- iv) noise impacts from Chester Pass Road and the adjoining industrial estate.**

MOTION CARRIED 12-1

DEVELOPMENT SERVICES REPORTS

11.3.4 Scheme Amendment Request – Lot 1 cnr Mawson Street/Albany Highway, Mt Melville

| | | |
|-------------------------------|---|----------------------------------------------------------------------------------|
| File/Ward | : | A87834A (Frederickstown Ward) |
| Proposal/Issue | : | Preliminary request to rezone Lot 1 from ‘Service Station’ to ‘Other Commercial’ |
| Subject Land/Locality | : | Lot 1 Cnr. Mawson Street/Albany Highway, Mt Melville |
| Proponent | : | Ayton Taylor Burrell |
| Owners | : | Ampol Petroleum Limited |
| Reporting Officer(s) | : | Strategic Planning Officer (P Shephard) |
| Disclosure of Interest | : | Nil |
| Previous Reference | : | Nil |
| Summary Recommendation | : | Support the request. |
| Bulletin Attachment | : | Scheme Amendment Request |
| Locality Plan | : | |



DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

BACKGROUND

1. An application was received from Ayton Taylor Burrell seeking Council's preliminary support to rezone Lot 1 Mawson Street /Albany Highway, Mount Melville, from 'Service Station' to 'Other Commercial' zone.
2. The application seeks to rezone the land to be consistent with the adjoining land. The owners are presently decommissioning the former service station site and intend to sell to the adjoining landowners.

STATUTORY REQUIREMENTS

3. A Scheme Amendment Request (SAR) is not a statutory process under the Town Planning and Development Act 1928. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the Scheme Amendment documents.
4. If an applicant decides to pursue a scheme amendment as a result of this decision, the Council will be required to formally consider that request.

POLICY IMPLICATIONS

5. 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
 - Commercial Strategy Review (2000)
6. 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.
7. The Commercial Strategy recognises the existence of mixed business areas such as bulky goods retail, warehousing, showrooms, service industries located along the major roads into Albany.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

9. The City has recently commenced the preparation of a Retail Development Strategy to review the existing planning strategy.

DEVELOPMENT SERVICES REPORTS

Item 11.3.4 continued

COMMENT/DISCUSSION

10. A copy of the draft proposal was referred to the Department for Planning and Infrastructure and Department of Environment for initial comments. The comments include:
 - The proposed zoning is consistent with the adjoining land.
 - The service station is required to be decommissioned in accordance with Department of Environment requirements, as it is a known contaminated site.
11. Comments from Main Roads WA have yet to be received and will be tabled at the meeting.
12. The request is supported by staff, as the zoning of the subject land to ‘Other Commercial’ will allow for development to complement the existing uses on the adjoining lot and represents a minor infill of this commercial quadrant.

RECOMMENDATION

THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 1A to rezone Lot 1 cnr. Mawson Street/Albany Highway, Mount Melville ‘Service Station’ to ‘Other Commercial’.

Voting Requirement Simple Majority

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| |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>MOVED COUNCILLOR WILLIAMS SECONDED COUNCILLOR BOJCUN</p> <p>THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 1A to rezone Lot 1 cnr. Mawson Street/Albany Highway, Mount Melville ‘Service Station’ to ‘Other Commercial’.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

11.4 RESERVES PLANNING

Nil

DEVELOPMENT SERVICES REPORTS

11.5. DEVELOPMENT SERVICE COMMITTEES

11.5.1 Mt Martin Regional Botanic Park Advisory Committee Minutes – 12th May 2004

- File/Ward** : MAN 072 (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 Mt Martin Regional Botanic Park Advisory Committee held on the 12th May 2004 be adopted.

RECOMMENDATION

THAT the minutes of the Mt Martin Regional Botanic Park Advisory Committee held on 12th May 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin).

Voting Requirement Simple Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR SANKEY**

THAT the minutes of the Mt Martin Regional Botanic Park Advisory Committee held on 12th May 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin).

MOTION CARRIED 13-0

DEVELOPMENT SERVICES REPORTS

11.5.2 Bushfire Management Committee Minutes – 26th May 2004

| | |
|-------------------------------|-------------------------------------------------------------------------------------------------------|
| File/Ward | : MAN 089 (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 Bushfire Management Committee held on 26 th May 2004 be adopted. |

RECOMMENDATION

THAT the minutes of the Bushfire Management Committee held on 26th May 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin).

7.2.1 Election of Bushfire Advisory Chairperson (BAC 19/4/04 Item 7.1)

THAT Council endorses Mr Tony Ball as Chairperson of the Bushfire Advisory Committee.

7.2.2 Election of Deputy Bushfire Advisory Chairperson (BAC 19/4/04-Item 7.2)

THAT Council endorses Mr Chris Gilmour as Deputy Chairperson of Bushfire Advisory Committee.

7.2.3 Future of the Bushfire Association (BAC 19/4/04 – Item 7.3)

THAT;

- 1) the Bushfire Association be discontinued;
- 2) Senior officers of the bushfire organisation, including the Bushfire Advisory Committee Chairperson and Deputy Chairperson, be elected by volunteer bushfire brigade delegates at the April meeting of the Bushfire Advisory Committee; and
- 3) The Administration Officer (Bushfire) make the relevant changes to the Strategic Bushfire Plan.

7.2.4 Appointment – Chief Bush Fire Control Officer (BAC19/4/04- Item 7.4)

THAT;

- 1) prior to the 2004/05 fire season, the City of Albany review the Strategic Bushfire Plan 2000-2005, in consultation with the Bush Fire Advisory Committee, to redefine the roles of the CBFCO, DCBFCO's and FCO's during type 1, 2 and 3 fire incidents and the relevant Bushfire Brigade Operating Procedures dealing with response procedures.
- 2) the City be requested to provide an appropriate person to fill the position of Chief Bush Fire Control Officer for a minimum period of 12 months, with particular emphasis being made, when filling the position, to appointing an individual who has the capacity to interact with the City's VBFB members and the agencies responsible for emergency response and prevention.

DEVELOPMENT SERVICES REPORTS

- 3) the City be encouraged to maintain appropriately skilled and qualified officers to assist the CBFCO during type 2 and 3 fire incidents.
- 4) a report be submitted to the April 2005 meeting of the Bushfire Advisory Committee highlighting any operating anomalies resulting from the first year's operation of the modified procedures and the Bushfire Advisory Committee be provided the opportunity to provide recommendations to the Council of the City of Albany on modifications to any operating or management procedures, if deficiencies exist, prior to those modifications being implemented.
- 5) the appointed CBFCO be requested to, as a high priority, liaise with VBFB's on appropriate succession planning within the VBFB network to ensure appropriately motivated and trained volunteers are available to maintain and advance the VBFB network within the City of Albany into the future.
- 6) an investigating committee be established to document the role and qualifications of all senior officers. The committee be comprised of five (5) representatives from each sector, the interim CBFCO, the Administration Officer (Bushfire) and Executive Director Development Services.

- 8.1 Temporary Chief Bush Fire Control Officers position
THAT Council endorse Mr Charlie Butcher as a suitable candidate for the position of Chief Bush Fire Control Officer.
- 8.2 Youngs Siding Post Incident Analysis
THAT the committee investigate the future of the CBFCO's position and revisit all previous PIAs.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR WEST**

THAT the minutes of the Bushfire Management Committee held on 26th May 2004 be received (copy of minutes are in the Elected Members' Report/Information Bulletin).

7.2.1 Election of Bushfire Advisory Chairperson (BAC 19/4/04 Item 7.1)

THAT Council endorses Mr Tony Ball as Chairperson of the Bushfire Advisory Committee.

7.2.2 Election of Deputy Bushfire Advisory Chairperson (BAC 19/4/04-Item 7.2)

THAT Council endorses Mr Chris Gilmour as Deputy Chairperson of Bushfire Advisory Committee.

7.2.3 Future of the Bushfire Association (BAC 19/4/04 – Item 7.3)

THAT;

- i) the Bushfire Association be discontinued;**
- ii) Senior officers of the bushfire organisation, including the Bushfire Advisory Committee Chairperson and Deputy Chairperson, be elected**

DEVELOPMENT SERVICES REPORTS

- by volunteer bushfire brigade delegates at the April meeting of the Bushfire Advisory Committee; and
- iii) The Administration Officer (Bushfire) make the relevant changes to the Strategic Bushfire Plan.

7.2.4 Appointment – Chief Bush Fire Control Officer (BAC19/4/04- Item 7.4)

THAT;

1. prior to the 2004/05 fire season, the City of Albany review the Strategic Bushfire Plan 2000-2005, in consultation with the Bush Fire Advisory Committee, to redefine the roles of the CBFCO, DCBFCO's and FCO's during type 1, 2 and 3 fire incidents and the relevant Bushfire Brigade Operating Procedures dealing with response procedures.
 2. the City be requested to provide an appropriate person to fill the position of Chief Bush Fire Control Officer for a minimum period of 12 months, with particular emphasis being made, when filling the position, to appointing an individual who has the capacity to interact with the City's VBFB members and the agencies responsible for emergency response and prevention.
 3. the City be encouraged to maintain appropriately skilled and qualified officers to assist the CBFCO during type 2 and 3 fire incidents.
 4. a report be submitted to the April 2005 meeting of the Bushfire Advisory Committee highlighting any operating anomalies resulting from the first year's operation of the modified procedures and the Bushfire Advisory Committee be provided the opportunity to provide recommendations to the Council of the City of Albany on modifications to any operating or management procedures, if deficiencies exist, prior to those modifications being implemented.
 5. the appointed CBFCO be requested to, as a high priority, liaise with VBFB's on appropriate succession planning within the VBFB network to ensure appropriately motivated and trained volunteers are available to maintain and advance the VBFB network within the City of Albany into the future.
 6. an investigating committee be established to document the role and qualifications of all senior officers. The committee be comprised of five (5) representatives from each sector, the interim CBFCO, the Administration Officer (Bushfire) and Executive Director Development Services.
- 8.1 Temporary Chief Bush Fire Control Officers position**
THAT Council endorse Mr Charlie Butcher as a suitable candidate for the position of Chief Bush Fire Control Officer.
- 8.2 Youngs Siding Post Incident Analysis**
THAT the committee investigate the future of the CBFCO's position and revisit all previous PIAs.

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

| | | |
|-------------------------------|---|--------------------------------|
| File/Ward | : | FIN 022 (All Wards) |
| Proposal/Issue | : | N/A |
| Subject Land/Locality | : | N/A |
| Proponent | : | N/A |
| Owner | : | N/A |
| Reporting Officer(s) | : | Manager of Finance (S Goodman) |
| Disclosure of Interest | : | Nil. |
| Previous Reference | : | N/A |
| Summary Recommendation | : | Approve accounts for payment |
| Bulletin Attachment | : | Summary of Accounts |
| Locality Plan | : | 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 | 100,174.65 |
| Electronic Fund Transfer | | totalling | 1,121,723.57 |
| Payroll | | totalling | 588,379.88 |
| TOTAL | | | <u>\$1,810,278.10</u> |

2. As at 25th May 2004, the total outstanding creditors, stands at \$536,100.42.

ORDINARY COUNCIL MEETING MINUTES – 15/06/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.1.1 continued.

RECOMMENDATION

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

| | | |
|----------------|-----------|-----------------------|
| Municipal Fund | totalling | \$1,810,278.10 |
| Total | | <u>\$1,810,278.10</u> |

Voting Requirement Simple Majority

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| | | | |
|----------------------------------------------------------------------------|--------------|------------------|------------------------------|
| MOVED COUNCILLOR EVANS | | | |
| SECONDED COUNCILLOR EMERY | | | |
| THAT the following City of Albany accounts be passed for payment: - | | | |
| Municipal Fund | | totalling | \$1,810,278.10 |
| | Total | | <u>\$1,810,278.10</u> |
| MOTION CARRIED 13-0 | | | |

12.2 ADMINISTRATION

12.2.1 Delegation of Power - Local Government Act 1960

| | |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------|
| File/Ward | : MAN 122 (All Wards) |
| Proposal/Issue | : Council delegate authority to the Chief Executive Officer for Section 160 (2aa) of the Local Government Act 1960. |
| Subject Land/Locality | : City of Albany Municipal |
| Proponent | : N/A |
| Owner | : N/A |
| Reporting Officer(s) | : Manager Development (M Selby) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Nil |
| Summary Recommendation | : Grant delegation to the Chief Executive Officer |
| Bulletin Attachment | : Nil. |
| Locality Plan | : N/A |

BACKGROUND

1. Under Section 374 of the Local Government (Miscellaneous Provisions) Act 1960, the City of Albany has appointed Mr Keith Barnett to the position of Principal Building Surveyor, as required.
2. During periods of absence of Mr Barnett from the office, for valid reasons such as sick leave, holidays, training etc, Councils ability to issue Building Licences is diminished.
3. The purpose of this item is to establish a delegation to the Chief Executive Officer the ability to sign these licences or sub-delegate this power further, to other appropriate staff members.

STATUTORY REQUIREMENTS

4. Section 160 (2aa) of the Local Government Act 1960 gives Council the power to appoint a temporary person to act in this position (Principal Building Surveyor).

“Subsection (2) does not apply to a person acting temporarily, for a period not exceeding three months, in an office referred to in that subsection.”

Item 12.2.1 continued.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

- 6. There is no financial implication relating to this item. The establishment of this delegation may give Council cost savings, as external qualified Building Surveyors may not be required.

STRATEGIC IMPLICATIONS

- 7. There are no strategic implications relating to this item.

COMMENT/DISCUSSION

- 8. The establishment of this delegation will allow Council to issue building licences in the absence of the Principal Building Surveyor. This will lead to the timely processing of licences and alleviate delays to the development industry. Additionally, reducing the number of instances, builders commence works without a licence.
- 9. Under Section 5.44 of the Local Government Act 1995, the Chief Executive Officer is then authorised to sub-delegate to a staff member.

RECOMMENDATION

THAT Council;

- i) under Section 160 (2aa) of the Local Government Act 1960 grant delegation to the Chief Executive Officer the ability to act as the Principal Building Surveyor for a period of no greater than 3 months during absences of 2 or more working days, of the Principal Building Surveyor; and
- ii) in accordance with the provisions of section 5.44 of the Local Government Act 1995, agrees to sub-delegate the authority.

Voting Requirement Absolute Majority

.....

ORDINARY COUNCIL MEETING MINUTES – 15/06/04
** REFER DISCLAIMER **
CORPORATE & COMMUNITY SERVICES REPORTS

Item 12.2.1 continued.

**MOVED COUNCILLOR JAMIESON
SECONDED COUNCILLOR WELLINGTON**

THAT Council;

- i) under Section 160 (2aa) of the Local Government Act 1960 grant delegation to the Chief Executive Officer the ability to act as the Principal Building Surveyor for a period of no greater than 3 months during absences of 2 or more working days, of the Principal Building Surveyor; and**
- ii) in accordance with the provisions of section 5.44 of the Local Government Act 1995, agrees to sub-delegate the authority.**

**MOTION CARRIED 12-1
ABSOLUTE MAJORITY**

12.2.2 Market Stalls on Council Land – Development of Policy

| | |
|-------------------------------|------------------------------------------------------------|
| File/Ward | : PRO 275 (All Wards) |
| Proposal/Issue | : Use of Council Reserves to conduct Regular Market Stalls |
| Subject Land/Locality | : N/A |
| Proponent | : N/A |
| Owner | : Crown |
| Reporting Officer(s) | : Executive Director Development Services (R Fenn) |
| Disclosure of Interest | : Nil |
| Previous Reference | : OCM 20/01/04 - Item 12.2.6 |
| Summary Recommendation | : Council Adopt Policy and Fee Structure |
| Bulletin Attachment | : Correspondence |
| Locality Plan | : Nil. |

BACKGROUND

1. At the January 2004 meeting of Council, a request to use the Middleton Beach Foreshore and Alison Hartman Gardens for regular Market Days was considered. Council resolved at that meeting;

“THAT;

Council grant conditional approval, for a trial period commencing on the 23rd January 2004 and concluding on the 30th April 2004, for Ms Armanasco to conduct a produce and craft market on the Middleton Beach foreshore reserve, immediately to the north of the Albany Surf Club building. AND;

staff maintain a record of activities conducted on Council reserves and that a report on the operations of existing markets be delivered during a briefing session at the conclusion of the summer period, identifying the impact of those activities on the reserve, the general public and traffic in the vicinity of the activity.”

“THAT Council delegate to the Chief Executive Officer authority to impose conditions on the approval for the Middleton Beach markets dealing with parking requirements, the delineation of the market area, operating periods, refuse collection, access to Council infrastructure and other matters considered essential to the conduct of the market and the safety of the public.”

Item 12.2.2 continued.

2. During the period from January 2004, regular markets have been held in Alison Hartman Gardens and at Middleton Beach without comment being received from the community. In both areas traffic appears to not have been affected by the Market Stalls to a level which would result in complaint to the City.

STATUTORY REQUIREMENTS

3. Council's Local Government Property Local Law 2001 states;

“3.13(f) A person shall not without a permit, carry out any trading on local government property unless the trading is conducted with the consent of a person who holds a permit to conduct a function, and where the trading is carried out under and in accordance with the permit, or by a person who has a licence or permit to carry out trading on local government property under any written law.”

POLICY IMPLICATIONS

4. Markets have the capacity to attract residents and visitors to a reserve and to provide an outlet for locals to sell their crafts and produce. Some reserves are capable of handling large crowds without affecting the functionality of the reserve, however they are not attractive to market organisers because they are in more remote locations. Others are well placed to attract large crowds but have the capacity to produce conflicts with normal park users and traffic on adjoining streets.
5. Council has no policy position on allocating public parks for markets or criteria against which individual applications can be judged.

FINANCIAL IMPLICATIONS

6. Council resources are often required to mark out reticulation systems on reserves to avoid staking during marquee erection, to collect the additional refuse placed in rubbish receptacles and to ensure public health standards are being maintained. There is currently no hire charges for the use of a Council reserve for a market stall, notwithstanding that the person organising the stall may be charging stall holders a fee to participate. A fee of \$30 per sq.m. per annum is currently levied by Council for shop owners wishing to set up alfresco dining on the Council footpath in front of their business.
7. A \$100 fine can be imposed on any person carrying out a market on a Council property without the appropriate permit.

STRATEGIC IMPLICATIONS

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

Item 12.2.2 continued.

COMMENT/DISCUSSION

9. Council has received a request from the Albany Potters Group, (copy included within the Elected Members Report & Information Bulletin), to conduct craft markets on Alison Hartman Gardens weekly from the 4th December 2004 to the 15th January 2005. This group has consistently used this reserve to hold craft markets and staff are not opposed to them having access to the reserve during the required period.
10. For Council’s consideration, is a draft set of conditions (attached to the rear of this report) which can be applied to the use of a Council reserve for a Market Day.
11. Whether or not a Council Reserve should be used for commercial purposes, and remains a policy and philosophical decision of Council. Currently reserves are rented to conduct trade fairs, circuses, markets and promotional events, as well as for fundraising and community education purposes (eg. million paws walk). The larger commercial activities are paying a rental fee to use the grounds and the smaller commercial operators are not. The following recommendation proposes that a nominal fee (say \$40 for each part or full day) be applied for the use of a reserve for a market day.

RECOMMENDATION

THAT Council;

- i) supports the use of Council managed reserves for the purposes of conducting market days and that all Market Co-ordinators be required to comply with the ‘conditions attached to the use of Council Reserve for Markets’;
- ii) approve the request from the Albany Pottery Group to use Alison Hartman Gardens to hold craft markets on the 4th, 11th, 18th, 23rd and 30th December 2004 and the 8th and 15th January 2005;
- iii) pursuant to City of Albany Local Government Property Local Law 2001, authorise the Chief Executive Officer to issue Section 3.13(f) permits for the use of Council reserves for Market Days; and
- iv) pursuant to Section 6.16 of the Local Government Act 1995, introduce a fee of \$40 (including GST) per day (or part thereof) to use a Council reserve for a Market Day or similar commercial activity and that the fee become operable from the 1st July 2004.

Voting Requirement Absolute Majority

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Item 12.2.2 continued.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WATERMAN**

THAT Council;

- i) supports the use of Council managed reserves for the purposes of conducting market days and that all Market Co-ordinators be required to comply with the ‘conditions attached to the use of Council Reserve for Markets’;**
- ii) approve the request from the Albany Pottery Group to use Alison Hartman Gardens to hold craft markets on the 4th, 11th, 18th, 23rd and 30th December 2004 and the 8th and 15th January 2005;**
- iii) pursuant to City of Albany Local Government Property Local Law 2001, authorise the Chief Executive Officer to issue Section 3.13(f) permits for the use of Council reserves for Market Days; and**
- iv) pursuant to Section 6.16 of the Local Government Act 1995, introduce a fee of \$40 (including GST) per day (or part thereof) to use a Council reserve for a Market Day or similar commercial activity and that the fee become operable from the 1st July 2004.**

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

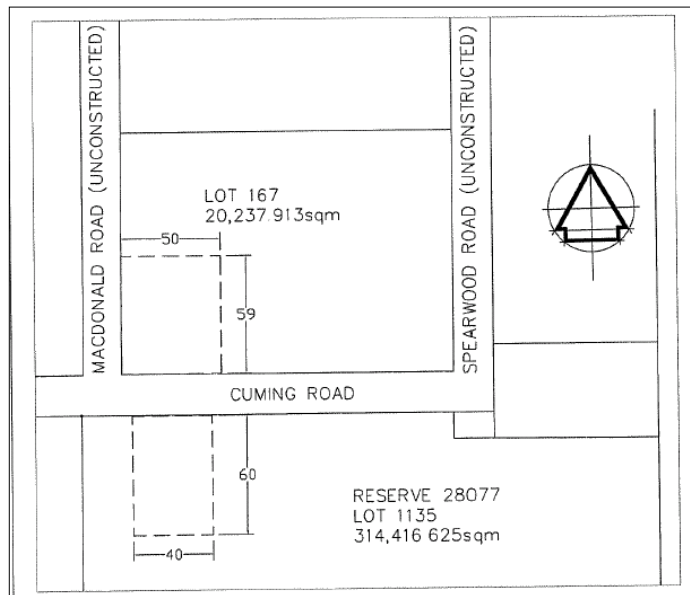
Conditions attached to the use of Council Reserves for Markets

1. Prior to erecting a tent or marquee which requires staking into the ground, the market organiser shall obtain from the City details on the position of the underground reticulation and no peg shall be driven within 500 mm of an underground reticulation main. Details of reticulation mains can be obtained by contacting Mike Richardson on 9841 9235 or 0419 926 647 (advance appointments should be made to inspect the site and a location fee may apply).
2. Where a market organiser obtains a regular weekly/monthly booking of a Council reserve, Council reserves the right, with a minimum notice period of 10 working days prior to the event, to terminate approval to use the reserve on that day(s) if Council determines the subsequent event to be of greater community benefit.
3. The area occupied by the market shall be restricted to that portion of the reserve identified on the attached plan and not extend beyond that area. In all circumstances a portion of the reserve shall always remain available for use by the general public on the day the market is being conducted.
4. The organisers shall assume all responsibility and obtain appropriate insurance for the duration of the market against any personal or public liability claim resulting from the activity of the market or individual stallholders.
5. All stall holder vehicles shall be parked away from the reserve, wherever possible, during the hours of operation of the market, to ensure visitors have reasonable access to car parking opportunities in close proximity to the market and the reserve.
6. All food stalls at the market shall be inspected by the City's Environmental Health Officers prior to the market and shall comply with any direction issued by those officers.
7. Council shall not be responsible for the supply of electricity, water or other services to the market or individual stall-holders beyond the existing infrastructure in the reserve.

CORPORATE & COMMUNITY SERVICES REPORTS

12.2.3 Proposed New Lease and Sub-Lease for Brambles Australia Limited.

- File/Ward** : PRO 327 (Frederickstown Ward)
- Proposal/Issue** : New Lease & Sub-Lease
- Subject Land/Locality** : Portion of Lot 167 and being a portion of the land known as 2-16 Cuming Road, and a portion of Lot 1135 on Reserve 28077 and being a portion of the land known as 37-43 Maxwell Street, Albany, Western Australia
- Proponent** : City of Albany
- Owner** : City of Albany
- Reporting Officer(s)** : Administration Officer (J Twaddle)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 20/04/04 - Item 12.2.1
- Summary Recommendation** : That Council approve the request for a new lease and sub-lease to be prepared for an 8-year term commencing 6th May 2004.
- Bulletin Attachment** : Submission received
- Locality Plan** :



Item 12.2.3 continued.

BACKGROUND

1. At the Ordinary Council Meeting of 20th April 2004, it was resolved:

“THAT subject to requirements under Section 3.58 of the Local Government Act 1995, Ministerial consent and no submissions being received, Council agree:
 - i) *to a new lease for Brambles Australia Limited being prepared for a period of 8 years with a possible option of 3 years, commencing on 6 May 2004 on Portion of Lot 167 and being a portion of the land described in Certificate of Title Volume 1117 Folio 402, Cuming Road;*
 - ii) *to a new sub-lease for Brambles Australia Limited being prepared for a period of 8 years with a possible option of 3 years, commencing on 6 May 2004 on Portion of Lot 1135, Reserve 28077, Maxwell Street;*
 - iii) *the rental be set at \$1 per annum payable by demand, in accordance with Council’s Waste Minimisation Contract, with no rent reviews;*
 - iv) *the lease is prepared in accordance with Council’s standard leasing terms and conditions by mutual agreement, with all maintenance and repairs being carried out by Brambles Australia Limited (Cleanaway);*
 - v) *all fees associated with this lease be payable by Brambles Australia Ltd; and*
 - vi) *the Common Seal of the City of Albany be affixed to the documentation.”*
2. The lease was advertised and submissions were invited from interested persons. The submission period closed on the 5th May 2004.
3. One submission was received on 4th May 2004 from Mr Len Abbot, which is included in the Elected Members Report & Information Bulletin.

STATUTORY REQUIREMENTS

4. 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.
5. 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.
6. Council must consider any submissions made before the advertised closing date and, if a decision is made by the Council, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.
7. 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. Approval by the Minister was granted in principle on 11 March 2004.

Item 12.2.3 continued.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

9. The City of Albany proposes to Lease these portions of land for a fee of \$1 per annum payable on demand, for the duration of the Lease, with no rental review clause.
10. All costs associated with these proposed new leases are to be borne by Cleanaway.

STRATEGIC IMPLICATIONS

11. This request complies with Council’s ‘Albany 2020’, which in part states as follows:
- “Waste Management – To participate in a regional waste program, which is environmentally responsible, cost efficient and effective.*
- AND
- ‘Waste Collection’ – To provide a clean, efficient & effective waste collection service.”*

COMMENT/DISCUSSION

12. Under the provisions of the tender, the contractor is to Lease a portion of Lot 167 and a portion of Lot 1135, for the provision of the Materials Recycling Facility, Tip Shop and Recycling Transfer Station.
13. Clause 2.3.14 of the Waste Minimisation tender document states:
- “Subject to any required approval under any written laws, including but not limited to those required under the Town Planning and Development Act 1928 and the Land Administration Act 1997, the Contractor shall, prior to the commencement of the Hanrahan Construction, enter into a lease or licence with the Principal, on terms and conditions that are satisfactory to the Principal, to provide the Contractor with the legal right to occupy and use Hanrahan Road during the term for the provision of the Services in accordance with this Contract.”*
14. Clause 2.3.15 of the Waste Minimisation tender documentation states:
- The Contractor shall pay in relation to the lease or licence prepared and entered into under clause 2.3.14:
- (d) yearly rent in the amount specified in Form 1A of Schedule 5.

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Item 12.2.3 continued.

15. Schedule 5 – Form 1A states that the price to be paid per year for lease of a portion of Hanrahan Road is \$1.00.

RECOMMENDATION

THAT Mr Abbot’s comments be noted, however in line with the Waste Minimisation Tender specifications the submission be dismissed and Council proceed to Lease the property in accordance with the previous recommendation.

Voting Requirement Simple Majority

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| <p>MOVED COUNCILLOR EVANS SECONDED COUNCILLOR WILLIAMS</p> <p>THAT Mr Abbot’s comments be noted, however in line with the Waste Minimisation Tender specifications the submission be dismissed and Council proceed to Lease the property in accordance with the previous recommendation.</p> <p style="text-align: right;">MOTION CARRIED 13-0</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

12.3 LIBRARY SERVICES

Nil

12.4 DAY CARE CENTRE

Nil.

12.5 TOWN HALL

Nil.

12.6 ALBANY LEISURE AND AQUATIC CENTRE

12.6.1 Community Fundraising - Albany Leisure and Aquatic Centre Upgrade Stage 1

| | |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : MAN 163 (All Wards) |
| Proposal/Issue | : Feasibility study – community fundraising |
| Subject Land/Locality | : Albany Leisure and Aquatic Centre, Barker Road Albany. |
| Proponent | : City of Albany |
| Owner | : City of Albany |
| Reporting Officer(s) | : Recreation Development Officer (M Weller) |
| Disclosure of Interest | : N/A |
| Previous Reference | : OCM 17/06/03 – Item 12.2.2 OCM 07/08/03 – Item 12.2.10 OCM 12/12/03 – Item 12.2.5 |
| Summary Recommendation | : That Council approves the engagement of Appeals Plus to complete a feasibility study to determine the viability of community fundraising for the ALAC upgrade stage 1 and form a basis for the subsequent fundraising appeal (if any) at cost of \$10,000 ex GST. |
| Bulletin Attachment | : Nil. |
| Locality Plan | : N/A |

BACKGROUND

1. At the Ordinary Council Meeting on 12th December 2003 Council adopted concept plans and master plans including a new staging order for the project.
2. In March 2004 the City of Albany was notified of the success of a Community Sport and Recreation Facilities Fund application for the project. The Department of Sport and Recreation granted \$1,500,000 towards the project to be claimed in the 2005/2006 and 2006/2007 financial years.
3. The amount was \$575,500 less than the requested \$2,075,500 requested leaving a shortfall for the project. Council was briefed on ways to address the shortfall including maximizing the amount of community fundraising, applying for additional funds and removing non-core elements of the project.

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Item 12.6.1 continued.

4. The Recreation Development Officer has since submitted a LotteryWest application for \$250,000 towards the shared Community/Sporting Group Resource Centre/Function Rooms and Crèche elements. It is anticipated that the application will take 4 months to process.
5. Investigation regarding community fundraising showed that campaigns for similar facilities conducted in Western Australia raised the following amounts:
 - South West Sports Centre (Bunbury) \$873,000
 - Geraldton Aquatic Centre \$780,000
 - Kalgoorlie Aquatic Centre \$1,000,000
 - Margaret River \$645,000
6. A request for Expression of interest (REOI – C03048) was advertised in accordance with City of Albany Tendering policy and procedures. The request was aimed at enabling the City to identify suitable companies/organisations who possess the skills, experience and ability to conduct the fundraising campaign in the Albany community.
7. No commitment was given to proceed to tender or that any fundraising tender which followed would be exclusive.

The City did however retain the option to proceed to exclusive tender/ negotiate with respondents to REOI – C03048 for the services of Professional fundraising for the project.

8. The City received one response only to the request. The submission was from Appeals Plus of Leederville WA.

The submission was assessed under compliance and qualitative criteria with the following results:

| Description of Compliance Criteria | Yes/No |
|-----------------------------------------------------------------------------------------------|---------------|
| a) Proposed fee structure limits the business risk of council to a maximum amount of \$10,000 | No |
| b) Compliance with the Delivery Date | Yes |
| c) Membership of a relevant industry peak body or institution | Yes |
| d) Ability to commence the project 16 th June 2004 if awarded a tender. | Yes |
| e) Complies with the conditions for making a submission | Yes |

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Item 12.6.1 continued.

| Description of Qualitative Criteria | Weighting | Score |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------|
| (a) Demonstrated experience in achieving similar fundraising projects projects/supplying similar services within timeframes specified for such. Details to include length and breadth of experience in conducting similar services - locations, funds raised, time period. | 20% | 10% |
| (b) Demonstrated experience in successful fundraising projects in regional areas including awareness of the issues involved. | 20 % | 10% |
| (c) Proposed Methodology Tenderers to include: <ul style="list-style-type: none"> • Preliminary assessment of fundraising potential • Proposed fundraising methodology • Proposed fee structure | 20% | 15% |
| (d) Skills and experience of key personnel. | 20% | 20% |
| (e) Prospective tenderer’s resources. | 20% | 15% |
| TOTAL | 100% | 70% |

9. While the company satisfactorily demonstrated it possessed the relevant experience, ability and resources; and scored reasonably high in the qualitative criteria, the requirements of compliance criteria (a) “Proposed fee structure limits the business risk of council to a maximum amount of \$10,000” were not met.

10. The fee structure proposed by appeals plus involved a flat per month fee of \$20,000 over an eight-month period with several milestones, or opt-out options for Council during this period.

The proposal indicated that a successful campaign raising \$1.075 million would result in the fee representing expenses of 14.8% against the total amount raised. Officers were concerned that this fee structure would expose Council to unacceptable risk should the campaign fail raise sufficient funds.

11. Brian Holmes, Managing Partner of Appeals Plus, was interviewed in Albany and the options for continuing with the project while meeting compliance criteria (a) were discussed.

12. During the interview Council officers indicated a preference for a performance-based fee structure to reduce the business risk of the City. Mr Holmes indicated that his company would not be prepared to undertake the fundraising on a purely percentage – performance based fee structure due to the costs of financing the initial stages of the campaign given his company is currently undertaking eight similar projects.

Item 12.6.1 continued.

13. Mr Holmes indicated his company would be prepared to provide a fee return guarantee in relation to amounts raised and/or negotiate the fee structure subject to the completion of a feasibility study and agreement on an achievable target amount.
14. The City subsequently requested and Mr Holmes submitted a proposal for a Feasibility Study in regards to community fundraising for the project. The following extract from the proposal outlines the questions to be answered as part of the study:

“Your Case – Is it perceived to be genuine, realistic, urgent and challenging? Can the organisations goals be met from the response to the campaign? What level of communication and influence is required to ensure the case has broad acceptance?

Your needs - Has the organisation identified the full extent of its needs? Is there evidence that other avenues of funding have been investigated? Does the organisation have the credibility and respect required for philanthropic or sponsorship investment?

Your target – What factors need to be taken into account when setting the target? Is the target achievable? Where will the funds come from?

Your leadership – Is there corporate leadership endorsement available with the required degree of respect and influence? Are there volunteers who can be approached ,to be involved in the campaign?

Your financial support – Are there the necessary prospects to support the fundraising target? Are there indications that financial support would be forthcoming? What levels of financial support are likely and how will this reflect on the campaign’s successful conclusion?”
15. It is anticipated that the feasibility study would provide sufficient information to allow council to make a decision as to the viability of community fundraising and/or set an achievable target amount.
16. At the conclusion of the feasibility study the City would have the option of negotiating fees for continuation of fundraising with Appeals Plus, calling for wider tenders to undertake the fundraising or ceasing community fundraising.
17. The completed feasibility would remain the property of the City of Albany and form the basis for the subsequent fundraising project (if any) regardless of whether Appeals Plus were selected to continue or not.

STATUTORY REQUIREMENTS

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

Item 12.6.1 continued.

POLICY IMPLICATIONS

19. Albany 2020 – Charting Our Course
“To plan and provide for equity of access to, and the continual development of activities within the Leisure and Aquatic Centre, which enhances the quality of life for a growing and active Community.”

“To encourage a healthy and active Community through the development of a range of recreational and cultural pursuits”
20. Albany Recreation Strategy

“There is access to a range of quality facilities throughout Albany.

Future facility needs reflect the actual community needs and are confirmed/ justified through the conduct of Feasibility studies that comply with the CSRFF and Feasibility study guidelines produced by MSR and have sustainable facility planning processes.”

FINANCIAL IMPLICATIONS

21. The quotation to complete the feasibility study is \$10,000 excluding GST. In the event that fundraising continues this amount would be offset against the achieved amount.
22. Original estimates set a fundraising target of \$300,000 net of costs. Preliminary estimates by Appeals plus indicate the potential as between \$400,000 - \$1,000,000 depending on the level of community support for the project.

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

24. Appeals Plus are able to commence the study 16th June 2004 and would complete this by 27th July 2004 at which time a briefing session is scheduled regarding the Albany Leisure and Aquatic Centre upgrade Project – Stage 1.
25. City of Albany Executive Management have agreed that there is not sufficient officer time or personal with relevant expertise to complete the feasibility study or community fundraising of this magnitude in-house.

Item 12.6.1 continued.

RECOMMENDATION

THAT;

- i) Council approves the engagement of Appeals Plus to complete a feasibility study to determine the viability of community fundraising for the ALAC upgrade stage 1 and form a basis for the subsequent fundraising appeal (if any) at cost of \$10,000 ex GST; and
- ii) on conclusion the results are presented to Council with options for continuation of the fundraising project.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WEST
SECONDED COUNCILLOR WELLINGTON**

THAT;

- i) Council approves the engagement of Appeals Plus to complete a feasibility study to determine the viability of community fundraising for the ALAC upgrade stage 1 and form a basis for the subsequent fundraising appeal (if any) at cost of \$10,000 ex GST; and**
- ii) on conclusion the results are presented to Council with options for continuation of the fundraising project.**

**MOTION CARRIED 9-4
ABSOLUTE MAJORITY**

12.6.2 Proposed Gym upgrade - Albany Leisure and Aquatic Centre – Upgrade Stage 1

| | |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : MAN 163 (All Wards) |
| Proposal/Issue | : Effects of Competition in Relation to proposed Gymnasium Upgrade at the Albany Leisure and Aquatic Centre |
| Subject Land/Locality | : Albany Leisure and Aquatic Centre, Barker Road Albany. |
| Proponent | : City of Albany |
| Owner | : City of Albany |
| Reporting Officer(s) | : Recreation Development Officer (M Weller) |
| Disclosure of Interest | : N/A |
| Previous Reference | : OCM 17/06/03 - Item 12.2.2 OCM 07/08/03 - Item 12.2.10 OCM 12/12/03 - Item 12.2.5 |
| Summary Recommendation | : That council determine either:- That additional research is completed into the effects of competition (Cost \$14,000). OR That additional detailed research is completed into the effects of competition in relation to an upgrade gymnasium (Cost \$43,000). OR That Council accepts current research as sufficient to make a decision on the issue. AND That the Recreation Development Officer commences discussion with local gym operators. |
| Bulletin Attachment | : N/A |
| Locality Plan | : N/A |

BACKGROUND

1. At the Ordinary Council Meeting of 12th December 2003 Council adopted concept plans and master plans including a new staging order for the project.

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Item 12.6.2 continued.

2. The recommendation on including a gym in the initial stage of the project was as a result of advice by the project design team (Ian Howard and Associates Architects, Thompson Marquis Project Management; feedback from the 20 member council and community, key stakeholders group and research and financial modelling by City of Albany officers).
3. It was predicted that the inclusion of a gym would have the benefits of increased functionality and attendance at the centre and result in a significant return on investment, offsetting the increased aquatic deficit.
4. Financial figures indicated for Average, Best and Worst Case Scenarios, with and without the upgraded gymnasium are provided in the financial implications of this item.
5. In March 2004 the City of Albany was notified of the success of a Community Sport and Recreation Facilities Fund application for the project. The Department of Sport and Recreation granted \$1,500,000 towards the project to be claimed in the 2005/2006 and 2006/2007 financial years.
6. The amount was \$575,500 less than the requested \$2,075,500 requested leaving a shortfall for the project. Council was briefed on ways to address the shortfall including maximizing the amount of community fundraising, applying for additional funds and removing non-core elements of the project.
7. As part of this process the need to assure income streams was identified. The financial and center performance predictions were independently audited by the YMCA business consultancy section.
8. The audit involved comparison of current and predicted ALAC performance against information from 9 Australian facilities of similar size, component makeup and catchment population.
9. The report found that the performance targets of Income, Expenditure, Attendance and Net Deficit are reasonable and achievable. Potential discrepancies were analysed and minor changes made to projections. It was found however that potentially understated and overstated items balanced each other out.
10. The report significantly substantiated the predicted contribution of the Gym to centre financial performance noting that the Gym income was potentially understated and could be higher than predicted. The report also recommended the inclusion of a gym and group fitness area to ensure the achievement of predicted performance indicators.
11. Council was briefed on the project on Tuesday 23rd March and indicated that they had received communication from local gym operators, concerned that an upgraded Gymnasium at the ALAC would have an adverse effect on their business.

Item 12.6.2 continued.

12. At the request of Councillors further research into the effects of competition was commissioned.

The research involved contacting 11 Leisure and Aquatic centres of similar size, component makeup and catchment population and investigating:

- **Scope of health and fitness components in relation to:**
 - *Size*
 - *Fit out*
 - *Age / Age of upgrade*
 - *Membership base*
 - *Participation*
 - *Programming levels*
 - *Staffing requirements*
 - *Income / Expenditure*
 - *Financial impact on whole facility*
 - *Broader facility components*
- **Catchment populations**
- **Number of competitors**
- **Basic overview of competitors**
 - *Size*
 - *Length of time in operation*
- **Management comment on the importance of the health and fitness components**
- **Management comment in relation to the health and fitness business environment**

13. The research is currently still in progress however preliminary findings have proved significant and an update has been received for the purpose of informing council of work to date. At the time of the update 8 facility operations have been consulted in reference to the first project activity defined previously in the methodology.

14. The update returns the following key findings:

Competition

- The mean catchment population 34 229
- The mean number of competitors (excluding sample site) 4.75
- Percentage of sites that have had 1 or more new competitor(s) since 2002 75%
- The number of sites that have had 2 new competitors since 2002 37.5%

The number of competitors

- The lowest range of providers (including sample site) is 3. This site is servicing a catchment population of 25 000.
- The mean range of competitors of providers (including sample site) is 5.75.
- The highest range of providers (including sample site) is 13. This services an estimated catchment population of 50 000

Item 12.6.2 continued.

ALAC has range of providers equal to the lowest of the sample (including sample site) at 3.

- The lowest ratio of providers per catchment (provider: catchment population) (including sample site) is 1:9 250
- The mean ratio of providers per catchment (including sample site) is 1:6 802
- The highest ratio of providers per catchment (including sample site) is 1:3 846

ALAC's ratio of providers per catchment population (including sample site) at 1:10,333 is below the lowest in the sample.

- Most facilities noted an increase in the number of providers in the last 2 years. The providers were prominently commercial private operators, followed by local governments.

The Impact of Competition

- The impacts of competition included:
 - 3 responses - An initial tapering (eg 3-5%) follow by a recovery (3 – 12 months) to increased growth.
 - 1 response - Zero or minimal impact
 - 1 response - A decline of approximately 10% (no recovery after 12 months)
- No competitors of the sample facilities have closed their operations in any of the recent years – although a number of businesses have been sold to new proprietors.

Findings from Managers comments

Managers have identified it is their experience that the base market grows with a new entrant into the market (especially when associated with heavy health based advertising)

Managers have noted the promotion of membership discounting by new competitors has short – medium negative effects on their operations.

Managers have noted that a new competitor may have a negative effect if the existing operation is sub-standard in fit-out, programming or membership service.

Key Manager recommendations

Manager, without exception, recommended in the strongest terms for the inclusion of a health and fitness club. Key reasons include:

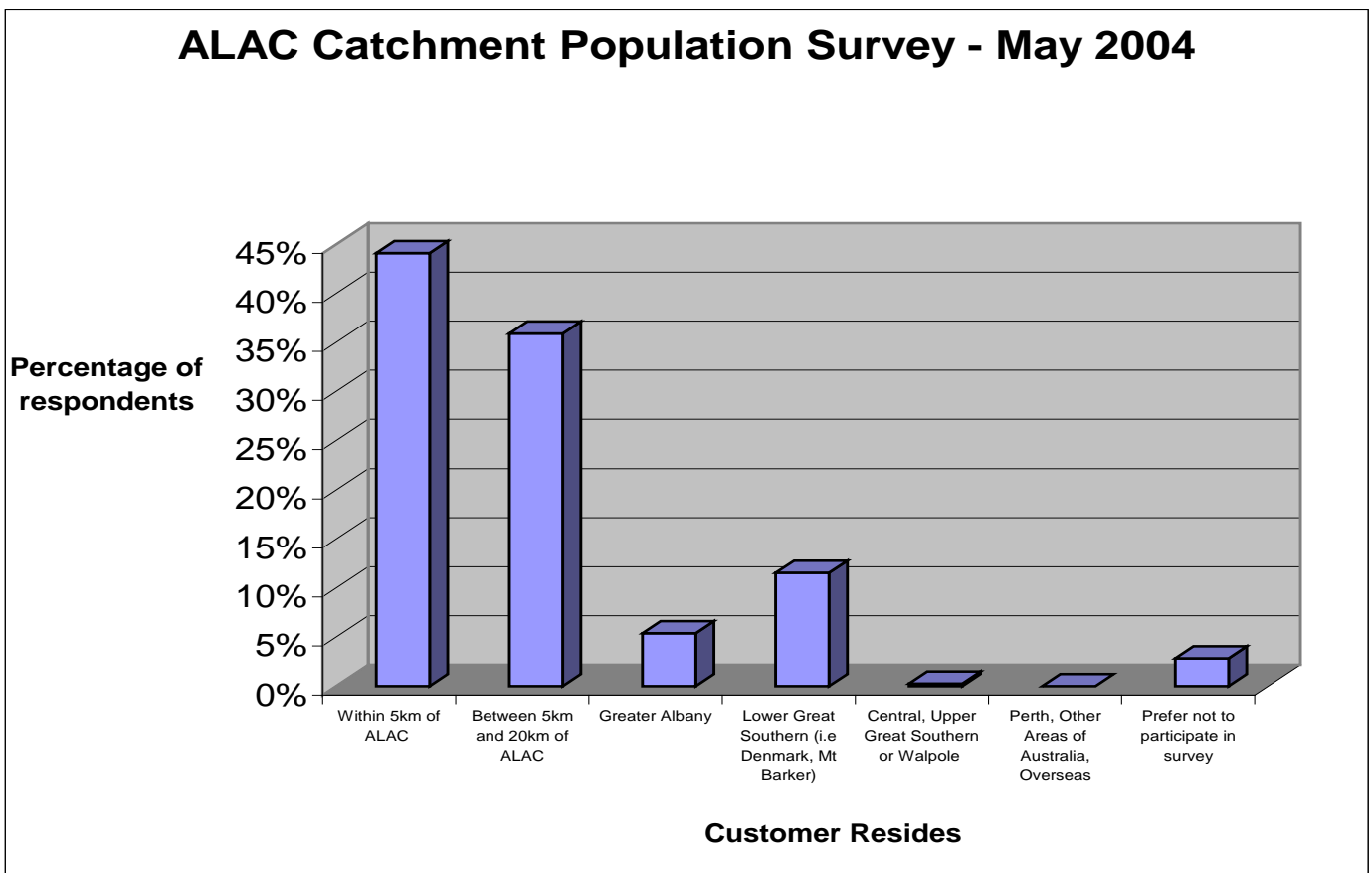
- The ability to generate surpluses from operation
- The ability for surpluses to fund other (loss generating) items such as aquatic, development and childcare programs.
- The ability for the health and fitness programs to meet broad industry trends (recreation preferences for non time / structured activities and increase awareness of health benefits – obesity reduction) and specific community needs (over 55's, rehabilitation and safety)
- The increased participation in the facility, and the subsequent cross sale / promotional opportunities.

Item 12.6.2 continued.

Managers further noted

- The health and fitness areas are often too small to meet community need and membership potential, necessitating further redevelopment in some cases.
- Private operators are likely to fill a gap in provision if the local government does not.
- The community face of local government is an important provider/ addresses the community market requirements of the industry.

15. The final stage of the report will involve the sourcing of three case studies of local government facilities that have upgraded their sport and recreation facility through either the inclusion of a new health and fitness component, or a substantial upgrade of existing health and fitness facilities. Detailed analysis (where centres are cooperative) will occur in relation to changes in the competition environment of the particular catchment from pre to post health and fitness upgrades.
16. For comparative purposes research was completed to determine the current ALAC catchment population. A survey of 390 random entrants during the week 24/05/04 – 30/05/04 returned the following results.



17. Given these results, geographic modeling by City of Albany Officers and acknowledging the regional nature of the catchment draw it was determined reasonable to assume a catchment population of 31,000.

Item 12.6.2 continued.

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

19. Albany 2020 – Charting Our Course
“To plan and provide for equity of access to, and the continual development of activities within the Leisure and Aquatic Centre, which enhances the quality of life for a growing and active Community.”

“To encourage a healthy and active Community through the development of a range of recreational and cultural pursuits”
20. Albany Recreation Strategy

“There is access to a range of quality facilities throughout Albany”

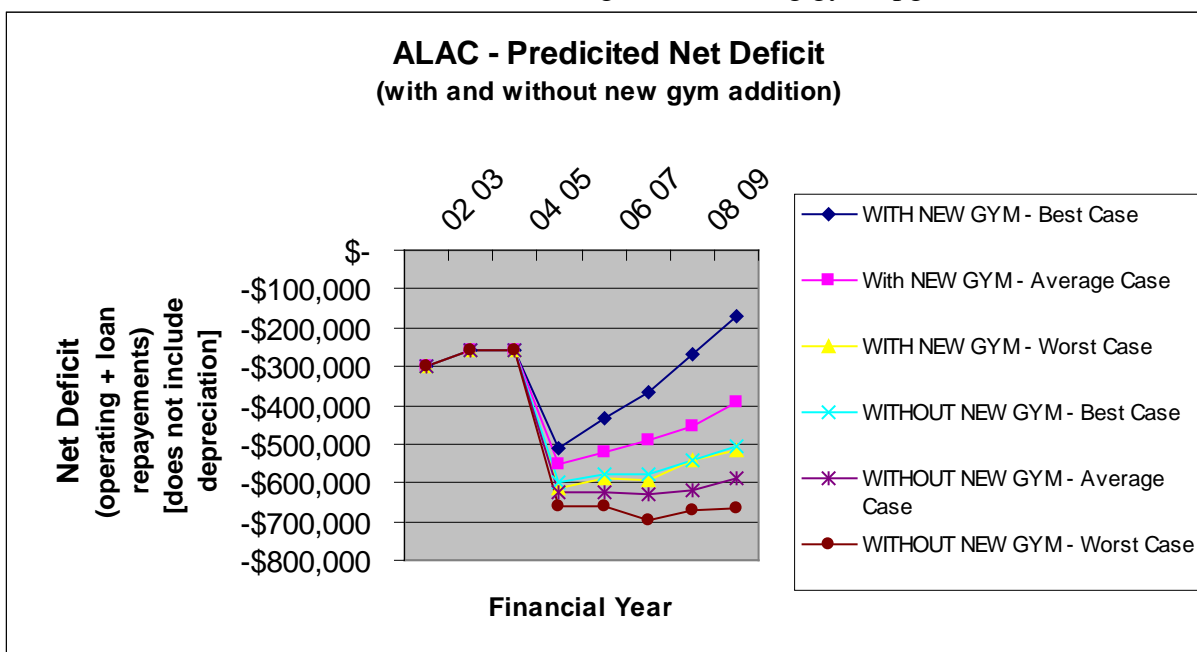
“Future facility needs reflect the actual community needs and are confirmed/justified through the conduct of Feasibility studies that comply with the CSRFF and Feasibility study guidelines produced by MSR and have sustainable facility planning processes.”
21. Adopted Recommendation Ordinary Council Meeting on 12 December 2003, Item 12.2.5
“That in the event that an upgraded gymnasium is operated as a business unit of the Albany Leisure and Aquatic centre it complies fully with National Competition policy to ensure that it does not compete unfairly with local business.”

FINANCIAL IMPLICATIONS

22. **Option 1:**
Completion of additional Albany competition research **\$14,000(ex GST)**
Option 2:
Completion of additional in depth Albany competition research **\$43,000(ex GST)**
Option 3:
Council accepts current research as sufficient to make a decision on the issue and that a full briefing will be given 27th July 2004 **\$ 0**
23. Capital expenditure to build Gymnasium as part of ALAC upgrade:
- | | |
|---------------------------------------|-----------|
| With purpose built Aerobics area - | \$572,250 |
| Without purpose built Aerobics Area - | \$372,250 |

Item 12.6.2 continued.

24. Predicted ALAC Net deficit including and excluding gym upgrade.



STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

26. If an upgraded gymnasium at the ALAC had a similar effect on Albany competitors as similar facilities in similar catchment populations have on their competitors (as per research detailed above). The potential effect could range from:

| | |
|--------------|------------------------------------------------------------------------------------------------|
| Average Case | <i>Zero or minimal impact</i> |
| Worst Case | <i>A decline of approximately 10% (no recovery after 12 months)</i> |
| Best Case | <i>An initial tapering (eg 3-5%) follow by a recovery (3 – 12 months) to increased growth.</i> |

27. Given the above and that:

- With an upgraded ALAC Gymnasium Albany will have the least number of gyms per head of population 1:10,333 compared to the mean of 1 gym per 6,802.
- The next lowest number of gyms per head of population occurs at a centre with 3 Gyms servicing a catchment of 25,000 people.
- An upgraded gymnasium at the ALAC will be required to fully comply with National Competition Policy.
- Managers comment that base market grows with a new entrant into the market. This is consistent with numerous recreation examples and the concept of ‘market maturity’ where an increase in choice and level of facilities results in a greater overall attendance and market share as more people participate in the activity on a regular basis.

Item 12.6.2 continued.

- Management planning for an upgraded centre focuses on increasing cross promotion, attracting aquatic/sports users at the centre to participate at the Gym and increasing the overall market for gym based recreation rather than competing aggressively.
- General industry trend for an increase in gyms as a choice for recreation/ physical activity (*recreation preferences for non time / structured activities and increase awareness of health benefits – obesity reduction*) and *specific community needs (over 55's, rehabilitation and safety)*.

It would be reasonable for an upgrade gymnasium at the ALAC to result in an increase in market size in Albany and either a minimal impact on competitors or an initial tapering followed by recovery or increased growth.

28. Council now have the option of either accepting the above information and reports as sufficient to make a decision regarding upgrading the ALAC gymnasium or alternatively undertake a final phase of additional research to further ensure the relevance of the previous research on the Albany market.
29. Several market research companies have been contacted in regards to the completion of this stage of research, the suggested methodologies outlining options 1 and 2, are attached to the rear of this report.

RECOMMENDATION

THAT Council either;

- i) undertake additional research into the effects of competition in relation to an upgraded gymnasium at the ALAC – Research cost \$14,000 (research option 1);

OR

- ii) undertake additional detailed research into the effects of competition in relation to an upgrade gymnasium at the ALAC – Research cost \$43,000 (research option 2);

Voting Requirement Absolute Majority

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OR

- iii) accepts the current level of research as sufficient to make a decision on the issue and that a full briefing will be given in July/August 2004;

OR

- iv) acknowledge the Centre will operate at a significantly greater deficit and the gymnasium be deleted from the concept plan.

Voting Requirement Simple Majority

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Item 12.6.2 continued.

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR BOJCUN**

THAT Council accepts the current level of research as sufficient to make a decision on the issue and that a full briefing will be given in July/August 2004.

MOTION CARRIED 13-0

Item 12.6.2 continued.

Research Options

| | Research option 1 | Research option 2 - greater depth |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Method | Direct questioning Indication of residents viewpoint in relation to gym provision (expressed need) | Convergent Model, includes: <ul style="list-style-type: none"> • Determining customer commitment to existing choices (level of likely market cannibalism) • Indication of market fluidity • Geographical modelling • Direct Questioning Several tools aimed at achieving relevant results. |
| Competitor co-operation | Not Required | Will require the co-operation of existing gymnasiums as (50) members of each will be required to be interviewed. (confidentiality assured) |
| Sample Size | 400 | 400 |
| Key quotation from market research company providing quotation: | N/A | “People are unable to accurately say what they are likely or not likely to do in the future particularly when it comes to evaluating new products or services in a market research environment. This survey is not about determining whether or not people think that this is a good idea – this survey is concerned with providing an accurate estimate” Cecile Thornley – Market Equity |
| Cost | \$14,000 | \$43,000 |
| Officer Comment | <i>This research is likely to simply act as an opinion pole and may not return any further meaningful information as to the likely effect of competition.</i> <i>In a worst case this method may result in confusing the issue through false or inconclusive indications.</i> | <i>Is the research option most likely to provide further meaningful result (should council require more information to make a decision) however the expense of this research at \$43,000 is significant compared to the proposed capital expenditure of \$372,000 – \$572,000.</i> |

12.7 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS

Nil.

12.8 CORPORATE & COMMUNITY SERVICES COMMITTEE

12.8.1 Albany Arts Advisory Committee meeting minutes – 5th May 2004

- File/Ward** : MAN 116 (Vancouver Ward)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director
- Summary Recommendation** : That the Minutes of Albany Arts Advisory Committee held on 5th May 2004 be adopted.

RECOMMENDATION

THAT;

- i) the minutes of Albany Arts Advisory Committee held on 5th May 2004 be received;
- ii) future meetings of the Albany Arts Advisory Committee be scheduled on a bi-monthly basis; and
- iii) Michael O’Doherty be appointed as a member of the Albany Arts Advisory Committee for a term expiring in May 2005.

(copy of minutes are in the Elected Members Report/Information Bulletin)

Voting Requirement Absolute Majority

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**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR BOJCUN**

THAT;

- i) the minutes of Albany Arts Advisory Committee held on 5th May 2004 be received;**
- ii) future meetings of the Albany Arts Advisory Committee be scheduled on a bi-monthly basis; and**
- iii) Michael O’Doherty be appointed as a member of the Albany Arts Advisory Committee for a term expiring in May 2005.**

(copy of minutes are in the Elected Members Report/Information Bulletin)

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

ORDINARY COUNCIL MEETING MINUTES – 15/06/04
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12.8.2 Great Southern Regional Cattle Saleyards Joint Venture Committee meeting minutes – 10th May 2004

- File/Ward** : REL 087 (Shire of Plantagenet)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director
- Summary Recommendation** : That the Minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 10th May 2004 be adopted.

RECOMMENDATION

THAT the minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 10th May 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR PAVER**

THAT the minutes of Great Southern Regional Cattle Saleyards Joint Venture Committee held on 10th May 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin).

MOTION CARRIED 13-0

ORDINARY COUNCIL MEETING MINUTES – 15/06/04
** REFER DISCLAIMER **
WORKS & SERVICES REPORTS

Works & Services

REPORTS

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- R E P O R T S -

13.1 WASTE MANAGEMENT

13.1.1 Great Southern Regional Council

| | | |
|-------------------------------|---|------------------------------------------------------------------------------------------------------------------|
| File/Ward | : | MAN 092 (All Wards) |
| Proposal/Issue | : | Conclusion of Great Southern Regional Council |
| Subject Land/Locality | : | Great Southern Region |
| Proponent | : | Great Southern Regional Council |
| Owner | : | N/A |
| Reporting Officer(s) | : | Executive Director Works & Services (B Joynes) |
| Disclosure of Interest | : | Nil |
| Previous Reference | : | OCM 20/04/04 - Item 13.1.3 OCM 17/02/04 - Item 13.1.1 |
| Summary Recommendation | : | THAT Council note the Great Southern Regional Council's decision to wind up the Great Southern Regional Council. |
| Bulletin Attachment | : | Minutes of Great Southern Regional Council 6 th May 2004 |
| Locality Plan | : | Nil |

BACKGROUND

1. On the 4th February 2004, the Great Southern Regional Council (GSRC) wrote to the City of Albany seeking its intention as to whether it wishes to participate in determining an alternate refuse site.
2. At the Ordinary Council Meeting held on 17th February 2004, Council resolved as follows:

“THAT Council notify the Great Southern Regional Council that, at this time, the City of Albany does not wish to participate in the investigation of an alternate refuse site to the Chillinup Road Site.”
3. On the 15th March 2004, the Great Southern Regional Council wrote to the City of Albany requesting member Councils to consider the future of the GSRC.
4. At the Ordinary Council Meeting held on 20th April 2004, Council resolved as follows:

WORKS & SERVICES REPORTS

Item 13.1.1 continued

“THAT Council notify the Great Southern Regional Council that the City of Albany does not wish to be further involved in the activities of the GSRC, and recommends that:

- i) the Chillinup Road site, purchased for the purpose of a regional landfill site, be disposed of with the proceeds to be dispersed amongst its joint owners; and*
- ii) any other waste management activities, such as secondary waste treatment, be developed through Regional cooperation and forums, rather than continuing with the expense of the Regional Council.*

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

8. The City of Albany’s Strategic Plan “Albany 2020 – Charting Our Course” includes the following Port of Call:
Managed healthy land/harbour environment
Waste Management
 - To participate in a regional waste program which is environmentally responsible, cost efficient and effective.

COMMENT/DISCUSSION

9. The Great Southern Regional Council was originally formed with five member Councils including Albany, Plantagenet, Cranbrook, Gnowangerup and Denmark, with the main purpose of operating a regional landfill site located at the jointly owned site on Chillinup Road some 65km North East of Albany.
10. Since the purchase of this property, investigations have shown that only a small proportion of this site can be utilised for the purpose of a landfill due to the high water table and unsuitable ground conditions, which is also expected to reduce the expected life of this site. As such, the GSRC began preliminary investigations into likely districts for an alternative site, through utilisation of existing mapping and known information. This data has been extremely difficult to obtain, and expenses were likely to be incurred should the project have been continued. As a result, the GSRC queried whether this project should continue with all member Councils involved, or just those that are particularly interested.

WORKS & SERVICES REPORTS

Item 13.1.1 continued

11. As the City of Albany has now implemented its Waste Minimisation Strategy, the City's need to participate in a regional landfill is no longer as necessary at this point in time.
12. The City, at its meeting held 17th February 2004, resolved that Council notify the Great Southern Regional Council that the City of Albany does not wish to participate in the investigation of an alternate refuse site to the Chillinup Road Site.
13. The Great Southern Regional Council subsequently wrote to the City of Albany requesting that consideration be given to the future of the GSRC.
14. As there was no substantive benefit to the City of Albany for its continued involvement in the Great Southern Regional Council due to the implementation of its Waste Minimisation Strategy, the City, at its meeting held 20th April 2004, resolved that Council notify the Great Southern Regional Council that the City of Albany does not wish to be further involved in its activities.
15. At the Great Southern Regional Council meeting held 6th May 2004, three out of five member Council's indicated that they did not wish to participate in investigations to find an alternative regional refuse site. The GSRC resolved 6-1 that it would not participate in this project.
16. At the same meeting, the future of the Great Southern Regional Council was discussed, and it was resolved 7-0 that the GSRC be wound up in accordance with the Terms and Conditions of the Establishment Agreement and in accordance with the Local Government Act 1995.
17. It was also resolved that the Great Southern Regional Council recommend to the Shire of Plantagenet to establish a Management Committee comprising of all the owners of the Great Southern Regional Refuse Site to manage the land, and that the Management Committee established, review the issues concerning the Great Southern Regional Refuse Site in two years time.

RECOMMENDATION

THAT Council note the Great Southern Regional Council's decision to wind up the Great Southern Regional Council.

Voting Requirement Simple Majority

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**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR SANKEY**

THAT Council note the Great Southern Regional Council's decision to wind up the Great Southern Regional Council.

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

13.1.2 Extension of Kerbside Collection Services Area

| | |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : SER 193 & SER 194 (Kalgan Ward) |
| Proposal/Issue | : Extension of the kerbside collection services area New Landfill charges based on weight and not volume |
| Subject Land/Locality | : <u>Willyung Road</u> Hanrahan Rd and Bakers Junction Landfill |
| Proponent | : <u>City of Albany</u> |
| Owner | : N/A <u>City of Albany</u> |
| Reporting Officer(s) | : Manager City Services (S Massimini) |
| Disclosure of Interest | : Nil |
| Previous Reference | : N/A |
| Summary Recommendation | : That Council delegates authority to the Chief Executive Officer to offer residents within the Willyung area a full kerbside collection service as per the provisions of the Waste Minimisation Contract. |
| Bulletin Attachment | : N/A |
| Locality Plan | : Refer to map at rear of report. |

BACKGROUND

1. A request was received from a resident of Greenwood Drive off Willyung Road relating to the possibility of providing a kerbside collection service for the collection of household waste, recyclables and greenwaste. At present there is no waste collection service being provided within the immediate area.
2. This subdivisional development is gradually filling with new residences. New houses are also being built along Willyung Road off Chester Pass Road. A plan of the area is attached for Council's information.
3. With the increased residential development within the area, there is a need to provide appropriate waste collection services to these residents.

STATUTORY REQUIREMENTS

4. Under section 3.18 of the Local Government Act 1995, the City of Albany is to satisfy itself that the services and facilities it provides are managed effectively and efficiently.

WORKS & SERVICES REPORTS

5. Under the provisions of the Health Act 1911, local governments are to provide the removal of refuse and cleansing works, and authorises local governments to designate areas for the provision of collection services and the ability to charge for the provision of the service.

Item 13.1.2 continued.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

7. The cost of the service as per Council's Waste Minimisation Contract will be offset by the application of rubbish rates to those properties within the prescribed area.

STRATEGIC IMPLICATIONS

- 9.8. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:

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The continual development of Council services & facilities to meet the needs of all stakeholders.

- **Objective:**

To provide a clean, efficient and effective waste collection service.

COMMENT/DISCUSSION

9. The defined area is situated where future development has been earmarked. It is expected that there will be approximately 150 lots within the area in the next few years.
10. With further development of the surrounding land and expected increase in housing development within the area, it is recommended that the City should provide kerbside collection services to the residents in the area.
11. There are currently 31 properties that will be eligible to receive the services proposed.
12. The proposed collection route and number of residences along the route make this a viable service run.
13. As this would require a change in rates from \$35 rural rubbish rate to \$199 (subject to Council deliberation in 2004/05), it would be appropriate to ensure the majority of residents are in favour of the proposal before proceeding. It would be recommended that should 50% of ratepayers be in favour of the recommended service provision, Council should proceed.
14. Cleanaway has been consulted on the proposal, and they have advised that this service can be provided to this area as per the contract provisions, without variation to the current pricing schedule. This would be on the proviso that all the lots were serviced.

WORKS & SERVICES REPORTS

15. Council's officers will be seeking to finalise this matter prior to rates being issued next financial year.

WORKS & SERVICES REPORTS

Item 13.1.2 continued.

RECOMMENDATION

THAT Council delegates authority to the Chief Executive Officer to offer residents within the Willyung area (as defined on the attached plan) a full kerbside collection service including domestic household waste, domestic recyclables and greenwaste service, as per the provisions of the Waste Minimisation Contract, subject to the following conditions:

- i) that at least 50% of residents within the prescribed area provide written support to the proposal, following which, the service be provided and rates for all property owners within the prescribed area be adjusted to include a waste collection levy;
- ii) should less than 50% of residents support the provision of the service, none shall be provided; and
- iii) that all residents within the prescribed area be notified of the outcome.

Voting Requirement Absolute Majority

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**MOVED COUNCILLOR BOJCUN
SECONDED COUNCILLOR EMERY**

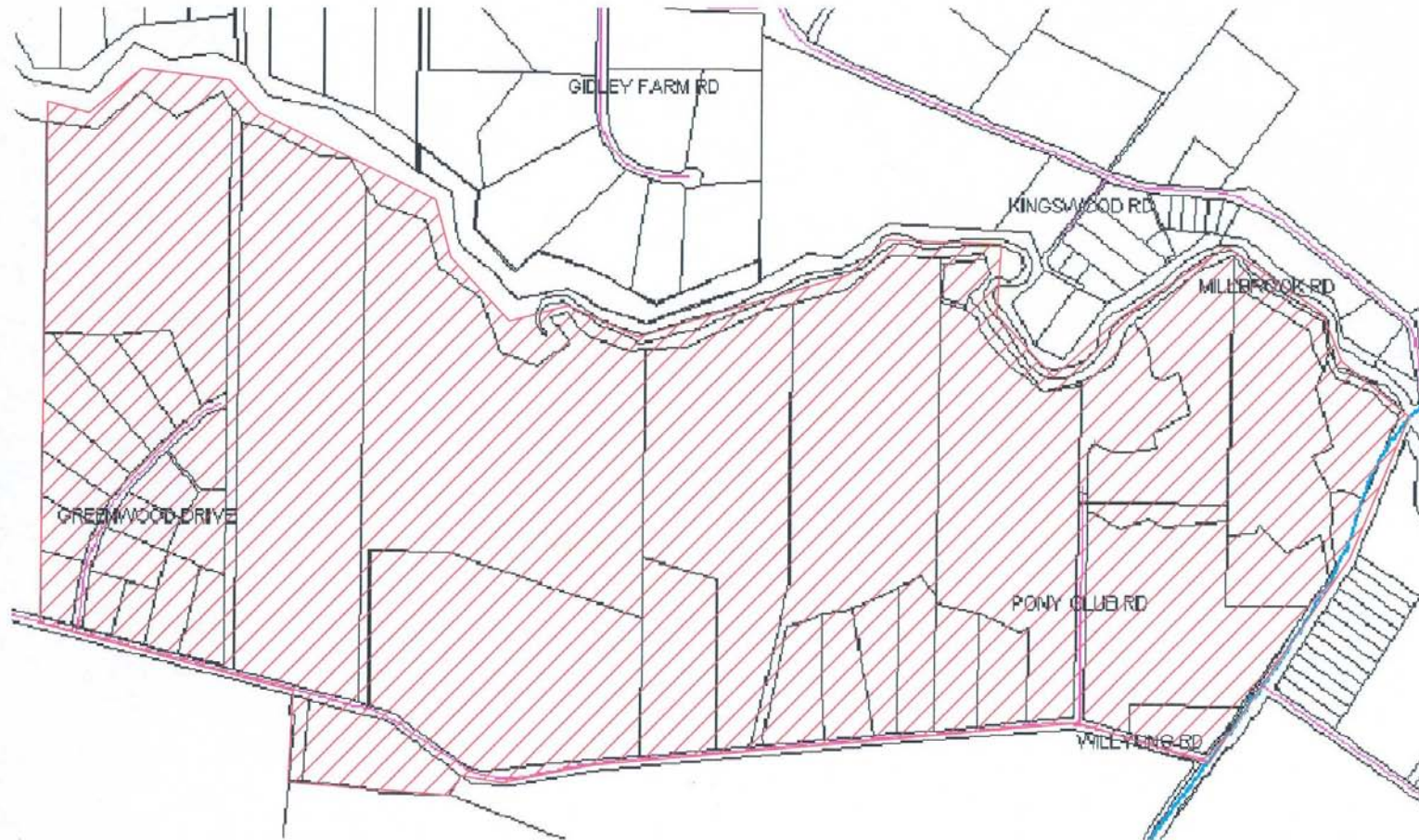
THAT Council delegates authority to the Chief Executive Officer to offer residents within the Willyung area (as defined on the attached plan) a full kerbside collection service including domestic household waste, domestic recyclables and greenwaste service, as per the provisions of the Waste Minimisation Contract, subject to the following conditions:

- i) that at least 50% of residents within the prescribed area provide written support to the proposal, following which, the service be provided and rates for all property owners within the prescribed area be adjusted to include a waste collection levy;**
- ii) should less than 50% of residents support the provision of the service, none shall be provided; and**
- iii) that all residents within the prescribed area be notified of the outcome.**

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

Item 13.1.2 continued



WORKS & SERVICES REPORTS

13.2 ASSET MANAGEMENT

13.2.1 Timber Industry Road Evaluation Strategy – Additional Funds

| | | |
|-------------------------------|---|-------------------------------------------------------------------------------------------------|
| File/Ward | : | GOV 089 (HassellWard) |
| Proposal/Issue | : | Additional Funds |
| Subject Land/Locality | : | Mettler Road, Albany |
| Proponent | : | City of Albany |
| Owner | : | City of Albany |
| Reporting Officer(s) | : | Executive Director Works & Services (B Joynes) |
| Disclosure of Interest | : | Nil |
| Previous Reference | : | Nil |
| Summary Recommendation | : | That the amount of \$94,500 be received and budgeted adjusted. |
| Bulletin Attachment | : | Minutes of the Timber Industry Road Evaluation Strategy meeting held 13 th May 2004. |
| Locality Plan | : | N/A |

BACKGROUND

1. At the Timber Industry Road Evaluation Strategy (TIRES) meeting held on 13th May 2004, it was agreed that \$229,000 of unallocated contingency funds would be distributed as follows:
 - \$40,000 to Cranbrook Shire for Noobijup Road
 - \$94,500 to City of Albany for Mettler Road
 - \$94,500 to Plantagenet Shire for South Perrillip Road

STATUTORY REQUIREMENTS

2. Section 6.8 (1) (b) of the Local Government Act 1995 requires that proposed Municipal Fund expenditure which is not included in the Annual Budget must be authorised in advance by a resolution of Council (absolute majority required).

POLICY IMPLICATIONS

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

WORKS & SERVICES REPORTS

Item 13.2.1 continued

FINANCIAL IMPLICATIONS

- 4. The City of Albany will receive funding of \$94,500 for Mettler Lake Road.

STRATEGIC IMPLICATIONS

- 5. The City of Albany’s Strategic Plan “Albany 2020 – Charting Our Course” includes the following Port of Call:

Transport systems and services designed to meet current and future needs

- **Objective:**
Management of transport infrastructure and services:
 - To effectively and efficiently manage the City’s transport infrastructure:
 - To provide a high quality service;
 - To meet community expectations;
 - To minimise whole life costs; and
 - In alignment with transport plants

COMMENT/DISCUSSION

- 6. Mettler Lake Road is a route road for plantation timber cartages, resulting in an increased rate of wear and tear. Projected timber tonnages on the coming five year harvests show a rise in cartage estimates on this route, making the funds received for Mettler Lake Road invaluable in maintaining and upgrading this road’s condition.
- 7. The funds received will be used to upgrade the intersection of Mettler Lake Road with Hassell Highway. In addition, the first three kilometres of Mettler Lake Road will be sealed to Venns Road.

RECOMMENDATION

THAT Council receive the amount of \$94,500 to fund works on Mettler Lake Road and adjust the budget accordingly.

Voting Requirement Absolute Majority

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>MOVED COUNCILLOR WOLFE SECONDED COUNCILLOR EMERY</p> <p>THAT Council receive the amount of \$94,500 to fund works on Mettler Lake Road and adjust the budget accordingly.</p> <p style="text-align: right;">MOTION CARRIED 13-0 ABSOLUTE MAJORITY</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

WORKS & SERVICES REPORTS

13.2.2 Future Drainage Requirements

- File/Ward** : C03046 (Frederickstown, West, Vancouver and Yakamia Wards)
- Proposal/Issue** : Contract C03046 - Drainage Survey
- Subject Land/Locality** : Urban components of the Harbour and Parker Catchments.
- Proponent** : N/A
- Owner** : N/A
- Reporting Officer(s)** : Assistant Asset Coordinator (R Monck)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation** : That no tender be accepted.
- Bulletin Attachment** : Nil
- Locality Plan** : Parker Catchment & Harbour Catchment attached to the rear of this report.

BACKGROUND

1. The City of Albany has previously used individual quotations for the survey of drainage assets within various localities. However, as the value of the service to provide a comprehensive survey of the existing drainage network within the Parker and Harbour catchment areas was expected to exceed \$50,000, a request for tender was required.
2. A request for tenders, closing 2:00 pm Tuesday 4 May 2004, was published in the West Australian on 17th April 2004, the Albany Advertiser on 15th April and Weekend Extra on 17th February 2004 for a comprehensive survey of the existing drainage network within the two catchment areas.
3. The tender included evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria used for this tender are nominated below:

| Criteria | Weight % |
|--------------------------------|-----------------|
| Cost | 50% |
| Relevant Skills and Experience | 30% |
| Reliability of Tenderer | 20% |
| Total | 100% |

WORKS & SERVICES REPORTS

Item 13.2.2 continued

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

8. The Adopted 2003/2004 Budget includes an allocation of \$50,000 to general ledger 110920, Drainage Management Plan.

STRATEGIC IMPLICATIONS

9. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:

Drainage Management

- To provide the Community with an effective and environmentally appropriate drainage network and to reduce polluted discharge to and from the stormwater system.

COMMENT/DISCUSSION

10. A total of eleven tender documents were issued, with three responses received. Submissions received by the close of tender are summarised below.

| Tenderer | Tendered Price (Including GST) |
|---------------------|-------------------------------------------|
| Harley Survey Group | \$149,776 |
| 35 Degrees South | \$107,552.50 |
| GHD | \$295,974 |

11. The purpose of this survey is to complete and verify drainage data, originally collected in 1994 and 1995, for the continued development of the Drainage Master Plan through a systematic, catchment based approach.

WORKS & SERVICES REPORTS

Item 13.2.2 continued

12. Reliable data is essential for the development of Master Plans. However, the cost of an external review of the data is greater than expected. It is believed that the task of upgrading and verifying the existing data within the urban areas of the Parker and Harbour catchments can be effectively undertaken internally by a reorganisation of officer duties.

RECOMMENDATION

THAT no tender be accepted from the submissions received for Contract C03046 - Drainage Surveys.

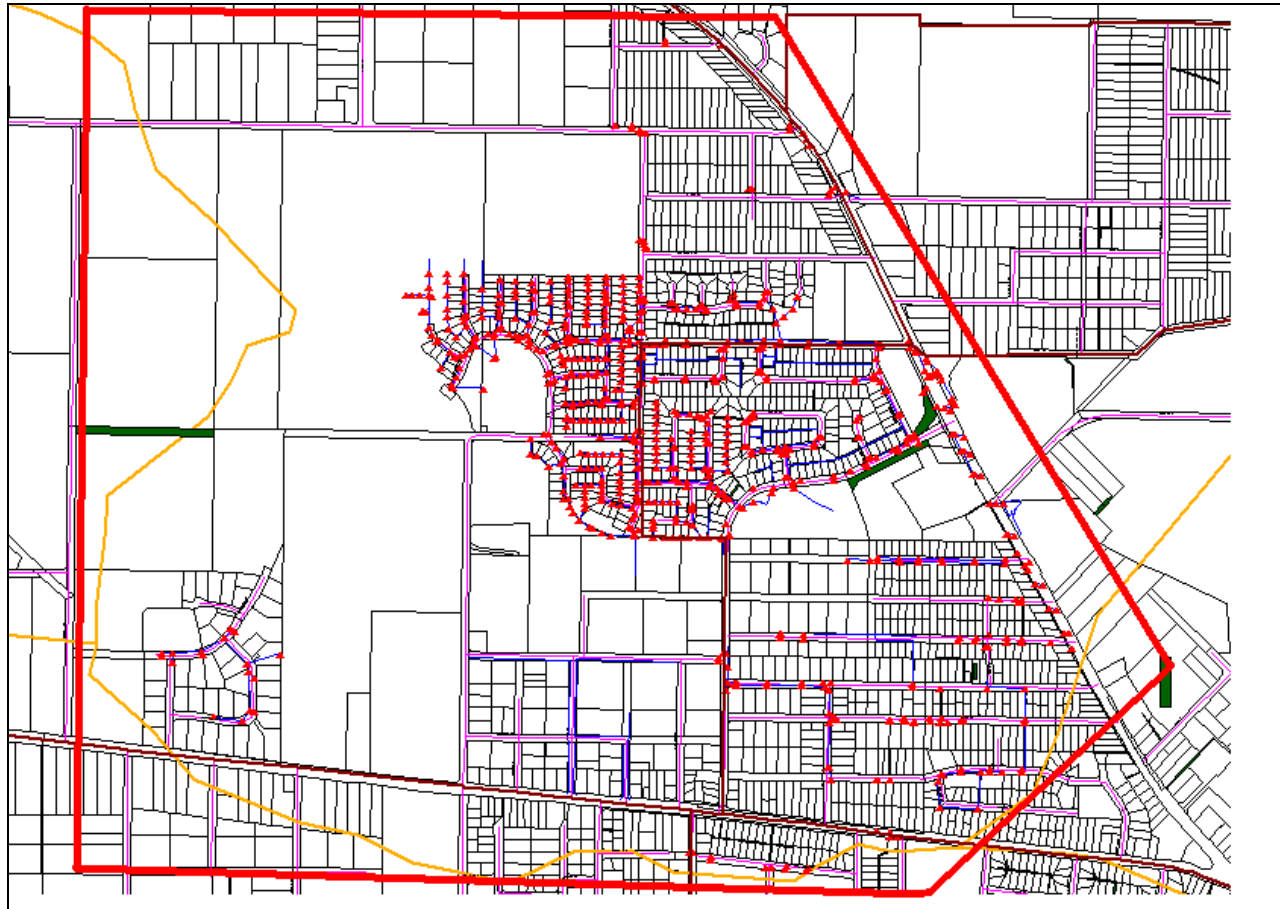
Voting Requirement Simple Majority

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**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR BOJCUN**

**THAT no tender be accepted from the submissions received for Contract
C03046 - Drainage Surveys.**

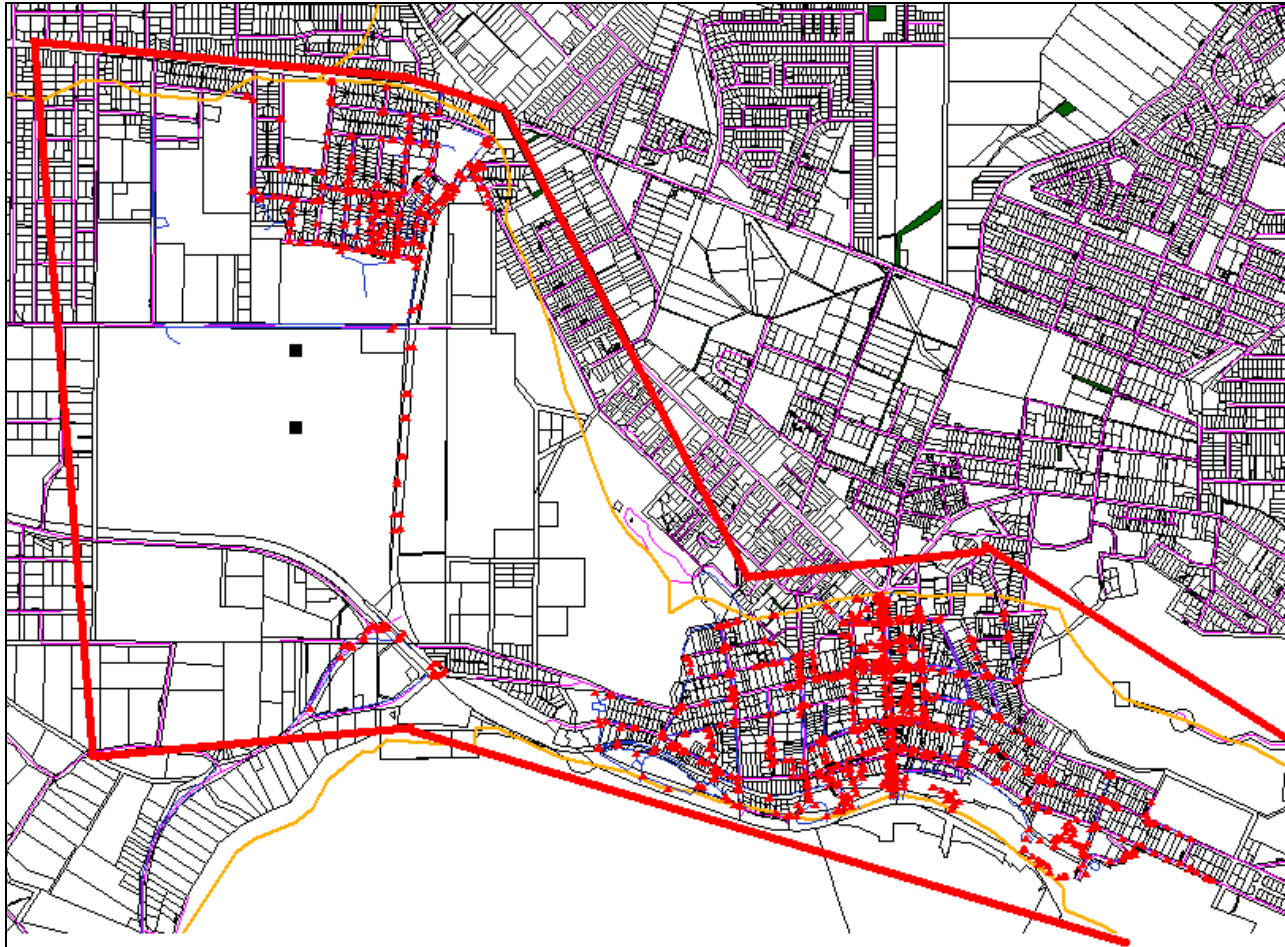
MOTION CARRIED 13-0

WORKS & SERVICES REPORTS



Parker Catchment

WORKS & SERVICES REPORTS



Harbour Catchment

WORKS & SERVICES REPORTS

13.2.3 State Black Spot Project – Intersection of Sanford Road and Minna Street

| | |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------|
| File/Ward | : SER 099 (Frederickstown Ward) |
| Proposal/Issue | : State Black Spot Project |
| Subject Land/Locality | : Intersection of Sanford Road and Minna Street |
| Proponent | : N/A |
| Owner | : N/A |
| Reporting Officer(s) | : Manager Asset Services (G Edwards) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Adopted 2003/2004 Budget – Capital Works |
| Summary Recommendation | : That the City of Albany expresses its concern to the State Road Funds to Local Government Advisory Committee. |
| Bulletin Attachment | : Nil |
| Locality Plan | : Nil |

BACKGROUND

1. The 2003/04 Adopted Capital Works Budget included the construction of a roundabout at the intersection of Sanford Road and Minna Street. The project was included in the 2003/04 Works Programme following qualification and Ministerial endorsement for inclusion in the State Black Spot Programme.
2. Following approval for the 2003/04 State Black Spot Programme and inclusion in the 2003/04 Capital Works Programme, detailed design commenced for construction of the project. During detailed design, it became apparent that the construction of a roundabout, as proposed at the conceptual stage, required questioning and other options required investigation.
3. Queries arising during detailed design investigations included the impact of a roundabout on:
 - Access to existing heavy haulage businesses on Minna Street and Graham / Ashford Street;
 - Traffic on Sanford Road, which is significantly greater than flows from Minna Street;
 - Relocation of service authority installations;
 - The Ashford Street intersection, which is approximately 50 metres north of Minna Street, needs to be considered during the design.

WORKS & SERVICES REPORTS

Item 13.2.3 continued

4. The City of Albany's concerns about proceeding with the original proposal of a roundabout were discussed with Main Roads Great Southern and drawn to the attention of the Great Southern Regional Road Group at its meeting in Gnowangerup on 17 May 2004.
5. The State Black Spot Guidelines require that if there is a significant alteration to the scope of the approved project, the project will be withdrawn and resubmitted. The funds are placed back into the pool for reallocation within the Great Southern Region.
6. At the meeting on 17 May 2004, the Great Southern Regional Road Group voted to reallocate the funds to unfunded 2004/05 projects within the region. The projects recommended for redistribution of the funds are:
 - Shire of Cranbrook Cranbrook Frankland Road \$13,410
 - Shire of Kojonup Shamrock Road \$70,667
 - Shire of Woodanilling Onslow Road \$83,053

The recommendation will require endorsement through the State Advisory Committee.

7. Design investigations will proceed for a controlled 'T' junction at the intersection of Sanford Road and Minna Street. The design will be resubmitted as a 2005/06 State Black Spot funded project.

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

10. An amount of \$167,130 was allocated from the State Black Spot Programme to the City of Albany for improvement to the intersection of Sanford Road with Minna Street. The Great Southern Regional Road Group has recommended withdrawal and reallocation of the funds.
11. The City of Albany was required to contribution \$83,565 to the project. This remains unspent apart from design costs to date.

STRATEGIC IMPLICATIONS

12. In the City of Albany's 2020 Plan Charting Our Course, the following Port of Call is identified:
Transport systems and services designed to meet current and future needs.
Objective:
 - To effectively and efficiently manage the City's transport infrastructure.

WORKS & SERVICES REPORTS

Item 13.2.3 continued

COMMENT/DISCUSSION

- 13. The State Black Spot’s requirement to reconsider a project where there is a significant alteration to the scope of works from the approved project is not disputed. However:
 - The intersection of Sanford Road and Minna Street has a recorded history of accidents;
 - The 2005/06 projects nominated for receiving funds previously allocated to the intersection of Sanford Road and Minna Street, have been submitted as potential rather than actual accident sites;
 - It was an option for the Great Southern Regional Road Group to recommend that the City of Albany be provided an opportunity to resubmit the project for approval in 2004/05.

- 14. The merit of reallocating funds from a site with a recorded history of accidents and delaying corrective action to sites with no recorded history of accidents is questioned.

RECOMMENDATION

THAT the City of Albany expresses its concern to the State Road Funds to Local Government Advisory Committee that funds from the 2003/04 State Black Spot Programme, endorsed for improvement to a site with a recorded history of accidents should be preferentially reallocated in 2004/05 to sites with a potential, but not recorded, accident history.

Voting Requirement Absolute Majority

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>MOVED COUNCILLOR JAMIESON SECONDED COUNCILL WOLFE</p> <p>THAT the City of Albany expresses its concern to the State Road Funds to Local Government Advisory Committee that funds from the 2003/04 State Black Spot Programme, endorsed for improvement to a site with a recorded history of accidents should be preferentially reallocated in 2004/05 to sites with a potential, but not recorded, accident history.</p> <p style="text-align: right;">MOTION CARRIED 13-0 ABSOLUTE MAJORITY</p> |
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WORKS & SERVICES REPORTS

13.2.4 State Black Spot Project - Chillinup Road Crossing of Pallinup River

| | |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : SER 099 (Hassell Ward) |
| Proposal/Issue | : State Black Spot Project |
| Subject Land/Locality | : Chillinup Road crossing of Pallinup River |
| Proponent | : Shire of Gnowangerup |
| Owner | : City of Albany |
| Reporting Officer(s) | : Manager Asset Services (G Edwards) |
| Disclosure of Interest | : Nil |
| Previous Reference | : Nil |
| Summary Recommendation | : That the City of Albany contribute \$10,000 to the Shire of Gnowangerup for upgrading of the Chillinup Road crossing of Pallinup River. |
| Bulletin Attachment | : Nil |
| Locality Plan | : Nil |

BACKGROUND

1. The Shire of Gnowangerup wrote to the City of Albany on 12 April 2002 requesting support in instigating a joint submission for State Black Spot funding assistance to improve and seal the approaches to the Chillinup Road – Pallinup River concrete flood crossing (see attached). These approaches are located in both Gnowangerup and Albany shires. This application would be based upon a project cost of \$60,000 with funding arrangements being:
 - \$40,000 State Black Spot Programme;
 - \$20,000 Local Government.
2. On 28 June 2002, the City of Albany responded to this request advising that the City would prepare a draft budget item for the 2003/04 financial year for Council's consideration for 50% of the local government contribution to the project up to a maximum of \$10,000 (see attached).
3. In July 2003, the Shire of Gnowangerup prepared and was successful with the submission of a 2003/04 State Black Spot application for improvements to the Chillinup Road crossing of Pallinup River.
4. The draft budget item for the City of Albany's 2003/04 Budget was not passed. A lapse in communication ensued between the Shire of Gnowangerup and the City of Albany whereby neither Council contacted the other to advise or confirm financial positions.

WORKS & SERVICES REPORTS

Item 13.2.4 continued

5. The Shire of Gnowangerup has recently requested this \$10,000 contribution from the City of Albany. The Shire of Gnowangerup has completed construction, and preliminary advice from City of Albany officers indicates that the \$10,000 contribution requested represents value for the City of Albany.

STATUTORY REQUIREMENTS

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

8. Whilst not specifically nominated, improvements to the Chillinup Road crossing of the Pallinup River falls in the category of 'Road Safety Upgrade.' A \$10,000 contribution to the Shire of Gnowangerup could be accommodated within the existing 2003/04 budget of \$50,000, GL 149840, job 8203.

STRATEGIC IMPLICATIONS

9. The following Port of Call from "Albany 2020" Strategic Plan is identified:
Transport systems and services designed to meet current and future needs.
Objective:
 - To effectively and efficiently manage the City's transport infrastructure.

COMMENT/DISCUSSION

10. The Shire of Gnowangerup has proceeded with construction, which is partly within the City of Albany. Although there was an indication of support, there was no prior agreement by the City of Albany that a contribution would apply.
11. Whilst there is no statutory obligation for the City of Albany to contribute, the works were undertaken and the asset upgraded. The upgrading is an endorsed State Black Spot Project, which is mutually beneficial to the City of Albany and the Shire of Gnowangerup.
12. As Council were not consulted on the design or construction of the works, a further inspection and safety audit by Council officers is warranted prior to the payment of a contribution to the Shire of Gnowangerup.

WORKS & SERVICES REPORTS

Item 13.2.4 continued.

RECOMMENDATION

THAT subject to a safety audit inspection and the works undertaken being to the satisfaction of the Executive Director Works & Services, a contribution of \$10,000 be made to the Shire of Gnowangerup for improvements to the Chillinup Road crossing of the Pallinup River.

Voting Requirement Absolute Majority

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**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WEST**

THAT subject to a safety audit inspection and the works undertaken being to the satisfaction of the Executive Director Works & Services, a contribution of \$10,000 be made to the Shire of Gnowangerup for improvements to the Chillinup Road crossing of the Pallinup River.

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

Item 13.2.4 continued



YOUR REF
OUR REF PGR.MJS/ Chillinup Road

12 April 2002

City of Albany
Att: Mr Brett Joynes
PO Box 484
ALBANY WA 6331



| | | |
|---------------------------------------------|-------------|---------|
| CITY OF ALBANY - RECEIVED RECORDS OFFICE | | |
| 16 APR 2002 | | |
| FILE | GORRO NO. | OFFICER |
| S5409A | I203040 | 1. GWS |
| CC | ATTACHMENTS | OFFICER |
| | Letters x2 | 2. |

Dear Mr Joynes

RE: CHILLINUP ROAD - PALLINUP RIVER CROSSING & APPROACHES

Further to my letter of 6 March 2002, I enclose copies of two letters from users of the Chillinup Road-Pallinup River crossing, along with a copy of three recent traffic counts on this road.

Council resolved at its 27 March 2002 meeting to approach the City of Albany to instigate a joint submission for state 'Black Spot' funding assistance to improve and seal the approaches to the concrete flood crossing. These approaches would include the City of Albany southern approach, referred to by Penny Moir and could conceivably include the approximate 1km of unsealed Albany/Chillinup Road between the crossing and the existing Chillinup Road seal near Cape Road. This Albany gravel section was regraded by Gnowangerup resources recently in conjunction with our grading of Chillinup Road north of the crossing (2.6kms)

I invite you to contract our Consultant Engineer, Mr Paul Robertson, on 9841 2136 to discuss the approach we should take to submit the project for the 2003/2004 program. If the City of Albany can supply detail survey input, Gnowangerup's consultant can assist with design and estimate.

Yours faithfully


F B LUDOVICO
CHIEF EXECUTIVE OFFICER

WORKS & SERVICES REPORTS

Item 13.2.4 continued

Our Ref: SER099 O203848
Cross Ref: I203040
Your Ref: PGR:MJS/CHILLINIP ROAD

Enquiries: Mr Steve Broad
Phone: (08) 9841 9225

28th June 2002

Chief Executive Officer
Shire of Gnowangerup
28 Yougenup Road
GNOWANGERUP WA 6335

Dear Frank

RE:- CHILLINUP ROAD – PALLINUP RIVER CROSSING AND APPROACHES

I refer to your letter dated 12th April 2002 regarding a joint submission for a State Black Spot funding application to improve and seal the approaches to the concrete flood crossing on the Pallinup River. I regret the delay in response.

I wish to advise that the City of Albany will support the application and can provide survey input for the project. Council's staff have been in contact with your Consultant Engineer, Paul Robertson, and it is understood that all works will be undertaken by the Shire of Gnowangerup.

The City of Albany will prepare a draft budget item for 2003/04 financial year for Council's consideration for 50% of the local government contribution to the project up to a maximum of \$10,000.

If you require any additional information regarding this matter, please contact Mr Steve Broad, Council's Asset Coordinator, on telephone (08) 9841 9225.

Yours sincerely

BRETT JOYNES
EXECUTIVE DIRECTOR WORKS & SERVICES

BMJ:NKA

cc: *Steve Broad, Asset Coordinator*
Paul Robertson, 27 Frederick Street "Mongup House" Albany WA 6330

WORKS & SERVICES REPORTS

13.2.5 Dedication of Road – Surrey Street, Middleton Beach

- File/Ward** : A181022 & SER 088 (Breaksea Ward)
- Proposal/Issue** : Dedicate Private Street as Public Road and Closure of Private Street
- Subject Land/Locality** : Surrey Street, Middleton Beach
- Proponent** : Complex Land Solutions P/L.
- Owner** : W D & P Tuckfield
- Reporting Officer(s)** : Executive Director Development Services (R Fenn)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 19/11/02 - Item 13.2.2
- Summary Recommendation** : That Council not support request to dedicate Surrey Street as a public road.
- Bulletin Attachment** : Nil
- Locality Plan** :



WORKS & SERVICES REPORTS

Item 13.2.5 continued

BACKGROUND

1. Between Wollaston Road and Hanson Street, Middleton Beach is an un-constructed road, which has the official street name of “Surrey Street” but is also the “balance of title” from a subdivision of the land in the 1930s. Staff have discovered that large tracts of land in the suburbs of Middleton Beach and Orana were subdivided around the 1930s and it was not uncommon for the new titles to be created with “the road” reserve which provides legal access to those lots remaining in the ownership of the then subdivider. All of the lots fronting Surrey Street, Middleton Beach actually have frontage to a separate title (Volume 1017 Folio 241) which is held by Winifred, Dorothy and Phillis Tuckfield, of West Ewell, England.
2. Following this report is a plan showing the exiting lot layout and a proposed subdivision over lots 25 to 31 and 42 to 48 Surrey Street. The proponent is seeking Council support to commence the process of declaring a portion of Surrey Street as a public road under the Land Act and to close other portions and to transfer the land contained in the private street to the adjoining lots.

STATUTORY REQUIREMENTS

3. Section 52 of the Land Administration Act 1997 provides a mechanism for the Crown to “acquire” certain land held in private ownership, where that land is no longer required. Council is required to take all reasonable steps to contact the owner of the land (private street in this case) and a period of 30 days must also be provided for neighbours, the general public and government agencies to provide feedback on the request. Council then decides if it wishes to submit its request to Department of Planning and Infrastructure to transfer the land to the Crown, who then arranges for it to be sold and amalgamated into the adjoining title.
4. Section 56 of the Land Administration Act 1997 also provides for the majority of landowners adjoining a private street to apply to a local authority to have the street declared public.

POLICY IMPLICATIONS

5. The subject lots are zoned “Residential” with an R20 Residential Code applicable to the development on the land. Town Planning Scheme 1A also shows a subdivision and zoning pattern over the locality, based upon a rationalisation of the existing 2730 m² lots to provide for new land parcels approximately 600 – 700 m² in area.

FINANCIAL IMPLICATIONS

6. The adjoining 14 lots have been sold to a developer who has lodged an application to subdivide them into 39 residential lots. A response has been forwarded to the WAPC requesting that all costs associated with the servicing and provision of access to those lots be borne by the subdivider.

WORKS & SERVICES REPORTS

Item 13.2.5 continued

7. Water and sewerage mains have been laid by the Water Corporation to three independently held land parcels fronting the northern portion of Surrey Street, based upon a 1980's subdivisional plan. No other services extend down Surrey Street.

STRATEGIC IMPLICATIONS

8. The dedication of Surrey Street as a public thoroughfare will transfer to Council the on-going maintenance of that portion of the Surrey Street road surface which will form the subdivisional road. That maintenance would be transferred upon the subdivision of the land in any event.
9. Mr Martin and the other landowners fronting the private street are legally in a position where they could dispose of their lots "fronting" Surrey Street and there would be 19 new landowners "expecting" Council to provide them with an all-weather road to access their land. The application before Council significantly reduces the potential liability of Council to provide road access.

COMMENT/DISCUSSION

10. To facilitate the subdivision of the larger lots at the southern extremity of Surrey Street, closure of portion of the private street and its direct transfer to the adjoining landowner has been requested. Where the new subdivision road network corresponds to the existing road alignment, dedication of the private street as a public road is being sought. The section of Surrey Street north of lots 31 and 42 is to remain a private street, consistent with Council's resolution of November 2002.
11. Staff wrote to the Estate of Winifred, Dorothy and Phillis Tuckfield, in West Ewell, England and the correspondence has been returned, thereby signalling that the owners of the private street (the Estate) would, in all probability, be unaware of their ownership of the land. Considerable costs would be incurred if Council wished to track down the beneficiary of the Estate and current Department of Planning and Infrastructure protocols do not require that work to be undertaken. Contact has also been made with the relevant service agencies and the proposed closure was advertised some time ago. Through that process, no objection were raised to the dedication of the private street as a public road or its closure.
12. This request is submitted for Council's assessment and determination. Staff acknowledge that the need to close the street and to declare portion of Surrey Street as a public road is being driven by a subdivisional imperative, rather than for transport or community purposes.

WORKS & SERVICES REPORTS

Item 13.2.5 continued

RECOMMENDATION

THAT Council;

- i) pursuant to Section 52 of the Land Administration Act 1997, Council resolves to request the Minister for Lands to acquire as Crown land that portion of the private street, Surrey Street, shown on Plan 0105/A with the intent of then disposing of the land to adjoining allotments 25 to 27, 30, 31 and 42 to 48 as shown on the Plan;
- ii) pursuant to Section 56 of the Land Administration Act 1997, Council resolves to request the Minister for Lands to declare that portion of Surrey Street shown on Plan 0105/A to be a public street; and
- iii) resolves that the proposed dedication and closure take place concurrently with the subdivision of the adjoining land.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WATERMAN
SECONDED COUNCILLOR JAMIESON**

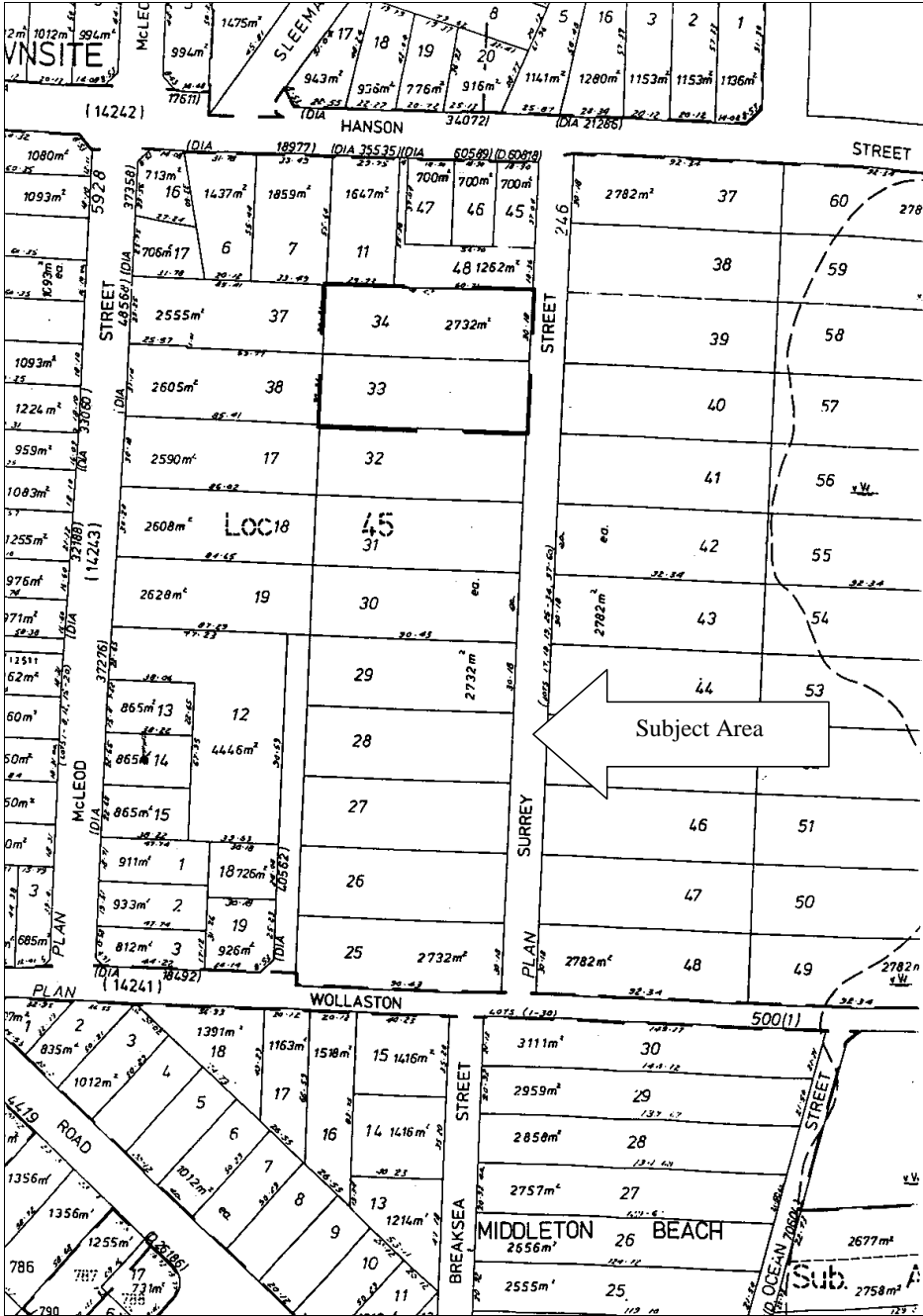
THAT Council;

- i) pursuant to Section 52 of the Land Administration Act 1997, Council resolves to request the Minister for Lands to acquire as Crown land that portion of the private street, Surrey Street, shown on Plan 0105/A with the intent of then disposing of the land to adjoining allotments 25 to 27, 30, 31 and 42 to 48 as shown on the Plan;**
- ii) pursuant to Section 56 of the Land Administration Act 1997, Council resolves to request the Minister for Lands to declare that portion of Surrey Street shown on Plan 0105/A to be a public street; and**
- iii) resolves that the proposed dedication and closure take place concurrently with the subdivision of the adjoining land.**

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

Item 13.2.5 continued



WORKS & SERVICES REPORTS

13.3 WORKS

13.3.1 Heavy Haulage Permits – Link Road

| | | |
|-------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : | MAN 166 (All Wards) |
| Proposal/Issue | : | Heavy Haulage Permits |
| Subject Land/Locality | : | Link Road |
| Proponent | : | N/A |
| Owner | : | N/A |
| Reporting Officer(s) | : | Engineering Technical Officer (C Prescott) |
| Disclosure of Interest | : | Nil |
| Previous Reference | : | N/A |
| Summary Recommendation | : | That Link Road be added to the Main Roads general endorsement system for multi-combination Long Vehicles (Pocket Road Trains) up to 27.5 metres in length. |
| Bulletin Attachment | : | Nil |
| Locality Plan | : | N/A |

BACKGROUND

1. Under sections 1107 and 1402 of the Road Traffic Vehicle Standards Regulations and Section 1612 of the Road Traffic Code, the Commissioner of Main Roads is empowered to issue Permits for the operation of combination vehicles that exceed the regulation mass and/or dimension limits. Local government has no legislative power to issue Heavy Haulage Permits.
2. However, where the haul routes requested are Local Government roads, written permission from the relevant Local Government authority must accompany the application to Main Roads.
3. Following a request from Southern Haulage Industries, approval was granted to operate multi-combination Long Vehicles (Pocket Road Trains) up to 27.5 metres in length on Link Road.
4. An assessment will be undertaken by Main Roads WA to establish whether the road conforms to their “Guidelines for Assessing the Suitability of Routes for Multi Combination Vehicles”. Main Roads requests that, following this assessment, Link Road, with Council’s agreement, be added to the general endorsement system so that the full length of this road may be used to operate multi-combination Long Vehicles (Pocket Road Trains) up to 27.5 metres in length by all operators.

WORKS & SERVICES REPORTS

Item 13.3.1 continued

5. Adding this road to the general endorsement system would in effect add the road to the existing network of roads for these vehicle types, cut down on repetitive administration work and make it easier for operators to obtain their necessary approvals.

STATUTORY REQUIREMENTS

6. Sections 1107 and 1402 of the Road Traffic Vehicle Standards Regulations and Section 1612 of the Road Traffic Code empower the Commissioner of Main Roads to issue Permits for the operation of combination vehicles that exceed the regulation mass and/or dimension limits.

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 Strategic Plan, “Charting Our Course”, the following Port of Call is identified:

Transport systems and services designed to meet current and future needs.

Objective:

- To effectively and efficiently manage the City’s transport infrastructure.

COMMENT/DISCUSSION

10. Link Road provides a route between Albany Highway and South Coast Highway. Currently Long Vehicles up to 27.5 metres in length using these roads have to use the roundabout in town where these roads meet Chester Pass Road and North Road. This route would allow heavy vehicles to travel between Albany Highway and South Coast Highway without having to use the roundabout in town and the adjacent residential areas. It also shortens the route by approximately 8 kilometres thereby saving transport costs and pollution.

RECOMMENDATION

THAT Link Road be added to the Main Roads general endorsement system for multi-combination Long Vehicles (Pocket Road Trains) up to 27.5 metres in length.

Voting Requirement Simple Majority

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WORKS & SERVICES REPORTS

Item 13.3.1 continued.

Executive Director Works & Services advised that he would investigate the possibility of installing a stop sign with Main Roads as requested.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WELLINGTON**

THAT Link Road be added to the Main Roads general endorsement system for multi-combination Long Vehicles (Pocket Road Trains) up to 27.5 metres in length.

MOTION CARRIED 13-0

WORKS & SERVICES REPORTS

13.3.2 Heavy Haulage Permits – Mallard, Pendeen, and Copal Roads

| | |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : MAN 166 (All Wards) |
| Proposal/Issue | : Heavy Haulage Permits |
| Subject Land/Locality | : Mallard Road, Pendeen Road and Copal Road, Willyung |
| Proponent | : N/A |
| Owner | : N/A |
| Reporting Officer(s) | : Engineering Technical Officer (C Prescott) |
| Disclosure of Interest | : N/A |
| Previous Reference | : N/A |
| Summary Recommendation | : That Mallard Road, Pendeen Road and Copal Road be added to the Main Roads general endorsement system for all types of long vehicles up to 36.5 metres in length. |
| Bulletin Attachment | : N/A |
| Locality Plan | : N/A |

BACKGROUND

1. Under sections 1107 and 1402 of the Road Traffic Vehicle Standards Regulations and Section 1612 of the Road Traffic Code, the Commissioner of Main Roads is empowered to issue Permits for the operation of combinations of vehicles that exceed the regulation mass and/or dimension limits. Local government has no legislative power to issue Heavy Haulage permits.
2. However, where the haul routes requested are Local Government roads, written permission from the relevant Local Government authority must accompany the application to Main Roads.
3. Following requests from Stevemacs Bulk Haulage and Southern Regional Haulage, approval was granted to operate long vehicle type road trains on Mallard Road, Pendeen Road and Copal Road.
4. Main Roads is now requesting that these roads, with Councils' agreement, be added to the general endorsement system so that the full length of these roads may be used by all operators for all types of vehicles up to 36.5 metres in length. This would in effect add the roads to the existing network of roads for these vehicle types, cut down on repetitive administration work and make it easier for operators to obtain their necessary approvals.

WORKS & SERVICES REPORTS

Item 13.3.2 continued

STATUTORY REQUIREMENTS

- 5. Sections 1107 and 1402 of the Road Traffic Vehicle Standards Regulations and Section 1612 of the Road Traffic Code empower the Commissioner of Main Roads to issue Permits for the operation of combinations of vehicles that exceed the regulation mass and/or dimension limits.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

- 8. In the City of Albany’s 2020 Strategic Plan, “Charting Our Course”, the following Port of Call is identified:

Transport systems and services designed to meet current and future needs.

Objective:

- To effectively and efficiently manage the City’s transport infrastructure.

COMMENT/DISCUSSION

- 9. The area concerned is zoned "Special Industry". One of the aims of the zone was to provide sites for industries that are transport orientated, such as trucking depots and warehouses. Main Roads staff have assessed the roads as suitable for the use of all types of long vehicles up to 36.5 metres in length.

RECOMMENDATION

THAT Mallard Road, Pendeen Road and Copal Road be added to the Main Roads general endorsement system for all types of long vehicles up to 36.5 metres in length.

Voting Requirement Simple Majority

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| |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>MOVED COUNCILLOR WELLINGTON SECONDED COUNCILLOR WOLFE</p> <p>THAT Mallard Road, Pendeen Road and Copal Road be added to the Main Roads general endorsement system for all types of long vehicles up to 36.5 metres in length.</p> <p style="text-align: right;">MOTION CARRIED 13-0 ABSOLUTE MAJORITY</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

WORKS & SERVICES REPORTS

13.4 AIRPORT MANAGEMENT

Nil

13.5 RESERVES PLANNING & MANAGEMENT

Nil

WORKS & SERVICES REPORTS

13.6 WORKS & SERVICES COMMITTEES

13.6.1 Bushcarers Advisory Committee Minutes – 26th May 2004

- File/Ward** : MAN 121 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration.
- Reporting Officer(s)** : Executive Director Works & Services
- Summary Recommendation** : That the Minutes of the Bushcarers Advisory Committee held on 26th May 2004 be received and recommendations adopted.

RECOMMENDATION

THAT the minutes of the Bushcarers Advisory Committee held on 26th May 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following recommendations adopted:

6.1 Appointment of Representatives

THAT the following people be appointed representatives on the Bushcarers Advisory Committee:

- Graham Blacklock/John Moore to share vacant position of Department of Agriculture (WA) representative;
- Greg Freebury to fill vacant position of Department of Conservation & Land Management representative; and
- Sandra Maciejewski to fill vacant position of Council officer.

6.2 Terms of Reference

THAT the frequency of committee meetings stated in the Terms of Reference be amended to three monthly.

Voting Requirement Absolute Majority

.....

WORKS & SERVICES REPORTS

Item 13.6.1 continued.

**MOVED COUNCILLOR SANKEY
SECONDED COUNCILLOR BOJCUN**

THAT the minutes of the Bushcarers Advisory Committee held on 26th May 2004 be received (copy of minutes are in the Elected Members Report/Information Bulletin) and the following recommendations adopted:

6.1 Appointment of Representatives

THAT the following people be appointed representatives on the Bushcarers Advisory Committee:

- **Graham Blacklock/John Moore to share vacant position of Department of Agriculture (WA) representative;**
- **Greg Freebury to fill vacant position of Department of Conservation & Land Management representative; and**
- **Sandra Maciejewski to fill vacant position of Council officer.**

6.2 Terms of Reference

THAT the frequency of committee meetings stated in the Terms of Reference be amended to three monthly.

**MOTION CARRIED 13-0
ABSOLUTE MAJORITY**

General Management Services

REPORTS

14.1 STRATEGIC DEVELOPMENT

Nil.

14.2 ORGANISATIONAL DEVELOPMENT

14.2.1 Review of Financial Management

| | | |
|-------------------------------|---|------------------------------------------------------------------------------------------------|
| File/Ward | : | GOV 039 (All Wards) |
| Proposal/Issue | : | Financial Management Duties of the Chief Executive Officer. |
| Subject Land/Locality | : | N/A |
| Proponent | : | N/A |
| Owner | : | N/A |
| Reporting Officer(s) | : | Manager Finance (S Goodman) |
| Disclosure of Interest | : | N/A |
| Previous Reference | : | Nil. |
| Summary Recommendation | : | Council to note Chief Executive Officer's review of the City of Albany's financial management. |
| Bulletin Attachment | : | Nil |
| Locality Plan | : | N/A |

BACKGROUND

1. The Chief Executive Officer has primary responsibility for establishment and control of effective systems and procedures in the City.

STATUTORY REQUIREMENTS

2. The Local Government (Financial Management) Regulations 1966 – (5. 2.c) states that *“The Chief Executive Officer is to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews.”*

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.1 continued.

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

6. The Chief Executive Officer has reviewed the City’s systems, procedures and delegations in the following areas:
- Proper collection of all money owing to the local government
 - Safe custody and security of money collected or held by the local government
 - Proper maintenance and security of the City’s financial records
 - Proper accounting for municipal or trust income, expenses and assets/liabilities
 - Proper authorisation for the incurring of liabilities and making of payments
 - Maintenance of payroll, stock control and costing records
 - Preparation of budgets, accounts and reports required by the Act or regulations
 - Financial planning to ensure long term sustainability of the City’s strategic plans
7. The review has indicated that the City’s financial systems and procedures are adequate to meet Local Government current and future requirements.

RECOMMENDATION

THAT Council note the Chief Executive Officer’s review of the City of Albany financial management.

Voting Required Simple Majority

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Councillor West left the Chambers at 8.40pm.

**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR EMERY**

THAT Council note the Chief Executive Officer’s review of the City of Albany financial management.

MOTION CARRIED 10-2

It was requested that names be recorded.

For: Councillors’ Sankey, Bojcun, Emery, Wellington, Waterman, Williams, Evans, Wolfe, Barton & Mayor Goode.

Against: Councillors’ Paver & Jamieson

GENERAL MANAGEMENT SERVICES REPORTS

14.2.2 Request Amendment to Policy to Permit Use of Surety Bonds in Lieu of Bank Guarantees Subject to issuing Financial Corporation Meeting Criteria

| | |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| File/Ward | : A122777 (Yakamia Ward) |
| Proposal/Issue | : Permit Use of Surety Bond in lieu of bank Guarantee. |
| Subject Land/Locality | : Lots 6,7,8,12,13,39,40,101 and 293 Chester Pass /Catalina/Mercer Roads, Lange |
| Proponent | : Kingopen Pty Ltd |
| Owner | : Kingopen Pty Ltd |
| Reporting Officer(s) | : Chief Executive Officer (A Hammond) |
| Disclosure of Interest | : Nil. |
| Previous Reference | : OCM 17/06/03 - Item 11.3.2 OCM 18/03/04 - Item 11.3.1 OCM 18/02/03 - Item 11.3.3 OCM 16/10/01 - Item 11.3.2 OCM 26/06/01 - Item 11.1.2 |
| Summary Recommendation | : That policy be amended to permit surety bonds to be used in lieu of bank guarantees subject to issuing financial corporation meeting criteria. |
| Bulletin Attachment | : Nil. |
| Locality Plan | : Nil. |

BACKGROUND

1. A request has been received from Kingopen Pty Ltd for Council to consider the use of “Insurance Bonds” in lieu of a Bank Guarantee to cover the clearance of subdivisional conditions prior to the completion of required infrastructure. Council Policy requires the use of a Bank Guarantee and is silent upon the use of other instruments. It is important to note that the correct term for this type of instrument is a “Surety Bond” notwithstanding that it is actually issued by an insurance company.

STATUTORY REQUIREMENTS

2. There are no statutory implications relating to this item.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued.

POLICY IMPLICATIONS

3. Should Council agree to the use of other financial instruments to support conditional works then Policy should be amended to provide for uniformity and equity in dealing with developers.
4. The current policy for the Catalina development is:

“ 6.2 Bond Agreement

Where bonding is approved, the developer shall enter into a written bond agreement with the City of Albany, which clearly states the following information:

- i) Name and address of the person or persons responsible for the cash payment or arranging the unconditional bank guarantee;*
- ii) The amount of the cash payment or unconditional bank guarantee;*
- iii) Name, stage number and location of the subdivision;*
- iv) WAPC reference number of the subdivision;*
- v) A concise explanation of the purpose of the bond referring to all items for which it is to be utilised with the value of the appropriate portion of the bond attributed to that item;*
- vi) The name of the contractor responsible for completing the work;*
- vii) The anticipated date of completion of the bonded work;*
- viii) Details of actions to be taken by the developer, the contractor and the City of Albany should a breach of agreement occur;*
- ix) Any other information which is relevant to the processing and disposal of the bond in part or in full;*
- x) Agreement by the developer that portioned release of bonds will not be requested for amounts below \$20,000 or until items to the minimum value of 60% of the total bond amount have been completed. The greater value shall apply.”*

FINANCIAL IMPLICATIONS

5. The financial capacity of the corporation issuing the guarantee to meet its obligations should the document be called upon is the key issue for Council to consider. Should an issuing company fail, Council could be subject to considerable financial loss

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

7. The differences between the two documents relate principally to the relationship between the project proponent and the issuing financial corporation.

GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued.

8. Banks require formal security such as mortgages, cash deposits, and Personal Guarantees from directors and generally view the issue of guarantees as a draw down from the company's overall credit facilities.
9. Insurance Companies do not require the same level of security as Banks , but take an indemnity from the applicant , providing recourse in the event of a call on the surety.
10. The major difference therefore for the Council to consider is the difference in financial capacity of the financial organisations if called upon to honour the commitment. In general terms the major Australian banks would be seen to have broader and stronger asset bases than Australian Insurance companies notwithstanding that both industry sectors have long established and financially sound organisations well capable of honouring the magnitude of commitment that the City would require in its dealings with property developers.
11. The relationship between the City and the financial corporation is the same with both documents, that is the City may demand funds without notice and without advice to the project proponent should works required as a condition of subdivisional approval not be undertaken within time or to predetermined standard.
12. This matter has been discussed with the City's Auditors who advise that reinsurance of any risks involved in using Insurance companies as opposed to Banks could be a way of providing the same levels of comfort with both types of documents.
13. The City Insurers advise that no reinsurance product currently exists to satisfy Councils requirements. They advise however that the financial strength of the issuing organisation can be effectively verified by the use of Standard and Poors Insurance Financial Strength Ratings. Their advice provides that any issuing organisation with a rating of "A" or higher is acceptable.

RECOMMENDATION

That Council amend relevant policy to allow the use of Surety Bonds in lieu of Bank Guarantees subject to the issuing corporation having at least an "A" rating as assessed by the Standard and Poors Insurers Financial Strength Rating.

Voting Requirement Absolute Majority

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GENERAL MANAGEMENT SERVICES REPORTS

Item 14.2.2 continued.

**MOVED COUNCILLOR EVANS
SECONDED COUNCILLOR BOJCUN**

THAT Council amend relevant policy to allow the use of Surety Bonds in lieu of Bank Guarantees subject to the issuing corporation having at least an “A” rating as assessed by the Standard and Poors Insurers Financial Strength Rating.

**MOTION CARRIED 8-4
ABSOLUTE MAJORITY**

Councillor West returned to the Chambers at 8.47pm.

GENERAL MANAGEMENT SERVICES REPORTS

KINGOPEN PTY LTD

ABN 68 009 225 576

PO BOX 524

ALBANY W.A. 6330

WESTERN AUSTRALIA

Phone (08) 9842 2111

Fax (08) 9841 5399

Email: perry@kingopen.com

14 May 2004

Mr. Andrew Hammond
Chief Executive Officer
City of Albany
ALBANY 6330
West Australia

FAXED

Dear Andrew

Thank you for your letter of response dated 12 May to our request regarding "Insurance Bonds" for works to be carried out at the Brooks development site on Chester-Pass Rd Albany.

In answer to your queries please find attached a copy of the document we intend to use for the insurance bonds.

The name of the financial institution in question is QBE Insurance (Australia) Limited.

I hope this answers the queries raised in your letter, however if any more detail is required please do not hesitate to phone me on 98422111.

Yours Faithfully



PHA Spanbroek.
Director Kingopen Pty Ltd.

14.3 ECONOMIC DEVELOPMENT

Nil.

14.4 GENERAL MANAGEMENT SERVICES COMMITTEE

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 BOJCUN**

**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

On the 17th & 18th May I assisted the Hon. Wilson Tuckey to officially open the Youngs Siding and Wellstead Rural Transaction Centres. These two centres were the successful end result of a 'strategy review into library services to rural and outlying areas', which enabled the City to secure funding to establish two RTC's. City of Albany staff worked closely with the Youngs Siding and Wellstead Progress Associations to secure additional funding, assist with project planning and co-ordinate the building and establishment of the Centres. Each facility will greatly benefit the respective communities giving them better access to Government services as well as reducing the need to travel distances to access important services such as health, landcare, library books, computing and information technology. The benefits of having modern facilities available locally has been enthusiastically welcomed by both communities and it is now in the hands of the community members to fully maximise the services to RTC Centre can generate. The City of Albany was proud to support two valuable rural initiatives.

On Wednesday 19th May, the City of Albany Waste Minimisation Service was officially launched at the Hanrahan Road Waste Disposal Site. I was extremely impressed by how clean and tidy the complex is and how efficiently run. The implementation of the Service will not only substantially reduce waste going to landfill, but more importantly will make the City more sustainable environmentally. Despite some early problems with bins not being delivered in time and people not understanding the new system, the feedback I have received generally has been extremely positive. People who have never given much thought to recycling are now becoming far more proactive in the way they think about the disposal of their waste and the impact it ultimately has on the environment. The City of Albany are the leaders of best practice in rural Australia and are very proud to show that leadership in our ongoing commitment to a sustainable future. I thank all city staff who were involved in establishing the service.

On the 29th May the City hosted the inaugural National Day of Thanksgiving. Launched by Gov Gen, Maj-Gen Michael Jeffery and endorsed by Prime Minister John Howard, the National Day of Thanksgiving was intended to be a day to give thanks through prayer. The City of Albany was approached to host the event by the Albany Church Leaders group and the Christian Businessmen, who worked with us to co-ordinate the event. Our intention was to make it a day to give ‘community thanks’; to acknowledge community leaders, volunteers, groups and associations, the young and the elderly, the diversity of cultures and religions that all combine to make our City such a wonderful ‘community’ to live in. Certificates of appreciation were presented to each organisation represented on the day and the excellent feedback we have received from everyone who attended has ensured that the event will become an annual one on the community calendar.

The US Submariners Memorial Service on 30th May was very well attended, despite appalling weather conditions. As always it was a pleasure to pay tribute to the submariners who protected Albany so stoically during World War II. Although stationed in Albany for a comparatively short period of time, they were highly regarded and made many worthwhile contributions to our town. Those present at the service also paused to acknowledge the brave servicemen and women ‘Still on patrol’.

Sunday the 6th June saw the running of the 2004 Albany Classic Motor Event. This year’s event was the most successful ever held with entries exceeding the capacity allowed. I understand that 40 competitors had to be turned away, proving that enthusiasm continues to grow for the event. Forecast rain did not eventuate allowing the race to be run in good weather conditions, in front of an enthusiastic crowd. It was my great pleasure to officially welcome the competitors and support crew to the Presentation Dinner on Sunday night. That the event continues to draw such interest and enthusiasm in a tribute indeed to event co-ordinators and extremely good for Albany.

Thankyou.”

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR SANKEY**

THAT the Deputy Mayor’s report be received.

MOTION CARRIED 13-0

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

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR JAMIESON**

THAT Council discuss the following late item:-

18.1 Building Compliance – Retaining Wall – 11 Festing Street, Albany

MOTION CARRIED 7-6

Councillor Paver requested that his comments regarding this item be included within the minutes.

18.1 Building Compliance – Retaining Wall – 11 Festing Street, Albany

- File/Ward** : A97453 (Frederickstown Ward)
- Proposal/Issue** : Efficacy of Retaining Wall
- Subject Land/Locality** : Location AT67 (11) Festing Street, Albany
- Proponent** : N/A
- Owner** : M & L Roberts
- Reporting Officer(s)** : Executive Director Development Services (R Fenn)
Principal Building Surveyor (K Barnett)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 19/08/03 - Item 19.2
OCM 21/10/03 - Item 11.1.1
OCM 20/01/04 - Item 11.1.4
- Summary Recommendation** : No action be taken
- Bulletin Attachment** : Nil
- Locality Plan** :



Item 18.1 continued

BACKGROUND

1. Councillors Paver and Jamieson have requested that an agenda item be supplied to Council addressing alleged deficiencies with the retaining wall at 11 Festing Street, Albany. The adjoining landowner has also written to Council expressing concern over the efficacy of the processes carried out by Council to satisfy itself as to the structural adequacy of the wall and its compliance with the approved plans.
2. By separate memo, Staff will provide Councillors with a chronology of the events and correspondence following the August 2003 meeting of Council.

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.

- (2) Where a person is given notice under this section to pull down or alter a building, in order to remove a ground of objection, mentioned in subsection (1)(a), he may within 35 days of the service of the notice upon him, if dissatisfied with the requisition in the notice, appeal under Division 19, in the manner prescribed by the regulations, against the requisition.
- (3) Where a person is given notice under this section to pull down or alter a building in order to remove a ground of objection mentioned in subsection (1)(b) or (c), he may within 35 days of the service of the notice upon him, if dissatisfied with the requisition in the notice, appeal to the Minister in the manner prescribed by the regulations, and the Minister may decide the appeal and his decision is not subject to appeal.

Item 18.1 continued

- (4) When a building has been constructed, amended, altered, extended, enlarged or added to, whether pursuant to a notice from the local government or not, the builder or owner of the building shall on completion of the construction, amendment, extension, enlargement, addition, or alteration serve written notice of the completion upon the building surveyor of the local government.
- (5) If, after inspection and survey, the building surveyor is satisfied that the building has been constructed, amended, extended, enlarged, added to or altered, in conformity with the notice, the surveyor shall, on payment of the fee prescribed by the local laws of the local government give in the form so prescribed a certificate in writing signed by him to that effect to the builder or owner from whom he has received the notice mentioned in subsection (4).
- (6) The certificate given by the building surveyor under subsection (5) is admissible in evidence and is prima facie proof of the particulars contained in it.
- (7) If the builder or owner on whom a notice mentioned in subsection (1) has been served does not:
 - (a) *within 35 days of that on which the notice is served upon him, unless the requisitions in the notice are the subject of an appeal under this section; or*
 - (b) *if an appeal under this section is dismissed, within 14 days of the dismissal,*

comply with the requisitions in the notice, a court of petty sessions on complaint by the local government that he has not so complied with all or any of the requisitions in the notice and that the requisitions in respect of which the complaint is made are not the subject of appeal under this section, may order the person on whom the notice has been served to comply with the requisitions within a time to be fixed by the order, and the court may make such order as to the costs of and incidental to the proceedings relating to the order as the court thinks fit.
- (8) If an order made under subsection (7) is not complied with by the person to whom it is directed within the time so fixed, the local government may lawfully enter upon the land on which the building is erected or is in course of being erected and give effect to the requisitions and may, in a court of competent jurisdiction, recover the expense of so doing from the builder or owner on whom the notice was served.
- (9) An order made under subsection (7) is not subject to appeal.

POLICY IMPLICATIONS

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

Item 18.1 continued

FINANCIAL IMPLICATIONS

5. As detailed in the Statutory Requirements above, if a landowner fails to complete work identified in a Section 401 Notice, Council may incur and recover the costs to rectify the situation giving rise to the Notice.

STRATEGIC IMPLICATIONS

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

COMMENT/DISCUSSION

7. At its meeting on the 20th January 2004 Council resolved to;

- “i) request the receipt within 30 days of a statutory declaration from Mr Roberts as a registered architect confirming that he personally supervised the work on the retaining wall and that it was constructed in accordance with the Wood and Grieve Engineer’s design dated 31/10/96, particularly in regards to the dimension of the wall and that, where there may be variations to the approved design, they be disclosed in the declaration;*
- ii) advise the Minister for housing and Works that it has passed this resolution; and*
- iii) deliver to the Minister the statutory declaration upon receipt of the same from Mr Roberts.”*

8. This resolution followed a failed motion in August 2003 which proposed;

“THAT after a full consideration of the Wood & Grieve and Cook reports relating to the retaining wall at 11 Festing Street, Albany, Council determines that the wall has not been constructed in accordance with the approved plans and specifications and is unsafe, and resolves to issue notices under Section 401(1)(a) and Section 401 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1960 requiring Mr & Mrs Roberts to pull down or so alter the wall so as to remove the cause of the objection

AND

THAT Council staff determine whether or not the garden wall and fence on the western boundary of 11 Festing Street, Albany, have been constructed in compliance with the plans and specifications and report their findings to Council at the next ordinary Council Meeting in September 2003.”

9. The decision of Council in January 2004, also needs to be read in conjunction with the Council minutes of the 15th July 2003 which state;

- “i) accepts the findings of the Wood and Grieve report of the 5th June 2003 relating to the retaining wall at 11 Festing Street, Albany;*
- ii) request Mr and Mrs Roberts, within the next 60 days to implement the additional work noted in the Wood and Grieve report to the satisfaction of the City’s Principal Building Surveyor; and*

Item 18.1 continued

iii) *authorise the issuing of a Section 401(1) Notice under the Local Government (Miscellaneous Provisions) Act 1960, if the outstanding work nominated in the Wood and Grieve Report is not completed within 60 days.”*

10. If Council is concerned about the performance of the retaining wall, it has the capacity under Section 401 of the Local Government (Miscellaneous Provisions) Act 1960 to serve a Notice upon the owner of the land. That Notice needs to set out the grounds upon which the Notice is being served, what remedies are required and the landowner must be advised of their appeal rights. The Act restricts Council to two options in this instance; Council needs to determine that either the retaining wall was constructed in a manner which renders it unsafe or prejudicial to the public interest or that it was constructed in a manner which is not in compliance with the approved plans and specifications.

Section 401(a) – Building is unsafe:

11. In April 2001, Mr Cook, a civil and structural design consultant and an authorised mine surveyor, prepared a report on the condition of the retaining wall and determined that the wall was structurally unstable. In June 2003, Mr Thornton of Wood and Grieve Engineers, inspected the wall on behalf of Mr Roberts, examined the claims of Mr Cook and concluded that the wall was in a stable condition and showed no signs of movement or failure.
12. The Minister for Housing and Works, in his letter of the 30th December 2003 advised Council that both are reputable structural engineers and it is open to the City to rely upon a statement from either. In July 2003 Council resolved to accept the Wood and Grieve report. Any structural engineer examining the wall is doing so post-construction and they must rely upon visual evidence to determine the performance of the wall. To determine the integrity of the wall, Staff consider that Council would need to engage another structural engineer to review the existing findings and remove part of the fill behind the wall to verify that the appropriate wall thickness has been obtained.

Section 401(b) - Building not constructed in accordance with approved plans:

13. The neighbour and several Councillors have raised concerns over a number of anomalies between the approved plans and the finished wall, the cumulative effect of which may constitute non-compliance with the approved plans. Those concerns include:
- a) Wall crosses property boundary:- Mr Cook, during his investigation in 2001, surveyed the common boundary and concluded that the retaining wall transgressed into the neighbour's property between 80 mm and 280 mm for a distance of 7 metres. That transgression applied only to the bottom section of wall, to a height of 500 mm above ground level.

Item 18.1 continued

Recently, the neighbour has had the surveying firm 36 Degrees South undertake some detailed surveys along the common boundary to determine the profile of the land and no information has been supplied to the City from that firm to verify or refute Mr Cook's findings on the boundary transgression.

Mr Roberts has verbally advised that he has engaged the services of John Kinnear and Associates to determine the position of the wall and Mr Kinnear's findings differ from those of Mr Cook. Mr Roberts' claims the wall transgresses the boundary for a maximum of 90 mm for a distance of 2 metres and for a height of 400 mm. Mr Roberts has indicated that he is prepared to have that section of wall removed if provided access to the wall from the neighbouring property.

- b) Wall is built on fill:- The neighbour has recently engaged the services of a soil testing company to evaluate the soil profiles adjacent to and along the common boundary of the two lots. The results of the analysis show that there is a consistent stratification of the soil beneath the property boundary and on the neighbouring lot. The presence of blasted rock in soil removed from beneath the wall is seen as positive proof that the soil was placed during the construction of the retaining wall and therefore the wall was not initially built into natural ground.

Council staff have regularly been on the site since 1996 and cannot substantiate the claim that 500 mm of soil had been moved onto the neighbouring property; that quantity of fill would be clearly visible at the time. During on-site inspections of the site over the intervening 8 year period, staff have observed that numerous cavities had been dug under the wall and then backfilled by the neighbour.

- c) Thickness of the wall;- Mr Cook created several cavities below the wall in 2001 and, using a steel rod, probed the back end of the wall to try to determine the base thickness of the wall at various locations. He drew the conclusion that the wall was of insufficient thickness from that method of testing. Mr Roberts is a practicing architect and he has provided a statutory declaration that he supervised the construction of the wall and that it was constructed by a professional stone mason to the specified dimensions.

The only effective means of determining the thickness of the wall is to remove the soil from behind it and measure the structure.

- d) The concrete key has not been inspected:- Wood and Grieve Engineers during their inspection noted that a minimum of 350 mm of soil needs to be provided at the base of the wall or a concrete key installed below the wall to stop scouring at the base of the wall and ultimately the undermining of the wall. Mr Roberts has provided a statutory declaration that the key has been installed and the City's Principal Building Surveyor will inspect the wall to verify its existence.

Item 18.1 continued

- e) Wall built over a tree stump:- Building a structure over material which has the capacity to decompose is not acceptable construction practice. Mr Cook saw the stump as a potential stability concern and Mr Thornton did not. The engineering advice provided indicates that the risk of trying to remove the stump will create stability concerns.

Conclusion:

- 14. The Minister has advised Council “*it is the City who must determine, based upon the facts, whether the retaining wall is safe and complies with the approved plans and specifications for which the approval of the City of Albany was obtained*”. Approving a retaining wall after it had been constructed will allow permanently unresolved concerns over the proper dimensions of the constructed wall and the soundness of the construction; within the City very few retaining walls are inspected during their construction and the performance of the walls over time then becomes the benchmark of their construction and design quality.
- 15. Council staff are reluctant to recommend the issuing of a Section 401 Notice based upon the information currently available. Council has the capacity to decide that a Section 401 Notice be issued and staff await Council’s instructions.

RECOMMENDATION

THAT Council table the information on the retaining wall at 11 Festing Street, Albany and take no further action.

Voting Requirement Simple Majority

.....

Councillor Paver requested that his speech be tabled and included within the Council minutes in accordance with Clause 4.2 of the City of Albany Standing Orders Local Laws.

**MOVED COUNCILLOR JAMIESON
SECONDED COUNCILLOR PAVER**

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.

MOTION CARRIED 7-6

Reason:

The Council is not satisfied that the wall is either safe or in conformity with the plans and specifications approved by the City of Albany.

Cllr Paver's speech.

Item 18.1 15th June 2003

I move that Item 18.1 be raised and decided by the meeting

Madam Mayor, Clause 2.7 of the City's Standing Orders covers late items or matters without notice. It provides that Councillors may decide to deal with these matters "in cases of extreme urgency or other special circumstance". Their decision to do so is by majority vote.

The first justification for dealing with this item at this meeting rests on the very simple basis that Councillor Jamieson and I submitted on 28th May a request for a motion on 11 Festing Street to be included on the agenda for this meeting. This was a timeous submission. Yet Mr Fenn declined to put it on the agenda.

This is the second time he has done this. Last year he refused to place on the September agenda another Councillor motion on 11 Festing Street. It too was timeously submitted. He not only refused to place it on the agenda, but also refused to submit it as a late item.

This time Mr Fenn has again not only declined to put the Councillor motion on the agenda but also declined to submit it as a late item. But this is not all, Madam Mayor Mr Fenn went further. He penned his own contrary recommendation and submitted that as a late item.

Now, Mr Fenn seems to think that he has an absolute discretion to allow or disallow Councillor motions as he pleases, both as agenda and as late items. He seems to think he has an absolute discretion to ignore them and substitute his own recommendation instead. If this is so, we Councillors should all go home because we are wasting our time here. But Madam mayor, however cynical one might be about the nature of local government in the State of Western Australia, one thing is clear. The Local Government Act does not repose dictatorial powers in the Executive Director of Development Services, not here in Albany nor anywhere else. He does not have the discretion that he asserts and exercises with apparent disdain for the role and responsibilities of elected Councillors. Since he does not have this discretion and the motion should have been placed on the agenda, this Council should proceed as if it were placed on the agenda and deal with it accordingly.

A second reason why Item 18.1 needs to be raised and resolved at this meeting is because the seller and buyer of 11 Festing Street are affected by it. I have been led to believe that settlement of the sale was to have taken place before this meeting but that it has been delayed pending a decision by Council on this matter. In these circumstances it is entirely inappropriate that this item be deferred for any length of time at all.

There are therefore 2 reasons that justify, and indeed, demand that Item 18.1 be dealt with at this meeting. The first goes to "special circumstance". It would be a serious derogation of our responsibilities as Councillors to permit Mr Fenn a discretion to decline to include a timeously submitted Councillor motion on the agenda and then to submit his own contrary recommendation as a late item. The second goes to "cases of extreme urgency". It would be seriously and immediately prejudicial to the interests of the buyer and seller of 11 Festing Street to delay the resolution of this matter. Councillors I urge you to support this motion.

19.0 CLOSED DOORS

Nil.

20.0 NEXT ORDINARY MEETING DATE

Tuesday 15th June 2004, 7.30pm

21.0 CLOSURE OF MEETING

There being no further business, the meeting closed at 8.32pm.

Confirmed as a true and correct record of proceedings.

A Goode, JP
Mayor

APPENDIX A

WRITTEN NOTICE OF DISCLOSURES OF INTEREST

| Name | Item | Nature of Interest |
|-------------|-------------|--------------------------------|
| Cllr Barton | Item 11.3.2 | Employee at Coles Supermarket. |

APPENDIX B

INTERESTS DISCLOSED DURING THE COURSE OF THE MEETING

Nil.

INTERESTS DISCLOSED BY OFFICERS

Nil.

[Agenda Item 12.1.1 refers]

[COUNCIL –15th June 2004]



SUMMARY OF ACCOUNTS

| | | | |
|--------------------------|-----------|--------------|------------------------------|
| Municipal Fund | | | |
| Cheques | totalling | 100,174.65 | |
| Electronic Fund Transfer | totalling | 1,121,723.57 | |
| Payroll | totalling | 588,379.88 | |
| TOTAL | | | <u>\$1,810,278.10</u> |

CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling \$1,810,278.10 was submitted to each member of the Council on 15th June 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 \$1,810,278.10 which was submitted to the Council on 15th June 2004 and that the amounts are recommended to the Council for payment.

MAYOR
(A Goode JP)