



MINUTES

ORDINARY MEETING OF COUNCIL

Held on
Tuesday, 16th March 2010
7.00pm
City of Albany Council Chambers

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1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 6.59PM

ITEM 1.0 - MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DUFTY**

THAT Council Suspend Standing Order 3.1, to allow recording of proceedings.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

2.0 OPENING PRAYER

Councillor Wolfe 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.”

3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

7:00:23 PM Councillor Sutton

Councillor Sutton spoke of the need for unity in the council. Councillor Sutton also cautioned Council to consider the issues surrounding development of the City carefully, and not to become anti development.

7:01:35 PM Councillor Matla

Councillor Matla thanked Robert Fenn for his work with the City, and wished him and his wife well for the future. Councillor Matla also thanked all volunteers and fire fighters who worked tirelessly over the weekend to control the fire at Little Grove.

7:02:29 PM Councillor Wolfe

Councillor Wolfe thanked Robert Fenn for his marvellous service to the City over the years and wished him well in the future. Councillor Wolfe also thanked Emergency Management services for their work to control the fire at Little Grove.

7:03:05 PM Councillor D Bostock

Councillor Bostock expressed concern over the loss of the democratic system in society, and the erosion of human rights.

7:05:34 PM Councillor Wellington

Thanked Robert Fenn for the work that he has done with the City, and wished him all the best in the future.

Item 3.0 continued.

7:06:09 PM Councillor Hammond

Councillor Hammond expressed his appreciation for the contribution that Robert Fenn had made to the City. Councillor Hammond said that he felt contaminated by the actions occurring around him in Council. Councillor Hammond also spoke of his regret over the resignation of Councillor Price, and warned Council that if Council does not work together the affairs of the City would be run by Commissioners. Councillor Hammond said there were serious challenges confronting the City, but there were also exciting developments in the future for Albany.

7:09:18 PM Councillor Jill Bostock-Tabled Address

Following the fires at the weekend I would like to say thank you to the volunteer bushfire brigades and all those involved in keeping us safe. The dedication and time given by these special volunteers tends to be forgotten and the events this weekend highlight their valuable contribution.

We are blessed with a great number of volunteers in many areas of need in our City and they all require support, encouragement and recognition, it is this public participation that converts a City into a community. Being actively involved brings rewards not only individually but for everyone, a sense of ownership, well being, positive hope for the future and pride in our City.

As representatives, it is our role to foster this public involvement, demonstrate and reinforce our recognition of its importance and keep it central in all we do. By gaining the public confidence that we are listening and value their input, our Community will flourish, the job of Local Government becomes easier and developments, services and progress is in line with public needs and wishes.

In my ward, the Friends of Emu Point are a shining example of self help; they meet monthly and devote their attention to maintaining their piece of beautiful Albany. Not just asking for council help but with working bees and individuals finding solutions to problems. Trees have been planted and watered by hand, grounds cleared and tidied and repairs made, and park areas have been enhanced with not one but five picnic tables, all donated and made by a member, Philip Drage. The City's Works and Services have also contributed and an excellent example of combined forces, with Government and community working together.

I would like to formally thank them all, not only for keeping Emu Point beautiful, keeping the community spirit alive but for making my job easier, Thank you Friends of Emu Point.

Item 3.0 continued

7:11:34 PM Mayors Report

MAYOR'S REPORT TO COUNCIL – 16th March 2010

Firstly, welcome Cr Chris Holden to your first Ordinary Meeting of Council.

Conversely, this will be the last Council meeting for our Executive Director, Development Services, Mr Robert Fenn who leaves Council shortly after 15 years in local government. Robert, thank you for your contribution to the City, I wish you and your family well for the future, whatever career you choose to pursue.

During March I attended the Australian Coastal Councils Conference in Byron Bay from 1 March to 3 March, accompanied by the Executive Director for Works and Services.

The theme of the conference was "COAST 2010 - The time to act is now".

The primary subjects covered were

1 Sea Change.

The scale of the impact of climate change on coastal cities and towns was debated and the inevitable consequences of sea rise discussed. There is well researched evidence that sea rise will inundate low-lying parts of coastal cities and we need to prepare for these events.

2 Coastal Infrastructure

Oceanographers predict a 900 mm sea rise by 2100, but the impact of storm surges is hardly ever modelled into predictions. It is suggested that sea storms will inundate large tracts of low lying land, but the damage to existing structures, services infrastructure, homes and natural resources is estimated to be far greater and amount to billions of dollars per storm event. Also discussed were the financial impacts and responsibility of providing for protection of services, relocation of infrastructure and insurance of property.

3 The George Report

The conference discussed the recommendations of this very important House of Representatives Standing Committee report, which, once acted upon, would go a long way towards addressing many of the concerns of coastal councils.

4 Coastal settlements and changing demographics.

The latest in demographic research was debated and the requirements in particular of an ageing community in coastal settlements. Specific impacts on housing designs, infrastructure demands, services requirements, connectivity and most importantly health care demands were emphasized as areas requiring special attention.

Much information was exchanged and I look forward to receiving the final priority input from this conference into the National Sea Change Taskforce Policy Framework, being developed as a basis for an advocacy campaign during the period leading up to the forthcoming Federal election.

Item 3.0 continued.

Other Mayoral engagements during the month included:

- ACCI Business Awards
- Albany Historical Society Dinner
- Albany Memorial Cemetery Unmarked Graves Project launch
- UWA Musical Evening
- Combined Albany Public Library/PIAF – Patrick Gale literary collection
- A small citizenship ceremony for 3 people
- A 100th Birthday Tree Planting for Mrs Ethel Ellen
- I was fortunate to be invited to tour the Queen Victoria when she visited Albany on 27th February.
- Albany Rifle Club official launch of the City funded Electronic Targets.
- Mt Barker Cup Luncheon
- UWA Scholarship Presentations
- Community De-brief following last Saturday's fire. Thankfully that no lives or homes were lost and I would like to acknowledge the splendid efforts of FESA, DEC, Albany Police and City staff and the many volunteers from the region who joined forces – well done.
- Mission to Seafarers AGM; and finally the
- Ulysses Welcome Ceremony, AGM Dinner and Official Farewell on Saturday evening, the 13th March. What a fantastic opportunity it has been for Albany to host the Ulysses AGM. This was the culmination of four years of planning and organization by many people including City of Albany staff. It has been a financial, social and cultural success for our City.

On a sad note – I would like to recognize Mr Peter Rasmussen who passed away last night at the Albany Hospice. Peter has had a huge impact on our community, particularly in the enjoyment of music amongst youth. Flowers have been sent to his widow Audrey on behalf of the Mayor, Councillors and staff of the City. The funeral will be held on Monday 22nd March, 11am at the Baptist Church, Bethel Way.

ITEM 3.0 - MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR LEAVESLEY

THAT the Mayor's report be received.

MOTION CARRIED12-0

4.0 RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME

Nil

5.0 PUBLIC QUESTION AND STATEMENT TIME

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

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

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

7:20:00 PM Max Angus, Goode Beach

Mr Angus addressed Council regarding Item 13.5.1, the Frenchman Bay development. Mr Angus said he was a supporter of development at the Frenchman Bay Caravan site, if the development followed the original concept. Mr Angus expressed concern that if financial viability was an issue at the site, this issue should have been brought forward during the mediation process.

Mr Angus raised the following points:

- Council should respect the processes in place regarding this site
- This is a special site with direct beach access, it would be a travesty if a large proportion of this site were set aside for a residential development
- The current owner could not sell the site as it is for a profit, and any potential buyer would need to look at alternatives to become viable
- By acting in the way it has, it is the thin edge of the wedge, making it harder for Council to withdraw from the commitment
- The site should be put up for sales to allow other developers to put forward submissions.

Item 5.0 continued.

7:24:25 PM Chris King, Wakefield Crescent

Mr King addressed Council with regard to the sealing of Lake Seppings Drive. Mr Kings asked Council to reconsider its decision not to proceed with further sealing of Lake Seppings Drive for the following reasons:

- Safety-there had been a number of incidents with cars hooning, and also the S bend in the road was a hazard for drivers
- Dust Issues-the dust blowing across adjoining residences from the gravel surface caused by passing traffic was a major nuisance to residents
- Reasonable access to properties-the current road does not provide reasonable access
- Sections of road which had been sealed on nearby roads that already had sealed access-why was this done when Lake Seppings Drive required sealing?

Mr King said that this issue was an indictment on Council.

7:29:10 PM Richard Vogwill, Goode Beach

Mr Vogwill tabled a Memorandum to the Mayor, Councillors, CEO and City of Albany detailed below.

Members of the Frenchman Bay Association would like to know what is happening with the proposed 5-Star Resort at Frenchman Bay? The Community doesn't hear much about it anymore.

However, the minutes of the City of Albany Planning and Environment Strategy and Policy Committee meeting (18 February 2010) indicate that both the Developer and his Planning Consultant have given presentations to this committee in order to try and introduce residential zoning be accepted by Council and the Council will now vote on this matter tonight.

At a meeting of the Frenchman Bay Association last night, there was a unanimous vote against residential zoning at the Frenchman Bay site.

After all the Council and the Community have gone through over this Resort, we finally had settled on a new tourist accommodation design that contains offsets (changes that lessen the environmental and visual impacts) from the previous design which were more or less satisfactory to all. Now it appears that there is some "sneaky business" going on to change portions of this development to residential.

The City of Albany (Draft) Tourism Accommodation Planning Strategy has classified a number of tourism sites as "Local Strategic Sties" and states that on such sites residential is a prohibited use. The Frenchman Bay site is classified as a Local Strategic Site and the strategy states that these sties "*.....should be given the highest level of zoning protection from alternate land uses that may diminish the tourism experience.....*".

Item 5.0 continued.

The reason given for the Developer's request is apparently that the proposed development is not financially viable without residential zoning; however, this is supposed to be tourist accommodation, not residential. According to our business leaders in the know, Albany is not in the Qantas Tourism Book because we don't have enough high quality tourism accommodation, not residential. This development (and perhaps the Middleton Beach Hotel) was supposed to fix this by improving available 4 to 5-Star tourist accommodation in our region.

How can it be that nobody knew this project was not financially viable without residential zoning until now? We have previously indicated our concern that this could be the case in our numerous past submissions to Council. For a proposed \$65,000,000 development, how is it possible that there have been no previous financial studies to determine whether it is financially viable without residential zoning?

From our layperson's perspective, we wonder whether this could be some sort of planned move by the Developer to increase the value of this land prior to selling to companies that actually build and develop resorts (e.g. Mirvac Fini or similar).

It appears that the Community has not and will not be invited to participate in this decision. We wonder how the Community can keep abreast of matters, when they are not informed or invited to express their views. Even though the FBA has made numerous submissions to Council on this resort, we have not been invited to make comment on this latest recommended change to the proposed development.

It is now only a short time until the Council votes on this matter, with no reference to the Community. This type of secretive approach is just not acceptable. I refer to a quote by the Mayor (concerning the AEC) in the Weekender, 25 February 2010:

"The Council wants to be transparent throughout the process and the Council prides itself on its openness."

Really? Such openness certainly has not occurred on this issue based on the recent events described above. When is this Council going to realise that Community Consultation/Engagement is now a standard requirement of our business society-whether legally required or not? The secretive approach currently being employed by this Council on this issue is reminiscent of the dinosaurs and look where they ended up....

We urge Council to accept Councillor Paver's alternate motion on this issue and lay this matter on the table for further consideration. The Frenchman Bay site is supposed to be a tourism development, not a new sub-division.

Thank you for the opportunity to present our Association's views on these matters.

Richard Vogwill
53 la Perouse Road, Goode Beach

Item 5.0 continued.

7:33:43 PM Tony Harrison

Mr Harrison addressed Council with regard to his tabled address at the Feb 10 OCM. Mr Harrison said that he had made a small error in his address and wished to change the wording as follows:

“I apologize for not being here to present to Council my support for this proposal which is to either use some of the dredging spoil for land fill or to take the dredging spoil further out to sea, at least 6 nautical miles from the ~~Beaches~~-Belchers (Reef).”

Mr Harrison also suggested that the waste sand from the dredging process be used on any new site of the motocross club to create the track and jumps. He also suggested the stockpiling of dredging spoil for future repairs of coastal erosion. Mr Harrison said that it was important for all of Albany that King George Sound was protected.

7:37:45 PM Graham Harvey ACCI

Mr Harvey addressed Council regarding the Ulysses AGM. Mr Harvey said that the recent Ulysses AGM was the result of hard work by many organisations. He calculated that a direct economic input of approximately \$6 million dollars resulted in an indirect contribution to the local economy of approximately \$10.2 million. All comments and feedback from the participants and community had been positive. Mr Harvey thanked everyone involved in putting the event together, and said that this event proved the areas huge potential for tourism. Mr Harvey said the Council needed to work together to improve the image of the City after recent negative comments. Mr Harvey also thanked Robert Fenn for his contribution to the City.

7:41:24 PM Vera Anne Torr, Sussex St

Ms Torr addressed Council on a number of issues, including the Ulysses parade, which she said was a wonderful community event.

Ms Torr asked how much time, money and effort the ratepayers of Albany spend on retaining the integrity of the zoning of ‘Special Site Caravan Park’ and mediation acceptance by the developer who had a duty of care to ensure his negotiated outcome was viable. Ms Torr also questioned why this issue was brought to Council and the public under the Tourism Policy. Ms Torr asked when did Council ask for a review of the Tourism Policy?

Ms Torr asked that given Tourism WA does not endorse mixed carriage of development at this site, had their recommendation been sought? Ms Torr said that this was a perfect example of the ruthlessness of the Committee system in camouflaging motions to exclude the general public.

Ms Torr also stated that the developer of the Frenchman Bay site had a duty of care to negotiate on the basis that he had a viable development, and she reiterated the concerns of previous speakers regarding this site.

Item 5.0 continued.

Ms Torr submitted a petition to Council relating to the sale of land in York Street. Residents wanted the City and Council to be aware that residents do not want this land sold, as they consider that it is irreplaceable and could play a major role in reinvigorating the City centre. She said there had been no public consultation with regard to the sale, and that the wishes of the community must hold some merit.

7:45:48 PM Phil Roberts, Goode Beach

Mr Roberts expressed concern over the residential component of the proposed Frenchman Bay development. He felt that it was a backdoor method of manipulation to allow residential development. He also lamented the lack of facilities for the proposed five star resort. Mr Roberts urged Council to uphold community expectation that the site will remain 100% tourist accommodation. If this was not possible, Mr Roberts suggested rezoning to residential with the accompanying requisite conditions on such a development.

7:48:32 PM John Francis, Lower King

Mr Francis addressed Council with regard to the Outbuilding policy. Mr Francis expressed concern over the size restrictions on sheds, and said that the proposed changes are unreasonable with regard to outbuilding sizes. He felt Council should be more flexible with regard to restrictions. Mr Francis said that in this day and age, residents should be able to house all their belongings in sheds, to protect them from the elements and provide security, in addition to enhancing the property. He felt that Council were behind the times in this regard.

7:52:40 PM Neil Smithson-Tabled Address detailed below.

Thank you Mister Mayor / Councillors

Neil Smithson of Smithson Planning, 364 Middleton Loop, Albany

I was in Perth last week attending the Seismic Planning Reform forum, and would suggest to you that the remarks of Mr Russell Perry of Capricorn Village and the property development sector generally were particularly poignant for the future of the planning profession and the Planning Institute of Australia.

While in Perth, I took the opportunity to initiate discussions with several major hotel groups including the Intercontinental, Hilton, Sheraton, Duxton, Accor and Rendezvous and others, having previously undertaken work here in the Great Southern in association with the Taj and Versace Hotel Groups.

I bid the proponents of the Frenchman Bay Resort Hotel well with their application, and can confirm that there is extensive interest in this market sector for the future of Albany, including the Anzac years and the forthcoming Albany Bicentennial.

Item 5.0 continued.

On a separate but related matter, I can't recall the last time a political party in Western Australia held its State Conference in Albany (or outside of Perth). Next weekend, the National Party of Australia (WA Division) will hold its State Conference in Albany, and it is my understanding that all the Federal Members of the National Party will also be attending that Conference.

Unless the Prime Minister Mr Rudd calls a double dissolution federal election, this means that the National Party members of the senate will hold very powerful positions in the next Commonwealth parliament. Even if there is a double dissolution, there is every probability that Australia may well support a more conservative approach in the Senate as a function of federal taxation reform.

I believe such events are testimony to the growing significance in political terms of Albany, the federal seat of O'Connor, and the Western Australian senate.

Potentially, Albany may well play host next week to the Deputy Prime Minister, the Ministers for Trade, Transport, Regional Development, Local Government, Finance, Agriculture and Forestry, and the balance of power in the Senate.

I believe we have all witnessed the impact of Royalties for Regions in Western Australia, so I do hope that the Council will make good use of this opportunity.

Thank you for your time this evening.

ITEM 5.0 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED MAYOR EVANS

THAT Council extend the Public Question and Statement Time.

MOTION CARRIED 12-0

7:54:39 PM Kim Stanton, Little Grove - Tabled Address

Item 16.1 Cr Price's Motion re Port dredging.

At the 18/3/08 Council Meeting, Cr Paver put a Motion and I supported it, discussing this same issue. The Motion was carried and the City of Albany wrote letters to EPA, Federal Dept of Environment and Water Resources and Dept of Water, that the City of Albany was opposed to spoil being dumped in King George Sound. We also requested the State and Federal Govt. to agree re compensation to individuals and businesses for economic loss incurred as a consequence of sand drift etc. Unfortunately the EPA did not take this letter as a submission as it had passed the closing time for these and we also lost the ability to make an appeal in January this year and I believe the City of Albany had little reply from the other letters we sent.

Approx. 14 million cubic metres of dredge spoil, over an area of 250 ha will be dumped somewhere off Albany.

Item 5.0 continued.

Dumped 6nm out (ref: Cr Price's Motion) brings it into waters governed by the Federal Govt and has problems, because the 2 main currents are too strong for the dumped sand to stay in one heap, it will spread immediately on dumping. Marine specialists have talked to me re the Leeuwin Current and a wind driven Shelf Current of 1.5 knots at 36m depth there.

The EPA report says that the contaminated spoil will be dumped first and covered by the supposedly "clean" dredged sand. If the 6nm site is used the mercury and other spoils will immediately go everywhere and all this could end up back in King George Sound and maybe the 2 Harbours. And what about the possible contamination of our fish (particularly our pilchard industry there), oyster and mussels. Already EPA Chairman Paul Vogel publicly stated on 19th January 2010 when discussing the conditions put on the dredging, quote "There's no denying Albany will be affected with the turbid plumes during the dredging (approx 120 days) and there was a risk of sediments containing mercury could enter the marine environment and could contaminate the mussel aquaculture leases in King George Sound. There would be constant monitoring and should be negligible danger risk, but there is no such thing as zero risk."

Is Albany prepared to take this risk? We certainly do not want these pollutants in the food chain. What if the contaminates are dumped before the monitoring results are in, how do they get the dumped spoil back?

Whether the dumping occurs at the 'EPA approved site' closer to the Harbour or further out to sea the problems are still the same. Also the 2 sites investigated were only monitored for 9 months, not the full year and even one year is not enough to gauge the current, wave and wind direction and strength etc. I believe the monitoring is "flawed" because of the short time length and small number of ocean grid points used.

Plans for a future Marine Park off Albany are being discussed now, so will this huge pile of sand decrease the environmental values of this proposed Marine Park? The EPA 'PER' already documents the pristine marine ecosystems that exists in King George Sound.

Because of the risk of mercury etc this dredge spoil cannot be used to rebuild our local beaches either unless testing is done beforehand. Time consuming and costly for the Port. So what do we do with all this sand spoil? Do we need to dredge deeper? Could the ships coming for the ore be smaller, not needing the deeper draft? Surely the money saved by not dredging would pay for more shipping. Could part of the woodchip area of the port be used for storage and wharfing. Is this a possibility?

Except for this small EPA Appeal period and possible change of some decisions, the Albany Port Dredging Project has been approved by the EPA and is basically a State Govt issue.

If the citizens of Albany are concerned about this sand dumping – where and what it is being dumped on - the potential problems of the dumped sand constantly drifting and filling our bays and harbours etc - plus the probable leakage of mercury and other pollutants, then I believe our only option is to lobby our State Parliament members, particularly our local ones. Maybe it is time the "pollies" in Perth were reminded Albany is a marginal seat and another State Election is looming. I urge residents to start writing letters now.

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

Mayor M J Evans JP

Councillors:

Breaksea Ward	R Hammond
Frederickstown Ward	D Wellington
Kalgan Ward	M Leavesley
Kalgan Ward	C Holden
West Ward	D Dufty
West Ward	D Wolfe
Yakamia Ward	R Sutton
Yakamia Ward	J Matla
Vancouver Ward	D Bostock
Vancouver Ward	R Paver

Staff:

Executive Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Director Development Services	R Fenn
Executive Manager Business Governance	S Jamieson
Executive Manager Community Services	D Schober
Executive Manager Corporate Services	M Weller
Senior Planning Officer	T Wenbourne
Assistant Business Governance Officer (Minutes)	J Williamson

Public Gallery and Media: Approximately 24 members of the public and 2 media representatives were present.

Apologies/Leave of Absence:

Councillor (Frederickstown Ward)	D Price (Resignation)
Chief Executive Officer	P Richards

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

Councillor Dufty applied for leave of absence from the April OCM.

ITEM 7.0 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR LEAVESLEY

THAT Councillor Dufty be granted a leave of absence for the April 2010 Ordinary Council meeting.

MOTION CARRIED 12-0

8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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

ITEM 8.0 - MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR SUTTON

THAT the minutes of the Ordinary Council Meeting held on the 16th February 2010, as previously distributed be confirmed as a true and accurate record of proceedings.

MOTION CARRIED11-1

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Bostock, D Wolfe, D Dufty, J Matla
and R Sutton

Against the Motion: Cr J Bostock

ITEM 8.0 - MOTION:

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR SUTTON

THAT the minutes of the Special Council Meeting held on the 17th February 2010, as previously distributed be confirmed as a true and accurate record of proceedings, pending the corrections detailed at appendix B.

MOTION CARRIED11-1

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Bostock, D Wolfe, D Dufty, J Matla
and R Sutton

Against the Motion: Cr J Bostock

9.0 DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest
Councillor R Hammond	13.5.1	Financial. The nature of the interest being that Councillor Hammond has an interest pursuant to holiday accommodation sector property management. Councillor Hammond also has an expectation that business will be transacted through the Visitors Centre. Councillor Hammond left the chamber and did not participate in the discussion or vote.
Councillor J Matla	14.1.3	Financial. The nature of the interest being that Councillor Matla has an interest in one of the Tenderer. Councillor Matla left the chamber and did not participate in the discussion or vote.
Councillor R Hammond	14.12.4	Financial. The nature of the interest being that Councillor Hammond has a financial interest in this business sector. Councillor Hammond left the chamber and did not participate in the discussion or vote.
Councillor M Leavesley	13.5.1	Impartiality. The nature of the interest being that Councillor Leavesley has already voted on these items in committee, and he also receives income from tourist operations. Councillor Leavesley remained in the chamber and participated in the debate and vote.
Councillor R Paver	13.5.1	Impartiality. The nature of the interest being that Councillor Paver works in tourism. Councillor Paver remained in the chamber and participated in the debate and vote.
Councillor R Paver	14.12.4	Financial. The nature of the interest being that Councillor Paver provides marketing services to the City. Councillor Paver left the chamber and did not participate in the discussion or vote.
Councillor Wellington	13.5.1	Impartiality. The nature of the interest being the Interested Party contributed to his election campaign in 2007. Councillor Wellington remained in the chamber and participated in the debate and vote. <i>Note: This Disclosure was received post meeting, Wed 17/03/2010 at 12.07.35pm by facsimile.</i>
Executive Director Corporate & Community Services (WP Madigan)	22.1	Impartiality. The nature of the interest being appointment as acting CEO. Mr Madigan remained in the chamber for the purpose of taking minutes.

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

Item 22.1 CEO PERFORMANCE REVIEW; KEY PERFORMANCE INDICATORS; CONTRACT OF EMPLOYMENT

In accordance with section 5.23(a)(b)(c) of the Local Government Act 1995, being:

If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

(a) a matter affecting an employee or employees;

(b) the personal affairs of any person;

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

report item 22.1 was discussed behind closed doors.

11.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Councillor J Bostock requested Council to RECEIVE and ACKNOWLEDGE the petition presented by the Electors of the City of Albany in accordance with clause 3.8 of the Standing Orders Local Law 2009.

THAT the actions of the CEO are reported to Council at the next Ordinary meeting of Council.

ITEM 11.0 - MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR J BOSTOCK

SECONDED COUNCILLOR PAVER

THAT Petition titled 221-259 York Street (inclusive), presented by the Electors of the City of Albany in accordance with clause 3.8 of the Standing Orders Local Law 2009 - Central Albany be RECEIVED by Council.

MOTION CARRIED12-0

12.0 ADOPTION OF RECOMMENDATIONS EN BLOC

Nil

DEVELOPMENT SERVICES

Reports

DEVELOPMENT SERVICES REPORTS

13.0 REPORTS – DEVELOPMENT SERVICES

13.1 DEVELOPMENT APPLICATIONS

ITEM NUMBER: 13.1.1

ITEM TITLE: DEVELOPMENT APPLICATION – OVERSIZE OUTBUILDINGS – 3
STEPHEN STREET, MILPARA

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

- File Number or Name of Ward** : A21254 (Kalgan Ward)
- Summary of Key Issues** : Multiple outbuildings cumulatively over Outbuildings Policy floor area limit
- Land Description** : 3 Stephen Street, Milpara
- Proponent** : Mrs J Shann
- Owner** : D Shann & J Shann
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Not Provided
- Previous Reference** : Nil
- Bulletin Attachment Reference** : Application for Planning Scheme Consent and covering letters
- Consulted References** : Town Planning Scheme 3
Outbuildings Policy
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

BACKGROUND

1. This application is made on a retrospective basis for a number of domestic outbuildings at 3 Stephen Street, Milpara. The subject site is 2171m² in area and is zoned “Residential” under Town Planning Scheme No. 3.
2. The application has resulted from an anonymous complaint over the number of outbuildings on the site and reports in the local press relating to the oversize shed at Lot 150 Henty Road. Only three of the outbuildings onsite have received planning consent or building approval with the others constructed without the necessary consents. It is only after the planning issues are resolved that regularisation for unapproved works can be obtained under the Building Codes.
3. Council’s Outbuildings Policy was adopted by Council at its meeting held on 16 October 2007.
4. The Outbuildings Policy sets the ‘permitted development’ criteria for outbuildings according to the zone and site area. For the subject land the following provisions apply:

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined all outbuildings)	Special Requirements
Residential / Future Urban / Residential Development Zone (Lots 1000m ² - 4000m ²)	3.0 metres	4.2 metres	120m ²	If floor area exceeds 60m ² the use of non-reflective materials is required

5. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy require the proponent to demonstrate exceptional circumstances as to why the policy should be relaxed, with the proposal being presented to an ordinary meeting of Council. Council can use its discretion to permit exceptions to the policy where exceptional circumstances apply.
6. This application is presented to Council as the outbuildings have already been constructed onsite

DISCUSSION

7. The house was built with a detached garage measuring 12m x 6.2m in 1989. A shed 10m x 7.5m was approved in 1995. In 2002 a patio covering was approved on the side of the original garage measuring 9.6m x 6m and this has recently been enclosed. These approved outbuildings total 204.6m² in floor area.
8. In addition to these approved outbuildings there are two zinalume sheds 2.95m x 2.95m that the proponent states were onsite when they purchased the property in 1995, although these were not shown on the site plans for the 1995 and 2002 approvals. Further to these above structures an open-sided gazebo 4.1m x 4.1m with a pitched roof 3.75m high has recently been erected between the enclosed patio and the house. There are also two greenhouses 2.7m x 3.6m that have substantial wooden frames covered in polycarbonate sheets. These structures rest on the ground on a gravel base. As they are

DEVELOPMENT SERVICES REPORTS

not fixed to the ground they are considered chattels and are not included under the Council's Outbuildings Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

9. As a result, the total area for all outbuildings on the site is now approximately 238m², far above the allowance of 120m² for a residential zoned property of this size. From the earliest contact with the owners they were advised to remove the smaller sheds and greenhouses, before the Council could consider any application to retain the gazebo.
10. However, the application has been submitted to retain all the outbuildings and no exceptional circumstances have been advanced in support of keeping them. It is staff opinion that exceptional circumstances do not exist and the application should be refused and if the unapproved structures are not demolished, enforcement action commenced.

PUBLIC CONSULTATION / ENGAGEMENT

11. Should Council consider approving the unauthorised structures, adjoining owners' comments relating to the policy relaxation will be required before the application could be progressed.

GOVERNMENT CONSULTATION

12. There is no government consultation related to this item.

STATUTORY IMPLICATIONS

13. The land is zoned "Residential" under Town Planning Scheme 3 (TPS 3). The outbuildings are permissible under the Scheme as ancillary structures to the domestic use of the property.
14. The Outbuildings Policy is a town planning scheme policy adopted under the Scheme. Clause 6.9.4 of TPS 3 states;

"a)A Town Planning Scheme Policy shall not bind the council in respect of an application for Planning Consent, however, it may require the council to advertise its intention to relax the provisions of the policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.

b) Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve and any submissions lodged, before making its decision."

FINANCIAL IMPLICATIONS

15. Should the proponent seek a review of the Council decision with the State Administrative Tribunal over a decision by Council to refuse the application, or any proposed conditions, some legal costs would be applicable.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

POLICY IMPLICATIONS

17. The City of Albany Outbuildings Policy details the permitted/acceptable development criteria for buildings within the City's municipal boundary. The Outbuildings Policy states that Planning Scheme Consent is only required where the criteria cannot be complied with. Any variations to the policy require the proponent to demonstrate exceptional circumstances as to why the policy should be relaxed with the proposal being presented to an ordinary meeting of Council.
18. The aim of the Outbuildings Policy is to achieve a balance between providing for the various legitimate needs of residents for outbuildings, and minimising any adverse impacts outbuildings may have on neighbours, a street, a neighbourhood or locality.
19. The Policy allows Council to consider applications outside the guidelines where "exceptional circumstances" apply and provided the aim of the policy is not compromised. It is fair to say that not knowing there is a Council policy or a limit on the size or number of outbuildings is not "exceptional circumstances".
20. The two sheds and gazebo subject of this application could be viewed as a further minor relaxation of the foot print limit for this size of lot within the zone as outlined in the Policy. However, together with the existing approved outbuildings they are almost double the allowance under the current policy prescribed. In the opinion of staff granting such a request would set a clear precedent and undermine the strength of Council's position in relation to outbuildings as set out in the policy. It would likely encourage the owners and occupiers of other properties subject to the restrictions of the policy to pursue outbuildings in excess of that permitted by the policy and could be used as an example for justification in an appeal situation.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. If Council refused the application, the applicant would then be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.
22. Council has the option to approve the oversize outbuildings, however this may set an undesirable precedent giving rise to more requests for outbuildings outside the constraints of the policy at properties across the city.

SUMMARY CONCLUSION

23. The two sheds and gazebo with a total combined floor area of 34.2m² have been constructed on this residential zoned lot without consent. These are in addition to approved outbuildings totalling 204.6m².
24. Under the Council's Outbuildings Policy a lot of this size in the residential zone is permitted a maximum combined floor area for all outbuildings of 120m². Council can approve application for outbuildings outside the policy constraints where exceptional circumstances can be demonstrated. No exceptional circumstances have been advanced and none are considered to exist in this instance.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

ITEM 13.1.1 – OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ISSUE a Notice of Planning Scheme REFUSAL for oversized Outbuildings at 3 Stephen Street, Milpara as:

- a) Approval already granted for outbuildings well in excess of maximum permitted under policy.
- b) Exceptional circumstances have not been demonstrated to retain additional 34m² outbuildings
- c) The cumulative impact of these additional outbuildings is inconsistent with amenity of locality.

Councillor J Bostock moved the procedural motion that the motion be deferred in accordance with clause 7.4 of the Standing Orders Local Law 2009.

ITEM 13.1.1 PROCEDURAL MOTION – COUNCILLOR J BOSTOCK

THAT the motion be deferred.

Councillors Reason:

Council is currently reviewing and debating the Outbuilding Policy which may impact upon the decision.

ITEM 13.1.1 – PROCEDURAL MOTION BY COUNCILLOR J BOSTOCK

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR J BOSTOCK
SECONDED COUNCILLOR PAVER**

THAT the motion be deferred.

MOTION CARRIED 11-1

Record of Vote

For the Motion Mayor Evans, Crs R Hammond, J Bostock, D Wellington, C Holden,
 M Leavesley, R Paver, D Bostock, D Wolfe, D Dufty and R Sutton.
Against the Motion: Cr J Matla

DEVELOPMENT SERVICES REPORTS

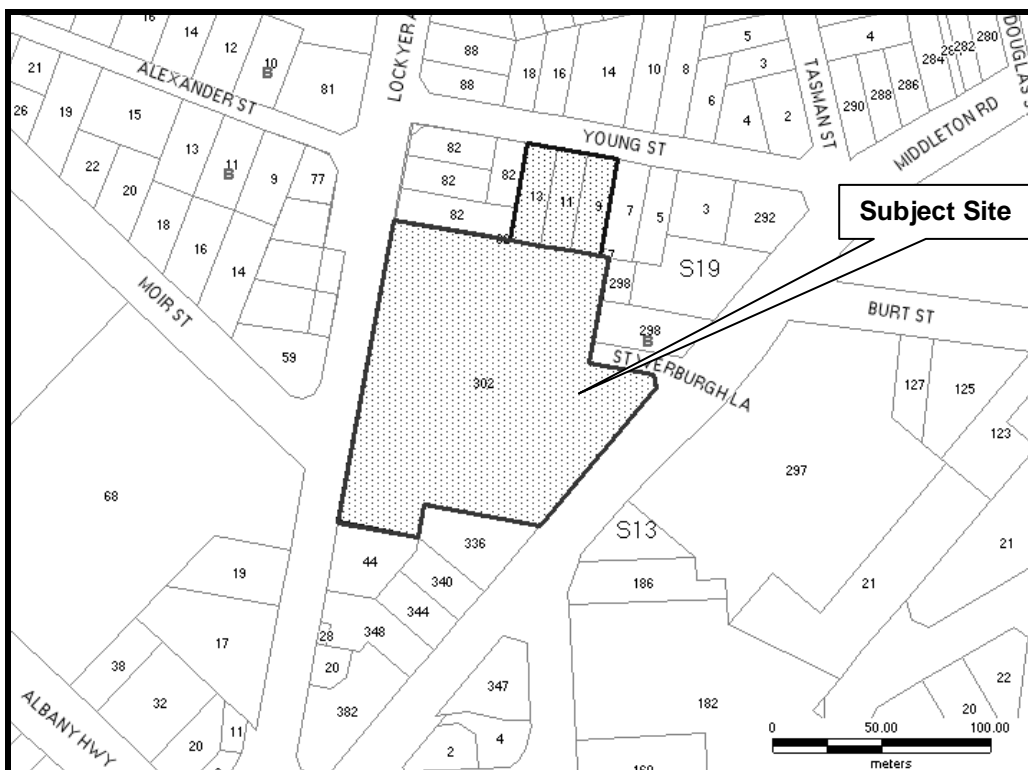
ITEM NUMBER: 13.1.2
ITEM TITLE: DEVELOPMENT APPLICATION – RECONSIDERATION OF
 CONDITION IMPOSED ON APPROVAL P296168 FOR SIGNAGE –
 302-324 MIDDLETON ROAD, CENTENNIAL PARK

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

- File Number or Name of Ward** : A163987 (Frederickstown Ward)
- Summary of Key Issues** : Revised Signage proposed in excess of Council Policy
- Land Description** : Dog Rock Shopping Centre 302-324 Middleton Road, Centennial Park
- Proponent** : Ken Paterson Architects on behalf of Woolworths
- Owner** : Cockles PTY LTD
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Woolworths Ltd
- Previous Reference** : Item 13.1.2 OCM 17.11.2009
- Bulletin Attachment Reference** : Revised Elevation Plans with scaled signage
- Consulted References** : Town Planning Scheme 1A
Local Planning Policy – Signs, Hoardings and Billposting
- Councillor Lounge** : Colour Elevations illustrating signage locations and proportions

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued.

BACKGROUND

1. The application site is the Dog Rock Shopping Centre, more specifically the principal tenant of the shopping centre – Woolworths. The site is just over 14,400m² in area and is located between Middleton Road and Lockyer Avenue. The land is classified “Central Area” within Town Planning Scheme 1A.
2. The Local Planning Policy – Signs, Hoardings and Billposting sets the objectives and scope of Council control over advertisements. Signs complying with the specifications contained in table 1 of the policy are exempt from requiring specific planning scheme consent. Additional requirements and stipulations are set down within the policy and some discretion for acceptable deviation can be exercised.
3. The application was presented to Council in November 2009 and approval was issued with conditions restricting the extent and maximum height of horizontal advertisements. The proponent has come back requesting reconsideration of the previous decision and specifically the two conditions in relation to three signs on the north and west elevations. As the decision on the original proposal was referred to Council, in accordance with paragraph 7.9 (e) of Town Planning Scheme 1A, this request for reconsideration is also referred to Council.

DISCUSSION

4. The previous submission sought consent to replace the Woolworths branded signage with the new corporate branding and an increase in the overall extent of the signage on the building. The Council decision was to allow the replacement of the same cumulative area (38.7m²) of horizontal signage as previously approved on the north, west and south elevations and to restrict the maximum height for any one sign to 1.2m in accordance with Council Policy. These were Conditions 1 and 2 of the decision.
5. The requested reconsideration relates to three proposed horizontal signs (one facing Lockyer Avenue and two facing the car park). The proponent states that the horizontal Woolworths brand signage is presented only in certain ratios and to comply with the condition that the height not exceeds 1.2m; the reproduction in their standard ratio proportions would only be 1m high. They argue this puts Woolworths at a disadvantage in comparison to the rest of Lockyer Avenue. It could also be argued that at the 1m high ratio the signage would be disproportionately small and out of scale with the size of the Dog Rock Shopping Centre building, particularly compared to the signage for Coles and K-Mart on the Albany Plaza building.
6. The revision proposed seeks a relaxation of the height of signage condition to allow the signs to be 1.875m tall, an increase of 675mm (56%). In support of this request the proponent has stated that the three signs at this ratio would give a cumulative area of signage of 37.4m², a reduction from the 38.7m² already permitted. They have also stated that although the signs would be 1.875m high, the logo would only be 1.5m high and the Woolworths lettering would be 0.9m high.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

7. As previously reported to Council the original and the replacement signage exceeds certain elements of the policy. Any signage needs to be considered in terms of acceptable deviation as defined in the policy;

“The local government may exercise its discretion to approve a deviation from the specific standards subject to the applicant demonstrating that the likely affect of the location, height, bulk, scale, orientation and appearance of the advertisement will not: a) conflict with or detrimentally affect the amenity of the locality; b) interfere with traffic safety.”

8. The proponent has accepted Council’s stance on the extent of signage and chosen to work with the area of signage permitted, as reinforced in the recent decision. On the west elevation a Woolworths sign 16.45m² in area (1.875m x 8.775m) would face Lockyer Avenue at the roundabout with the junction with Moir Street and would be directly visible from Moir Street. To the north a matching Woolworths sign 16.45m² in area and a Woolworths Liquor sign of 4.5m² (1.875m x 2.4m) would face the car park. The number of advertisements has been reduced from four to three in an attempt to justify and gain the increase in height requested.
9. Council has already accepted that the extent of signage on the building historically goes beyond the policy allowance and the proponent is now requesting a relaxation on the height restriction of the policy. However, in coming to a decision on what at face value appears to be another request contrary to policy, the objectives of the policy must be considered. Of particular relevance are; to ensure that signs are appropriate for their location and to minimise the proliferation of signs.
10. Even though the request is for the three signs to be taller than the policy allows, it is a large scale building and this revised proposal represents a reduction in the overall number of signs as well as a small reduction in the total area of signage on the building. It is staff opinion that on this basis despite not meeting the strict numerical criteria of the policy, given the historic non-conforming starting point, it meets the objectives behind the policy.

PUBLIC CONSULTATION / ENGAGEMENT

11. There is no public consultation related to this item.

GOVERNMENT CONSULTATION

12. There is no government consultation related to this item.

STATUTORY IMPLICATIONS

13. The land is zoned “Central Area” in Town Planning Scheme 1A (TPS 1A) and is an existing commercial property within the Central Business District. It is accepted that commercial properties in a Town Centre location have advertising requirements and competing signage needs. The Local Planning Policy – Signs, Hoardings and Billposting recognises this and introduces parameters and allowances to permit all businesses a certain amount of external advertisement. The policy also allows some flexibility of the general principles through ‘Acceptable Deviation’ that an applicant can apply for relaxation under provided they demonstrate the likely impacts are acceptable.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

14. Section 7.9(e) of TPS 1A states *Council may revoke or amend the planning consent or any attached conditions prior to the commencement of the development.*

FINANCIAL IMPLICATIONS

15. Should the proponent seek a review of the Council decision with the State Administrative Tribunal over a decision by Council to refuse the application or any proposed conditions some legal costs would be applicable.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

17. This particular site already has signage beyond the policy allowance and the proposal seeks further relaxation with regard to the height dimensions of three signs. A decision on such a request would not necessarily set an adverse precedent as each case is judged on its merits and the scale of the building involved is different on every occasion.
18. A positive recommendation to this proposal may give rise to increased requests for ever increasing deviation from the Policy. This could ultimately undermine the value of the policy, but as stated above, each case is assessed on its individual merits.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Council has the option to refuse the request and the proponent is entitled to seek a review of the Council decision with the State Administrative Tribunal.

SUMMARY CONCLUSION

20. The requested reconsideration relates to a height relaxation of the policy requirements for three horizontal signs in the new corporate image for the Woolworths supermarket at Dog Rock Shopping Centre. The land is zoned 'Central Area' with the existing commercial building on it and a large car park to the north.
21. The extent of signage on the building is already beyond the restrictions laid out in the Council Policy – Signs, Hoardings and Billposting, having been approved prior to the existence of the policy. The proponent has accepted the Council position with regard to the total area of signage that is permitted for this occupier in this building and is seeking to re-configure the area extent of signs. They are seeking an increase in height beyond the policy height restriction as imposed through the recent decision of Council and in doing so they are reducing the overall number of signs and area of signage on the building.
22. The Dog Rock Shopping Centre is a large commercial building and the increased height for the signage requested does not appear disproportionate to the scale of the building. Accordingly, the details supporting the requested reconsideration are considered to meet the objectives of the policy in being appropriate for their location and minimising the proliferation of signs.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

23. In conclusion, the revised signage proposal in the requested reconsideration for Albany Dog Rock Woolworths is considered acceptable and is recommended for approval.

RECOMMENDATION

**ITEM 13.1.2 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON**

THAT, pursuant to Section 7.9(e) of the City of Albany Town Planning Scheme 1A, Council AMENDS Planning Scheme Consent P295168 to ALLOW a quantity of seven (7) signs at Albany Dog Rock Woolworths, 302-324 Middleton Road, Centennial Park, by deleting Condition 2.

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, D Bostock, D Dufty, D Wolfe, J Matla and R Sutton
Against the Motion: Cr R Paver

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.3
ITEM TITLE: REQUEST FOR SUPPORT FOR A TAVERN LIQUOR LICENCE – BAY MERCHANTS – 18 ADELAIDE CRESCENT, ALBANY

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

- File Number or Name of Ward** : A133891 (Frederickstown Ward)
- Summary of Key Issues** : Request for support for a Tavern liquor licence to allow consumption of liquor onsite & takeaway sales
- Land Description** : 18 Adelaide Crescent (on the corner of Adelaide Crescent and Marine Terrace), Albany
- Proponent** : Trish Flowers
- Owner** : R G & J P Flowers
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Bay Merchants
- Previous Reference** : Nil
- Bulletin Attachment Reference** : Section 40 Application covering letter including Floor Plans
- Consulted References** : City of Albany Town Planning Scheme No.1A (TPS 1A)
Liquor Act 1988 (as amended)

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

BACKGROUND

1. The operators of Bay Merchants have requested the Council to support their application to the Department of Racing, Gaming and Liquor (DRGL) for a Tavern Licence.
2. The use of the subject site predates Town Planning Scheme 1A. It was The Middleton Beach General Store, Guest House and Post Office. Council records from the early 1980's indicate that the general store also operated as a refreshment room eating house in addition to the fish and chip shop takeaway next door.
3. Under the Zoning Table for TPS 1A the general store and refreshment room uses (Shop & Restaurant) can be approved subject to public consultation and advertising. Given the existing use right these uses can continue with the whole site deemed as mixed use.
4. Today, Bay Merchants operates as a small I and shop with accommodation rooms also available. This is in accordance with the existing mixed use right. The shop element has a 'Liquor Store' Licence covering a small bottle shop element where they sell packaged liquor in the form of local premium wines, boutique beers and Champagne for consumption off the premises only. This was considered acceptable by Council as the bottle shop element is only from a limited floorspace within the property and was considered ancillary to the overall function and operation of the premises.
5. If Council supports a liquor licence application, but has concerns over certain elements of the licence conflicting with the planning consent controls, suitable conditions overcoming those concerns can be suggested to the Department of Racing, Gaming & Liquor for incorporation into any licence granted.

DISCUSSION

6. Although their application to the Department of Racing, Gaming & Liquor will be for a 'Tavern' licence, the applicants are not looking to operate a tavern as such. Their intended operation is outlined in the covering letter.
7. Currently packaged liquor can be purchased through the shop for consumption off the premises and food can be purchased through the I. Customers have asked if they can purchase a glass of wine to have with their meal, but this is strictly prohibited by the terms of the Liquor Store licence currently held.
8. The current 'Liquor Store' licence precludes purchase for onsite consumption. A 'Restaurant' licence would be required to sell or supply liquor ancillary to a meal to a patron seated at a dining table. However, the 'Restaurant' licence does not permit takeaway sales of packaged liquor. The only licence that would allow the current shop sales to continue whilst permitting the serving of liquor at a table with meals is a 'Tavern' licence.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

9. The subject site does not have approval for use as a Tavern, although a Tavern is a use that could be approved pursuant to a planning application subject to public consultation and advertising. No such planning application has been lodged or suggested at this time.
10. An un-restricted 'Tavern' licence could permit the restaurant/I to operate as if it had a 'Small Bar' licence. The area proposed to be licensed under the 'Tavern' licence submission includes extensive alfresco areas. Consistent with Council direction (Item 13.5.1 OCM 18/08/09) staff recommend support for the request for a 'Tavern' licence subject but not limited to:

"The sale and supply of liquor for consumption on the premises shall be limited to patron seated at a dining table and purchasing a meal."

11. The applicants have stated they intend to continue to operate as they do currently offering breakfast and lunch from 6am to 6pm daily. They also plan to introduce a tapas menu from noon till close and would not seek to extend their hours beyond 7pm.
12. In their covering letter the applicants have stated they are aware of the social impact of alcohol consumption on local communities and plan to target their existing market in the 30-65 year age group. They have also said they would continue with their existing range of liquor and would not seek to introduce pre-mixed spirits or the alcopop beverages. Again, if minded to support the application Council could choose a condition that pre-mixed spirit drinks and 'alcopops' shall not be available.

PUBLIC CONSULTATION / ENGAGEMENT

13. The Department of Racing, Gaming and Liquor requires the applicants to advertise their application in accordance with the Department's procedures. If Council is forthcoming and they proceed with the application this would be undertaken as the application is lodged with the Department of Racing, Gaming.

GOVERNMENT CONSULTATION

14. The Department of Racing, Gaming and Liquor are responsible for making a decision on whether the application for a tavern license is to be granted. The applicant have not yet to lodged their application with the Department.

STATUTORY IMPLICATIONS

15. Section 64 of the Liquor Control Act 1988 relates to the power of the licensing authority to impose, vary or cancel conditions and states:

"(1) Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —
(a) in addition to the conditions specifically imposed by this Act; or
(b) in such a manner as to make more restrictive a condition specifically imposed by this Act, and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit and the circumstances in relation to which the licensing authority intends that it should operate."

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

16. Section 120 of the Liquor Control Act 1988 relates to juveniles permitted to be present on certain premises and states:

“(1) This Division does not prohibit juveniles from being permitted entry to, or remaining on, a place where the sale or supply of liquor is authorised if —

I the place is —

(i) for the time being used under an occasional licence for the purposes of a reception;

(ii) on premises to which a special facility licence applies authorising their use as a reception centre; or

(iii) on premises to which a restaurant licence applies, or is a part of any premises set apart primarily for the supply of meals (being a place not used for the sale or supply of liquor otherwise than ancillary to a meal supplied there), if the juvenile is accompanied by, and under the supervision of, a responsible adult or, where subparagraph (iii) applies, the juvenile is present for the purpose of obtaining a meal”

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

18. There are no strategic or corporate plan implications relating to this item.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

20. The Council has two options to consider being to:

a) advise the proponents that Council will support their application for a tavern licence to allow the serving of alcohol to patrons with a meal whilst seated at a table, subject to the conditions outlined below.

OR

b) advise the proponents that Council refuses to support the application for the tavern license.

21. If the Council opt to refuse to support the application for the tavern licence. The application could still be lodged with the Department of Racing, Gaming and Liquor with the refusal noted as an objection. The final decision on whether the license is granted or not rests with the Department of Racing, Gaming and Liquor.

SUMMARY CONCLUSION

22. The proposed ‘Tavern’ licence is requested to allow the small bottle shop element to continue whilst allowing the operators to serve liquor with meals to patrons.

23. As much of the seating capacity is outside in alfresco areas, in accordance with Council’s previous direction, the consumption of liquor on the premises should be limited to patrons seated at a table and partaking of a meal.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

24. The existing stocked lines are mostly wines of the Great Southern as a promotion of local produce to residents and tourists alike. The local wines offered represent approximately 75% of the stocked range, with Champagne, Beers and Spirits making up the remainder. The applicants propose to continue with their existing stocked lines and have stated they do not intend to supply pre-mixed spirits or 'Alcopop' RTD beverages.

ITEM 13.1.3 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADVISES the applicant that it is SUPPORTIVE of their application for a TAVERN LICENCE to be issued at Bay Merchants, 18 Adelaide Crescent, subject to the following conditions:

1. The sale and supply of liquor for consumption on the premises shall be limited to ancillary to a meal to a patron seated at a dining table and purchasing a meal;
2. The type of liquor available shall be limited to local wines and some beers, spirits and Champagne as per existing stocked lines. Pre-mixed spirits and 'Alcopops' (RTD's) shall not be served.

**ITEM 13.1.3 – AMENDED OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR HAMMOND
SECONDED COUNCILLOR WOLFE**

THAT Council ADVISES the applicant that it is SUPPORTIVE of their application for a TAVERN LICENCE to be issued at Bay Merchants, 18 Adelaide Crescent, subject to the following conditions:

- 1. The sale and supply of liquor for consumption on the premises shall be limited to ancillary to a meal to a patron seated at a dining table and purchasing food to be consumed on the premises;**
- 2. The type of liquor available shall be limited to local wines and some beers, spirits and Champagne as per existing stocked lines. Pre-mixed spirits and 'Alcopops' (RTD's) shall not be served.**
- 3. Service of Liquor shall not be available outside of the hours of 6am to 8pm, 7 days per week.**

MOTION CARRIED 12-0

Officer's Reason (T Wenbourne):

The proponent advised of concerns with the use of the word meal in condition 1 and was prepared to accept restricted hours during which alcohol would be consumed.

DEVELOPMENT SERVICES REPORTS

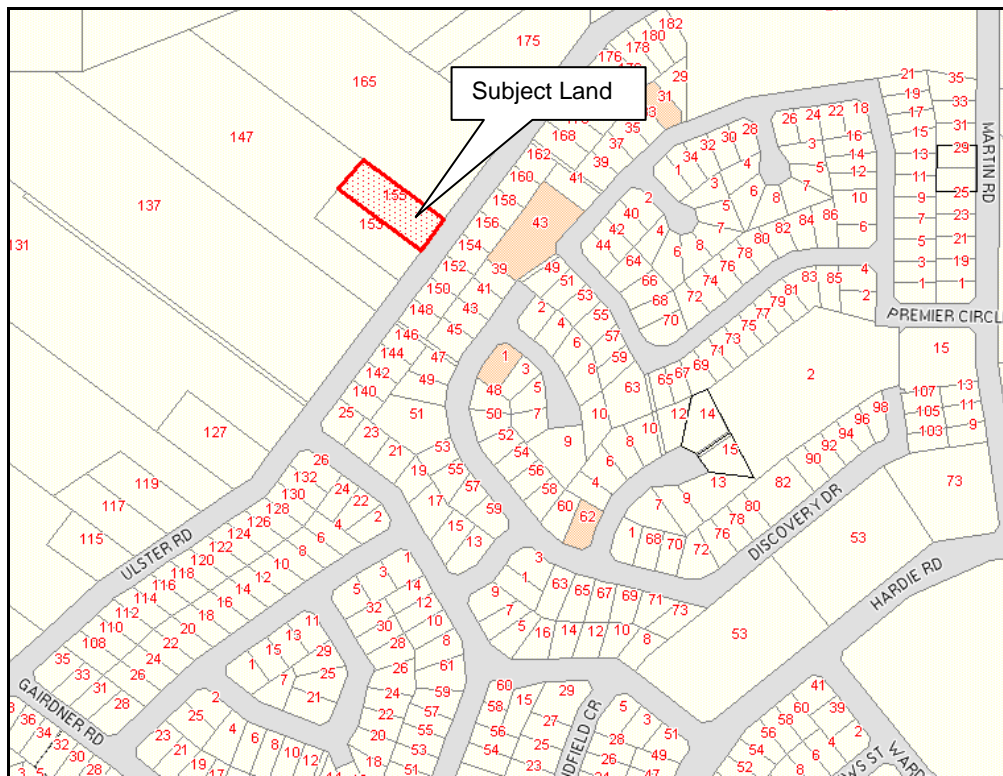
ITEM NUMBER: 13.1.4
ITEM TITLE: DEVELOPMENT APPLICATION- HOME BUSINESS – 155 ULSTER ROAD, YAKAMIA

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Quasi-Judicial Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

- File Number or Name of Ward** : A152320 (Yakamia Ward)
- Summary of Key Points** : Provide for the hire of costumes from the residential property.
- Land Description** : Lot 202 (155) Ulster Road, Yakamia
- Proponent** : Mrs C Hallett
- Owner** : Ms A Campbell
- Reporting Officer(s)** : Executive Director Development Services (R Fenn)
- Disclosure of Interest** : Nil
- Business Entity Name** : Katchy Costumes
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Nil
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

BACKGROUND

1. Ms Hallett currently operates the business Katchy Costumes from premises in Prior Street, Albany and those premises are required to be vacated to allow for the redevelopment of the site.
2. An application has been lodged to downsize the business and operate it as a Home Business from a property in Ulster Road. The premises on that property are two storeys and the business will operate from three (3) rooms within the building, with Ms Hallett residing in the balance of the premises.

DISCUSSION

4. From the information supplied by Ms Hallett, the current business attracts only a small number of clients at any time and has seldom reached five (5) vehicles at a time. The business only employs Ms Hallett and the majority of visitations to the site are to order costumes and to collect them, with visitors remaining on-site for only small periods of time. Costumes are to be manufactured on-site and no noise or nuisance is created in that process.
5. The City of Albany Town Planning Scheme 1A zones the property “Yakamia Creek Zone” and a Home Business is listed as an SA use (not permitted unless planning consent is granted by Council following public consultation process). Ms Hallett is required to vacate her current premises by the 30th April 2010 and requires a decision from Council on the application so that she can secure a lease and transfer the business in a timely manner. Advertising of the application has commenced, but the public comment period will extend beyond the March meeting of Council.
6. The requirements of the Scheme for a Home Business also state that the activity should not “involve the hire of goods of any nature”. Ms Hallett’s business operates on the understanding that the costumes are available for hire.
7. The property fronts Ulster Road, which currently carries a considerable volume of daily traffic between the City centre and the outer suburbs of Bayonet Head and Lower King. This development will not add significant volumes of extra traffic to the road and the larger lot allows adequate room for on-site car parking and vehicle manoeuvring within the site. On the northern and western side of Ulster Road there is currently a dog boarding kennel, a wayside stall and a private primary school, all of which operate with minimal inconvenience to road users or neighbouring landowners.
8. Provided no major issues are identified during the remainder of the public consultation process, staff are confident the business could satisfy the development criteria outlined in the scheme and it could operate on the site without nuisance to neighbours. The issues that Council needs to satisfy itself on are;

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

- a) should this site along Ulster Road be used for this purpose;
- b) is this form of development is acceptable as a Home Business; and
- c) should this business be required to establish within appropriately approved commercial premises.

PUBLIC CONSULTATION / ENGAGEMENT

9. The development proposal has been advertised in the week commencing the 8th March and will conclude on the 29th March 2010. The advertisement also advises that a variation to the scheme provisions is being sought under clause 4.10 of the Scheme.

GOVERNMENT CONSULTATION

10. There is no government consultation relating to this item.

STATUTORY IMPLICATIONS

11. Clause 4.10 of Town Planning Scheme 1A states:

“4.10 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.

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

4.10.2 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 or users of the development or the inhabitants of the locality or upon the likely future development of the locality.”*

12. A “Home Business” is defined as:

“a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- a) does not employ more than 2 people not members of the occupier’s household;*
- b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- c) does not occupy an area greater than 50 square metres;*
- d) does not involve the retail sale, display or hire of goods of any nature;*
- e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

- f) *does not involve the use of an essential service of greater capacity than normally required in the zone*".

FINANCIAL IMPLICATIONS

13. The premises from which this business operates are to be demolished to make way for a redevelopment of the site. Failure to find suitable replacement premises may impact upon the viability and retention of the business. There are no direct financial impacts of this development on the City of Albany's operations.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. The application is listed as a discretionary land use activity within this zone and Council is required to provide a special exemption to allow the hiring of the costumes that will be stored on the premises. Council can grant its approval with or without conditions, or it can refuse the application. If a refusal is granted, appropriate reasons for that refusal would need to be given and Council's decision can be the subject of a Review before the State Administrative Tribunal.

SUMMARY CONCLUSION

17. The transfer of the costume hire business to a residential address requires Council to relax the scheme provisions and that process also requires the relaxation to be advertised. That requirement has been initiated, but will not be concluded prior to the meeting.
18. The current business does not attract large numbers of visitors to the site and the anticipated traffic movements at the Ulster Road property are unlikely to have any significant impact on Ulster Road or adjoining properties. The activities carried out on-site are also unlikely to impact upon the residential amenity of neighbouring lots.
19. The business would normally be located within commercial premises. The Scheme does allow a Home Business to be approved on a residential property and Council is required to give this application due process and consideration.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

**ITEM 13.1.4 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR DUFTY**

THAT Council DELEGATE authority to the Chief Executive Officer, pursuant to clause 7.22 of the City of Albany Town Planning Scheme 1A, to ISSUE a Notice of Planning Scheme Consent for the development of a Home Business (Costume Hire) business at 155 Ulster Road, Yakamia, and acknowledging a variation to the scheme requirements under clause 4.10 of Town planning Scheme 1A, provided:

- A. The consent is issued after the close of the consultation period and no submissions are received during that period which the CEO considers raise substantive concerns over the impact that the development will have on the locality or neighbouring properties;**
- B. The consent is issued after the close of the consultation period and no submissions are received during that period which the CEO considers raise substantive concerns over the relaxation of the scheme to allow the hiring of costumes from the property; and**
- C. The consent is conditioned to the satisfaction of the CEO and include a requirement that the applicant reside on the property for the duration of the period the business operates from the site, that the approval lapse should the applicant move from the site or fail to comply with the criteria established for a home business, that a maximum of 1.0 square metres of signage be placed on the site to identify the business and that the car parking arrangements be altered to ensure all visitors enter and leave the site in a forward gear.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

DEVELOPMENT SERVICES REPORTS

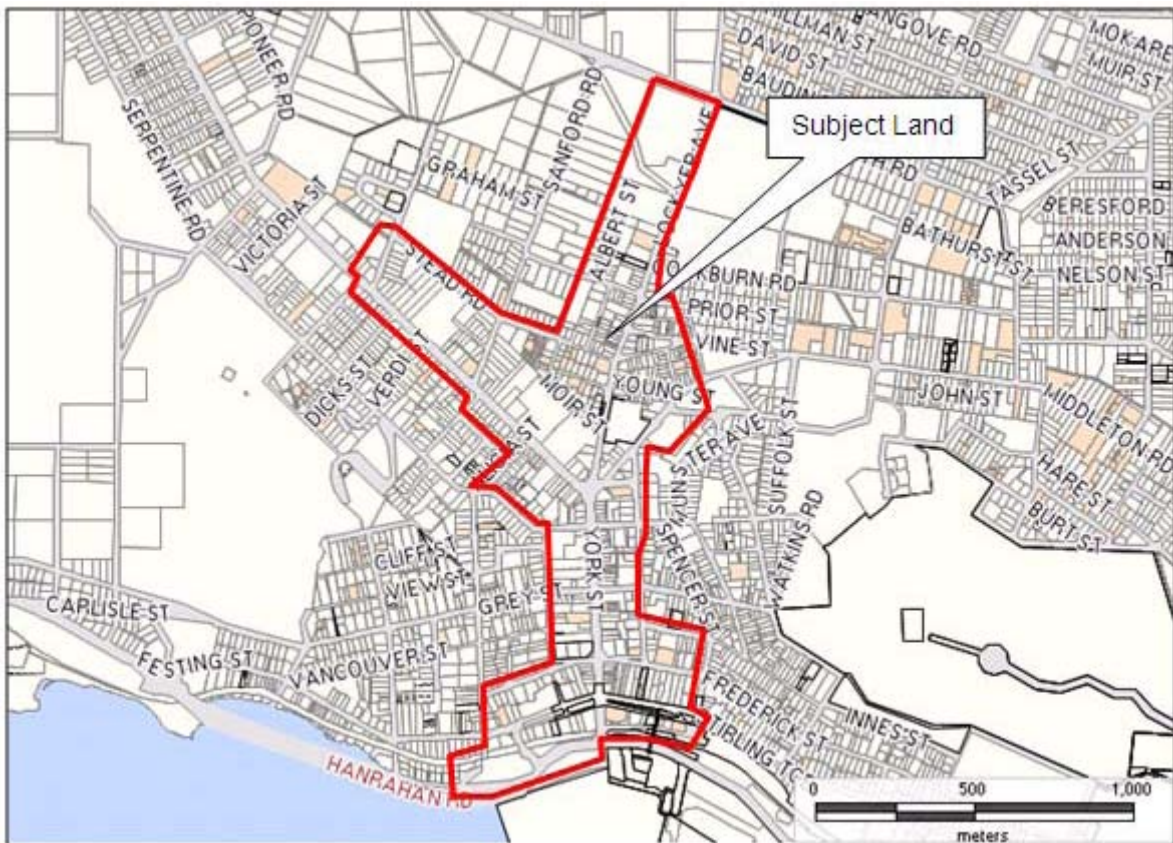
ITEM NUMBER: 13.1.5
ITEM TITLE: ALBANY CENTRAL AREA MASTERPLAN 2010 – CONSIDERATION OF SUBMISSION AND FINAL APPROVAL

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Legislative Function: Council making and reviewing the legislation it requires to perform its function as a Local Government.

- File Number or Name of Ward** : MAN252 (Frederickstown Ward)
- Summary of Key Issues** : Draft Albany Central Area Masterplan 2010 has been subjected to public display and comment period. Council required to consider submissions and determine final status of the draft Masterplan
- Land Description** : Various
- Proponent** : City of Albany
- Owner** : Various
- Reporting Officer(s)** : Executive Director Development Services (R Fenn)
- Disclosure of Interest** : Nil
- Business Entity Name** : Multiple.
- Previous Reference** : OMC 19/01/10 – Item 13.1.1
 OCM 19/08/09 – Item 19.1
 OCM 19/05/09 - Item 1.5.1
- Bulletin Attachment(s)** : Nil
- Consulted References** : Nil
- Councillor Lounge** : Copies of Submissions

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

BACKGROUND

1. Following the January 2010 meeting of Council, the Draft Albany Central Area Masterplan 2010 has been subjected to a public advertising period and approximately 90 submissions have been received. The issues identified in the submissions were discussed at the Albany Central Area Master Plan Steering Committee meeting held on the 3rd March 2010 and that committee will be making a recommendation to Council in regards to each submission.

DISCUSSION

2. The public was asked to provide submissions, to provide comment on areas for improvement and to nominate where support is given to the plan. That approach has complicated the process of responding to the submissions and providing a final recommendation to Council on the draft plan.
3. For example, many of the submissions received highlight concerns over the final configuration of road networks, pavement designs, etc and the masterplan was not intended to provide definitive detail on those issues. The “concepts” contained in the plan will be subjected to closer engineering and traffic design scrutiny before construction commences to ensure appropriate engineering standards are met. Property owner concerns over additional traffic build up on local roads also need to be put into perspective, acknowledging that population growth will inevitably result in increased traffic flows on roads near the CBD and gradual adjustments to the road network to manage that traffic will occur.
4. Also, many of the remaining issues identified in the submissions are decisions that future Councils will take and it is desirable that the current Council not rule those options in or out, but that the concepts contained in the masterplan remain as discussion points for future generations.
5. At the agenda briefing session, it is proposed to table for Elected Members a summary of the issues raised by the public.

PUBLIC CONSULTATION / ENGAGEMENT

6. The public consultation process for this plan has involved, direct mail out of brochure to all households in Albany, full day displays and staff attendance at local shopping centres, weekly newspaper articles, radio interviews, posting of report and graphics on City’s web page, production of compact discs for public use, presentation to youth forum and displays at the City expo.

GOVERNMENT CONSULTATION

7. Each government agency and service authority that would be impacted by the masterplan’s recommendations was supplied a CD containing the report.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

STATUTORY IMPLICATIONS

8. The masterplan contains a combination of actions, strategic objectives and recommendations for further studies / actions. It can assist the City in directing future growth and the staging of development. Due to the nature of the document it should not become a policy adopted under the provisions of Town Planning Scheme 1A. Several of the actions contained in the masterplan will require adjustments to be made to the Albany Local Planning Strategy and for the City's policy framework to be revisited.

FINANCIAL IMPLICATIONS

9. The draft masterplan sets out a works program that is conservatively estimated in the tens of millions of dollars. The staging of the implementation of the masterplan is acknowledged.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

10. The proposed masterplan is consistent with the Albany Insight Vision:

“3. City Centre... Albany's City Centre will be the most vibrant, safe, accessible and liveable in regional WA. Albany's City Centre will be...

3.1 Family and pedestrian friendly.

3.2 A vibrant cultural hub stimulated by attractive inner city residential and tourism accommodation.

3.3 A unique and accessible retail experience.

3.4 Serviced by regular and affordable public transport service.”.

POLICY IMPLICATIONS

11. The masterplan proposes a number of new policies that will need to be adopted under the Scheme once Council has adopted the masterplan and the relevant policies have been drafted. Each policy will go through the statutory processes for adoption under the relevant town planning scheme.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. Council has the option of either adopting the masterplan (with or without modification) or not. Should Council decide not to adopt the masterplan, the existing plethora of reports and studies will remain in place and potential conflicting advice may result on the planning of the city centre.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

SUMMARY CONCLUSION

13. Given the number of submissions received, Council may wish to take an extra month to analyse them and to finalise the report. In the submission to the Federal Government, it was stated that the masterplan would be considered at the March meeting of Council and this report provides a vehicle for that to happen.

ITEM 13.1.5 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the public submissions on the Draft Albany Central Area Masterplan 2010 and the report from the Albany Central Area Master Plan Steering Committee and that the Planning and Environment Strategy and Policy Committee review the recommendations and report to the April meeting of Council.

ITEM 13.1.5 – AMENDED OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR WELLINGTON

THAT Council RECEIVE the public submissions on the Draft Albany Central Area conceptual Master plan 2010 and the report from the Albany Central Area Master Plan Steering Committee and that the Planning and Environment Strategy and Policy Committee review the recommendations and present the final draft report to the April meeting of Council.

MOTION CARRIED 8-4

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley, D Wolfe, J Matla and R Sutton

Against the Motion: Crs D Bostock, J Bostock, D Dufty and R Paver

Officer's Reason (S Jamieson):

Officer recommendation amended to reflect the request of Council at the agenda briefing session.

DEVELOPMENT SERVICES REPORTS

13.2 DEVELOPMENT POLICY

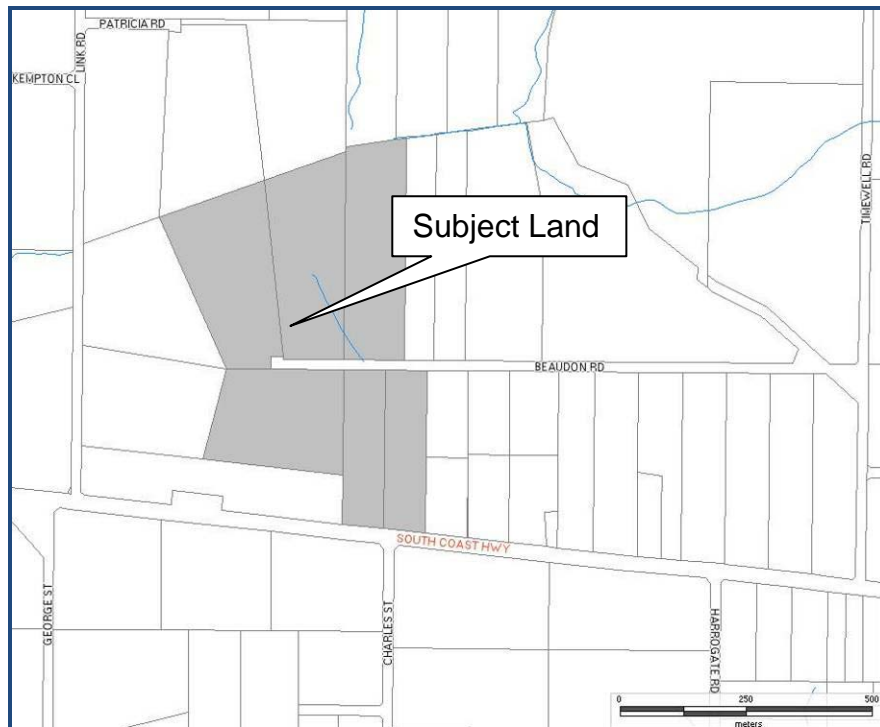
ITEM NUMBER: 13.2.1
ITEM TITLE: INITIATION OF SCHEME AMENDMENT – REZONING OF LOTS 1 AND 2 SOUTH COAST HIGHWAY AND LOTS 4, 5, 8 AND 17 BEAUDON ROAD, MCKAIL

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Legislative function: Council making and reviewing the legislation it requires performing its function as a Local Government.

- File Number or Name of Ward** : AMD 261 (West Ward)
Summary of Key Issues : Determine whether to initiate the proposed Town Planning Scheme Amendment to rezone Lots 1 and 2 South Coast Highway and Lots 4, 5, 8 and 17 Beaudon Road from the ‘Rural’ zone to the ‘Special Rural’ zone.
Land Description : Lots 1 and 2 South Coast Highway and Lots 4, 5, 8 and 17 Beaudon Road, McKail
Proponent : Harley Global
Owner : Various owners
Reporting Officer(s) : Planning Officer (C McMurtrie)
Disclosure of Interest : Nil
Business Entity Name : Nil provided.
Previous Reference : OCM 15/08/06 (SAR 097)
Bulletin Attachment(s) : 1. Scheme Amendment document
Consulted References : 1. WA Planning Commission (WAPC) Statements of Planning Policy (SPP’s) SPP1 & SPP 3
 2. Albany Local Planning Strategy
Councillor Lounge : Copy of OCM 15/08/06 Item 11.3.1 (SAR 097)

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

BACKGROUND

1. Amendment 261 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lots 1 and 2 South Coast Highway and Lots 4, 5, 8 and 17 Beaudon Road from the 'Rural' zone to the 'Special Rural' zone.
2. A Scheme Amendment Request (SAR 097) was considered at the August 2006 Council Meeting. It was resolved:

*“**THAT** Council advises the proponent that it is prepared to entertain the submission of a formal application for rezoning Lot 1 South Coast Highway and Lot 8 Beaudon Road from the 'Rural' zone to the 'Special Rural' zone subject to the following matters being addressed to the satisfaction of Council:*

- i) amendment documentation which includes a detailed land capability report assessing soil characteristics and groundwater levels on the site; and*
 - ii) a set of scheme provisions for the area which includes a provision for a contribution to the upgrading of Beaudon Road.”*
3. The matters outlined above have been addressed in the amending document and attendant detailed land capability report, which has been prepared by Opus International Consultants. A provision requiring contributions to the upgrading of Beaudon Road has not been incorporated into the proposed Special Provisions, although the road has been sealed since the SAR was considered by Council. Despite this improvement further upgrading may be required and contributions can be sought at the subdivision stage.

DISCUSSION

4. The subject lots cover an area of approximately 26.4ha and lie to the north of South Coast Highway, approximately 7km north-west of Albany town centre. The land generally slopes upward to the south-east, before briefly levelling out and falling downward to South Coast Highway. Much of the land has been cleared for agricultural purposes in the past, although some vegetation remains along lot boundaries and at the northernmost extent of Lots 4, 5 and 6 Beaudon Road. Land uses are of a rural residential nature, with a dwelling and associated outbuildings situated at the southern end, or south-eastern corner, of each lot and the remainder of the land used for some limited grazing and horticultural activities.
5. All of the surrounding land is covered by the 'Rural' zoning, although Special Rural Area No. 25 lies approximately 200m to the north-west of the subject lots and Special Rural Area No. 22 approximately 200m to the south. The area has been identified as being suitable for 'Rural Residential' development in the draft Albany Local Planning Strategy (ALPS). This has been largely influenced by the proximity of the land to Link Road, which it is intended will become the route of the proposed Albany Ring Road. The proposed rezoning to 'Special Rural' is broadly in keeping with the objectives of Section 8.3.5 of the ALPS.
6. Staff consider that the lot layout indicated on the proposed Subdivision Guide Plan could be rationalised through the provision of additional access roads, which would remove the need for long access legs and provide each lot with a proper road frontage and improve accessibility for all traffic, particularly emergency vehicles.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

7. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Furthermore, the amending documents generally address the matters raised by Council at the SAR stage.

PUBLIC CONSULTATION/ENGAGEMENT

8. Should Council initiate the amendment and the Environmental Protection Authority (EPA) decides not to assess the proposal, the amendment will be advertised to all affected and surrounding landowners.

GOVERNMENT CONSULTATION

9. Should Council initiate the amendment and the EPA decides not to assess the proposal, the amendment will be referred to all relevant Government agencies for comment.

STATUTORY IMPLICATIONS

10. All Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
11. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
12. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
13. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the amendment is environmentally acceptable.
14. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

16. Council's decision on the Scheme amendment should be consistent with the objectives of the Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
17. Section 8.3.1 – *Strategic Settlement Direction* sets the following Strategic Objective:

“Facilitate and manage sustainable settlement growth for the urban area in the City of Albany”.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

18. This objective is supported by a set of aims that have been devised to contain the spread of fragmented urban and rural living areas in the City. They are as follows:

- *Providing for growth in urban areas, rural townsites and rural living areas as designated in ALPS.*
- *Minimising the development footprint on the landscape to help protect biodiversity and the environment.*
- *Promoting energy conservation.*
- *Providing greater housing choice.*
- *Minimising journey length from home to work/school/services and encouraging the use of public transport, cycling and walking.*
- *Reducing government expenditure on servicing current and future populations.*

19. Section 8.3.5 – *Rural Living* sets the following Strategic Objective:

“In the long term encourage the efficient use of existing rural living areas, based on land capability to maximise their development potential”.

20. The draft ALPS expands on this by stating that:

“The strategy’s objectives for Rural Living areas are to:

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 4, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

Existing Rural Residential areas in the ALPS are mainly on the fringe of the proposed Future Urban area.

Existing Special Rural and Special Residential zones in the City’s current Town Planning Scheme are fragmented and located within or next to rural areas on the periphery of the Albany urban area, along the King and Kalgan Rivers and around Princess Royal and Oyster Harbours. These zones are at different stages of development and not required to be connected to reticulated sewerage. Some of the outer areas, such as Millbrook and most of Gull Rock, are not connected to reticulated water”.

21. Overall, the proposal is considered to be consistent with the various Strategic Objectives and aims set out in the draft ALPS.

POLICY IMPLICATIONS

22. Council is required to have regard to any Western Australian Planning Commission (WAPC) Statements of Planning Policy (SPP’s) that apply to the scheme amendment. Any amendment to the Town Planning Scheme will be assessed by the WAPC to ensure consistency with the following State and Regional Policies.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

23. SPP 1 – State Planning Framework

The Policy establishes state-wide key land use planning principles and informs the Commission, Local Government and others involved in the planning process in relation to sustainable land use and development across the State. It is designed to ensure there is coordination and integrated decision-making across all spheres of planning.

The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and therefore complies with the principles of SPP1.

24. SPP 3 – Urban Growth and Settlement

SPP 3 sets out the key principles and planning considerations that apply to planning for urban growth and expansion of settlements in the State.

The key policy objectives in SPP 3 are as follows:

- *To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.*
- *To manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.*
- *To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*
- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

25. The amendment proposal is consistent with the key policy measures identified in SPP 3.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

26. Council has the following options in relation to this item, which are:

- To resolve to initiate the Scheme Amendment without modifications;
- To resolve to initiate the Scheme Amendment with modifications; or
- To resolve not initiate the Scheme Amendment.

27. A resolution to initiate an Amendment to a Town Planning Scheme adopted by resolution of a Local Government must be referred to the Environmental Protection Authority (EPA) for assessment.

28. Advertising of an Amendment for public inspection is for a period of 42 days and is not to commence until the EPA has determined that the Amendment is environmentally acceptable.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued.

SUMMARY CONCLUSION

29. The proposal seeks to rezone an area of land that is currently used for rural residential pursuits to the 'Special Rural' zone. This would allow further subdivision and the application of a number of land use and development controls. Contributions to the further upgrading of Beaudon Road can be sought at the subdivision stage.
30. Staff would recommend that the proposed Subdivision Guide Plan be modified to incorporate a loop road through Lots 4, 5 and 17 and a cul-de-sac through Lot 8 Beaudon Road, in order to rationalise the lot layout, removing the need for long access legs and providing each lot with a proper road frontage and improved accessibility for all traffic, particularly emergency vehicles (please refer to the attached plan).
31. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Staff would therefore recommend that the Scheme Amendment be initiated subject to modifications.

**ITEM 13.2.1 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DUFTY**

THAT subject to the amending documents being amended as detailed in paragraph 27, Council in pursuance of section 75 of the *Planning and Development Act 2005* and Regulation 25(1)(c) of the *Town Planning Regulations 1967* resolves to INITIATE Amendment No. 261 to Town Planning Scheme No. 3 for the purposes of:

- 1) Rezoning Portion of Lots 1 and 2 South Coast Highway and Lots 4, 5, 8 and 17 Beaudon Road, McKail from 'Rural' zone to 'Special Rural' zone and amending the Scheme Maps accordingly;
- 2) Inserting Special Rural Area No. 40 into Schedule I – Special Rural Zones – Provisions Relating to Specified Areas.

MOTION CARRIED 9-3

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley, D Wolfe, D Dufty, J Matla and R Sutton.

Against the Motion: Crs J Bostock, D Bostock and R Paver

DEVELOPMENT SERVICES REPORTS

13.3 HEALTH, BUILDING & RANGERS

Nil

13.4 EMERGENCY MANAGEMENT

Nil

DEVELOPMENT SERVICES REPORTS

13.5 DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 13.5.1
ITEM TITLE: PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE MEETING

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Development Services (R Fenn)
Disclosure of Interest : Councillor R Hammond. Financial. Cr Hammond abstained from the vote.
Business Entity Name : Frenchman’s Bay Pty Ltd ATF Frenchman’s Bay Unit Trust
Bulletin Attachment(s) : Minutes from the Planning and Environment Strategy and Policy Committee Thursday 18th February 2010.

ADDENDUM TO OFFICER’S REPORT

The minutes of the PESP committee are amended to correctly record the names on page 1 of the minutes Item 5.0 Guest of Committee:

Replace the name: Mr Pagaus with Mr Pagano.

“The Chairperson welcomed Mr Dykstra and Mr ~~Pagaus~~ Pagano to the meeting. Mr Dykstra provided a verbal presentation on his submission on the Albany Tourism Accommodation Strategy (Item 7.1 - Tourism Accommodation Strategy – Second Draft)”

COUNCIL’S ROLE: LEGISLATIVE FUNCTION

8:34:51 PM Councillor Hammond left the chamber.

ITEM 13.5.1 - MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA

THAT Committee Recommendations 1,4,5,6 and 7 be carried en bloc.

MOTION CARRIED 10-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton
Against the Motion: Cr D Bostock

ITEM 13.5.1 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the unconfirmed minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 18 February 2010 be confirmed as a true and accurate record of proceedings.

**MOTION CARRIED
EN BLOC**

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 13.5.1 - COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADOPT the City of Albany Tourism Accommodation Planning Strategy (January 2010) with appropriate modifications to site 9 "Former Frenchman Bay Caravan Park" allowing for a residential component to be developed to the maximum prescribed in State policy but limited to appropriate design outcomes and the appropriate sections of the report being adjusted accordingly and FORWARD the strategy to the Western Australian Planning Commission and Tourism WA with a request that they endorse the strategy as being compliant with the requirements of Planning Bulletin 83.

ITEM 13.5.1 (2) - ALTERNATE OFFICER RECOMMENDATION

THAT this item be referred back to Committee to ensure adequate time is provided for the caravan park industry to provide comment on the second draft of the City of Albany Tourism Accommodation Planning Strategy (January 2010).

Officer's Reason (R Fenn):

City staff sent a letter to caravan park owners in late January 2010 advising them of the changes in the Strategy. Of the 28 letters sent, those addressed to Albany businesses appear not to have been delivered. Contrary to information supplied at the committee meeting, the original request for comment was not received until late February 2010 (by means of a second mail out).

Cr D Bostock requested a point of clarification on what effect rezoning the site to 25% residential only would have and would it be enforceable.

Mr Fenn through the Mayor replied that provisions would have to be very specific and would need to be in clear language. The City's ultimate capacity to restrict the residential component to 25% may require restriction and enforcement to make sure that standard is not exceeded.

ITEM 13.5.1 (2) - ALTERNATE MOTION BY COUNCILLOR PAVER

THAT:

1. This item be referred back to Committee to ensure adequate time is provided for the caravan park industry to provide comment on the second draft of the City of Albany Tourism Accommodation Planning Strategy (January 2010); and
2. Dykstra Planning be advised that Council does not support any modifications being made to the City of Albany Tourism Accommodation Planning Strategy (January 2010) which would remove the "Local Strategic Site" classification from site 9 (the former Frenchman Bay Caravan Park site) or the modification of the strategy to provide for a residential component to be incorporated into a future development on that site.

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

Councillors Reason:

The inclusion of a residential component on the former Frenchman Bay Caravan Park site is inappropriate because it is inconsistent with the Ministerial Taskforce recommendations on residential activity within Strategic Tourism sites, the developer has presented a development proposal before the State Administrative Tribunal and advised that the project is viable without a residential component, the Goode Beach community has not been afforded the opportunity to comment on this proposal, the reasons submitted for modifying the Strategy relate to commercial viability and are not legitimate strategic considerations and the creation of a residential enclave on this site is inconsistent with proper and orderly planning.

Item 13.5.1 continued.

OFFICERS REPORT: Author: Executive Director Development Services (R Fenn)

STATUTORY IMPLICATIONS

For the Strategy to have any influence on future development control provisions, it must also be endorsed by the Western Australian Planning Commission (acting on advice from Tourism WA). The “Local Strategic Sites” are also recommended in the draft strategy to be worthy of consideration by the State Government as being sites of State strategic importance. No defined process has been outlined by the State on how the sites will be considered for higher recognition, however it is assumed that the process of review of those sites will be undertaken concurrently with the final endorsement of the strategy by the WAPC, on referral by the City of Albany.

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 2 ALTERNATE MOTION BY
COUNCILLOR PAVER**

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR PAVER

SECONDED COUNCILLOR J BOSTOCK

THAT:

- 1) This item be referred back to Committee to ensure adequate time is provided for the caravan park industry to provide comment on the second draft of the City of Albany Tourism Accommodation Planning Strategy (January 2010); and
- 2) Dykstra Planning be advised that Council does not support any modifications being made to the City of Albany Tourism Accommodation Planning Strategy (January 2010) which would remove the “Local Strategic Site” classification from site 9 (the former Frenchman Bay Caravan Park site) or the modification of the strategy to provide for a residential component to be incorporated into a future development on that site.

MOTION CARRIED 7-4

Record of Vote

For the Motion: Mayor Evans, Crs M Leavesley, J Bostock, D Bostock,
D Wolfe, J Matla and R Paver

Against the Motion: Crs R Sutton, D Dufty, C Holden and D Wellington

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

9:00:44 PM Councillor Hammond returned to the chamber.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council AMEND the City of Albany Outbuilding Policy by:

- 1) increasing the floor area for sheds in the Special Residential and Special Rural zones;
and
- 2) Providing for maximum floor areas for shed that provide:

2000m ² lot	-	120m ² shed
4000m ² lot	-	150m ² shed
1ha lot	-	200m ² shed
2ha lot	-	220m ² shed
4ha and larger	-	240m ² shed

Noting the height of the shed remains unchanged.

**ITEM 13.5.1 – COMMITTEE RECOMMENDATION 3 – ALTERNATE OFFICER
RECOMMENDATION**

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council AMEND the City of Albany Outbuilding Policy in Table One by:

1. In line 2 alter Zoning to read: "Residential/Future Urban/Residential Development Zone (Lots 1000m² - 3999m²)"
2. In line 3 alter zoning to read: "Residential/Future Urban/Residential Development Zone (lots 4000m² or greater)".
3. In line 3 alter Maximum Floor Area to read: "150m²"
4. In line 6 alter zoning to read: "Special Residential Zone (lots less than 3999m²)"
5. In line 7 alter maximum floor area to read: "150m²"
6. In line 8 alter maximum floor area to read: 200m²"
7. Insert new line below line 8 to read: "Special Rural Zone (lots 2ha to 3.99ha) - Maximum Wall Height 4.2m, Maximum Ridge Height 4.8m, Maximum Floor Area 220m² and Special Requirements "Refer to relevant planning scheme requirements for siting and materials.""
8. In line 9 alter zoning to read: "Special Rural Zone (lots 4ha or greater)".
9. In line 9 alter maximum Floor Area to read: "240m²"
10. In line 10 alter maximum floor area to read: "200m²"

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

Officer's Reason (R Fenn):

Whilst the intent of the proposed change in the policy is clean, the implementation of the policy will be problematic unless clarity is provided on the areas where the policies apply. Adjustments to shed sizes in Rural Zones are also required to provide consistency in application.

ALTERNATE MOTION BY COUNCILLOR DUFTY

- i) THAT Council NOT ADOPT THE City of Albany Outbuilding Policy.
- ii) THAT Council REFER this policy back to the PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE.

Councillor's Reason:

To allow the submission presented by Mr John Koster (Kosters Steel) to be taken into account, which stated that the market demands require an increase in the wall height of the current policy to accommodate larger boats and caravans.

Additional Reasons: That Council refer this policy to the Planning and Environment Strategy and Policy Committee to incorporate a set of performance standards into the policy to provide for minor variations in wall heights to complement the current provisions.

Officer's Comment (S Jamieson):

This recommendation will allow further review of the Policy prior to adoption.

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 2- ALTERNATE MOTION BY COUNCILLOR DUFTY

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON**

- i) THAT Council NOT ADOPT THE City of Albany Outbuilding Policy.
- ii) THAT Council REFER this policy back to the PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE.

MOTION CARRIED 8-4

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, D Wellington, R Paver, D Bostock, D Wolfe, D Dufty and R Sutton

Against the Motion: Crs M Leavesley, J Matla, C Holden and R Hammond

DEVELOPMENT SERVICES REPORTS

Item 13.5.1 continued.

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council RECEIVES the draft of the Policies Applying to Town Planning Schemes 1A and 3, and that consideration of the draft document be undertaken at the March 2010 meeting of the Planning and Environment Strategy and Policy Committee Meeting.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 5
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ADVISE the Albany Chamber of Commerce and Industry that shop owners wishing to place temporary signs placed on footpaths require a permit from Council and the Chamber members should obtain that permit or their signage will be removed.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 6
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ADOPTS the modified Local Structure Plan for Lots 1,2 and 3 South Coast Highway, McKail, subject to:

- A. Deletion, or amendment as appropriate, of comments in Section 4.3.1 in relation to water supply;**
- B. Deletion, or amendment as appropriate, of comments in Section 4.3.2 in relation to waste water;**
- C. Deletion of references to the pumping station in The Pines Estate; and**
- D. Deletion of Section 5.7 - *Roundabout Cost Sharing*.**

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

**ITEM 13.5.1 - COMMITTEE RECOMMENDATION 7
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT City of Albany staff WRITE to horse trainers seeking their cooperation and assistance in resolving problems at Middleton Beach associated with noise transmitted into adjoining residences from early morning training, and the cleaning of faeces, and advise those trainers that the provision of a horse exercise area is under consideration as part of the City's review of the Animal Local Law.

**MOTION CARRIED
EN BLOC**

**CORPORATE & COMMUNITY
SERVICES
Reports**

CORPORATE & COMMUNITY SERVICES REPORTS

14.1 FINANCE – CORPORATE & COMMUNITY SERVICES**ITEM NUMBER: 14.1.1****ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT****THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : FIN 040 (All Wards)
Reporting Officer(s) : Finance Manager (P Wignall)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : List of Accounts for Payment

BACKGROUND

1. The List of Accounts for Payment is a list of the accounts which have been paid since the last report.

DISCUSSION

2. The Chief Executive Officer has delegated authority to pay accounts on behalf of Council, and a list of these accounts is to be presented to Council meetings and recorded in the minutes.
3. A summary of payments is as follows:

Municipal Fund			
Trust	Totalling		\$0.00
Cheques	Totalling		\$35,914.44
Electronic Fund transfer	Totalling	\$1,781,140.97	
Credit Cards	Totalling		\$4,978.39
Payroll	Totalling		\$760,826.61
	Total		\$2,582,860.41

4. As at the 25th February 2010, the total outstanding creditors, stands at \$381,866.67
5. Cancelled cheques – Nil

PUBLIC CONSULTATION / ENGAGEMENT

6. Nil

GOVERNMENT CONSULTATION

7. Nil

STATUTORY IMPLICATIONS

8. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the Municipal Fund or a Trust Fund if the Local Government had delegated the function to the Chief Executive Officer or alternatively authorises payment in advance.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.1 continued.

9. The Chief Executive Officer has delegated authority to authorise payments.
10. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments should be presented to Council meetings and recorded in the minutes.

FINANCIAL IMPLICATIONS

11. The accounts for payment are in accordance with the adopted Annual Budget and approved amendments.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision:

Nil

Priority Goals and Objectives:

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

Objective 4.1: The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.”

POLICY IMPLICATIONS

13. The City’s 2009/10 Annual Budget applies to this item, as it provides a set of parameters which guides the City’s financial activities for the year.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

14. Nil

SUMMARY CONCLUSION

15. The list of accounts paid by delegated authority be received.

9:16:32 PM Councillor Paver and Councillor Wellington left the chamber.

**ITEM 14.1.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WOLFE**

THAT the list of accounts authorised for payment by the Chief Executive Officer as presented in the Information Bulletin be RECEIVED.

MOTION CARRIED 10-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.1.2
ITEM TITLE: FINANCIAL ACTIVITY STATEMENT – 28 FEBRUARY 2010

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : FIN 040 (All Wards)
Summary of Key Points : Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 28 February 2010
Reporting Officer(s) : Finance Manager (P Wignall)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : Nil

BACKGROUND

1. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
2. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide Council with a greater insight in relation to the ongoing financial performance of the local government.
3. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity, for reporting material variances. For the financial year 2009/10 variations in excess of 10% are reported to the Council.

DISCUSSION

4. The Statement of Financial Activity for the period ending 29 January 2010 has been prepared and is listed below.
5. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

STATEMENT OF FINANCIAL ACTIVITY – AS AT 28 FEBRUARY 2010

6. See Appendix 1 to Report Item 14.1.2

CITY OF ALBANY - BALANCE SHEET

7. See Appendix 2 to Report Item 14.1.2

CITY OF ALBANY – INCOME STATEMENT

8. See Appendix 3 to Report Item 14.1.2

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

INVESTMENT SUMMARY & COMMENT

9. See Appendix 4 to Report Item 14.1.2.

PUBLIC CONSULTATION / ENGAGEMENT

10. Nil

GOVERNMENT CONSULTATION

11. Nil

STATUTORY IMPLICATIONS

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

FINANCIAL IMPLICATIONS

13. Year to date expenditure has been incurred in accordance with the 2009/10 Budget parameters with variations in excess of 10% detailed below.

Section of Financial Activity Statement	Reason for Variation	Total Amount of Variation
Operating Revenue	Other Revenue variance is mainly due to funding from SCNRM (25k), above budget sponsorship for City Events (\$13k), and high than budgeted penalty interest on overdue rates.	\$70,624
Operating Expenditure	Materials and Contracts expenditure is currently below budget, with major variances including Fuel, Oil and Parts (\$231k), Road Maintenance (\$166k), Rectification Maintenance (\$58k), Greenwaste collections (\$56k), the City of Albany art prizes (\$46k), and Tourism Marketing (\$57k)	\$857,276
	Other Expense variances mainly relate to various minor maintenance accounts.	\$79,529
Capital Revenue	Non-Operating Grants, Subsidies and Contributions	\$848,546

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Priority Goals and Objectives:

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

Objective 4.1: The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.

POLICY IMPLICATIONS

15. The City's 2009/10 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2009/10 budget parameters and any major variations are due to timing issues only, it is recommended that the Statement of Financial Activity be received.
16. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. Nil

SUMMARY CONCLUSION

18. Nil

**ITEM 14.1.2 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY
MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR WOLFE**

**THAT the Financial Activity Statement for the period ending 28 February 2010 be
RECEIVED.**

MOTION CARRIED 10-0

9:17:19 PM Councillor Wellington returned to chamber.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 1**STATEMENT OF FINANCIAL ACTIVITY YEAR TO DATE – 28 FEBRUARY 2010**

	Actual Year to Date 28-Feb-10	Current Budget Year to Date 28-Feb-10	Current Budget vs Actual Variance	
REVENUE				
Operating Grants, Subsidies and Cont	2,123,604	2,148,047	-24,443	X
Fees and Charges	4,758,767	4,825,118	-66,351	X
Service Charges	3,005,680	2,996,718	8,962	√
Interest Earnings	436,565	432,409	4,156	√
Other Revenue	433,378	362,754	70,624	√
	10,757,993	10,765,046	-7,053	
EXPENDITURE				
Employee Costs	9,503,750	9,595,483	-91,733	√
Materials and Contracts	6,093,547	6,950,823	-857,276	√
Utility Charges	692,469	723,546	-31,077	√
Interest Expenses	564,932	594,750	-29,819	√
Insurance Expenses	466,431	486,857	-20,426	√
Other Expenditure	427,634	348,105	79,529	X
Depreciation	7,329,128	7,867,797	-538,669	√
	25,077,890	26,567,361	-1,489,472	
Adjustment for Non-cash Revenue and Expenditure:				
Depreciation	-7,329,128	-7,867,797	538,669	
CAPITAL REVENUE				
Non-Operating Grants, Subsidies and Cont	2,700,859	1,852,313	848,546	√
Proceeds from asset disposals	350,250	328,455	21,795	√
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	24,166	24,569	-403	X
Transfers from Reserves (Restricted Assets)	7,332,472	7,415,431	-82,959	
	10,407,746	9,620,768	786,978	
CAPITAL EXPENDITURE				
Capital Expenditure	7,435,124	7,911,148	-476,025	√
Repayment of Loans	549,221	573,048	-23,827	√
Transfers to Reserves (Restricted Assets)	1,800,872	773,093	1,027,779	
	9,785,216	9,257,289	527,927	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	-1,790,453	n/a	n/a	
LESS Net Current Assets Year to Date	13,367,103	n/a	n/a	
Amount Raised from Rates	-21,525,795	-21,474,828	-50,967	

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

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 2 – BALANCE SHEET AS AT 28 FEBRUARY 2010

	Note	Actual 28-Feb-10	Budget 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS				
Cash - Municipal	6	11,821,100	776,514	477,330
Restricted cash (Trust)	26	1,584,795	1,976,788	1,987,438
Reserve Funds - Financial Assets	12	1,170,755	0	1,170,755
Reserve Funds - Other		1,828,446	2,647,383	7,360,046
Receivables & Other		4,183,615	1,600,000	2,912,825
Investment Land		(0)	0	(0)
Stock on hand	8	1,001,986	780,000	1,033,538
		21,590,697	7,780,685	14,941,932
CURRENT LIABILITIES				
Borrowings	10	538,676	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	11	2,190,817	2,200,000	2,023,128
Trust Liabilities	11	1,527,633	1,778,124	1,930,516
Creditors prov & accruals	11	1,472,720	3,000,000	4,190,793
		5,729,846	8,208,124	9,232,333
NET CURRENT ASSETS		15,860,850	(427,439)	5,709,599
NON CURRENT ASSETS				
Receivables	7	106,322	152,865	106,322
Pensioners Deferred Rates	7	292,616	265,945	292,616
Investment Land		2,150,000	2,150,000	2,150,000
Property, Plant & Equip	9	72,856,243	131,774,682	67,901,036
Infrastructure Assets		180,813,244	197,134,056	186,048,238
Local Govt House Shares	9a	19,501	19,501	19,501
		256,237,926	331,497,049	256,517,713
NON CURRENT LIABILITIES				
Borrowings	10	20,796,675	19,566,675	20,796,675
Creditors & Provisions	11	259,838	262,000	259,838
		21,056,513	19,828,675	21,056,513
NET ASSETS		251,042,263	311,240,935	241,170,800
EQUITY				
Accumulated Surplus		227,593,008	289,818,918	212,131,560
Reserves	12	4,674,622	2,647,383	10,264,605
Asset revaluation Reserve		18,774,634	18,774,634	18,774,634
		251,042,263	311,240,935	241,170,800

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 3 - INCOME STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2010

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
INCOME			
Rates	21,525,795	21,346,462	19,277,114
Grants & Subsidies	1,884,451	3,069,252	4,051,358
Contributions. Reimb & Donations	239,152	362,187	408,897
Fees & Charges	4,758,767	7,294,973	7,276,163
Service Charges	3,005,680	2,996,718	2,698,198
Interest Earned	436,565	547,200	658,167
Other Revenue / Income	434,738	401,500	529,090
	32,285,149	36,018,292	34,898,987
EXPENDITURE			
Employee Costs	9,503,750	14,039,923	13,749,398
Utilities	692,469	1,311,912	903,193
Interest Expenses	564,932	1,179,588	1,322,148
Depreciation on non current assets	7,329,128	11,818,000	10,714,400
Contracts & materials	6,093,547	11,628,876	11,490,819
Insurance expenses	466,431	453,863	410,959
Other Expenses	428,754	(128,769)	11,553
	25,079,010	40,303,393	38,602,470
Change in net assets from operations	7,206,139	(4,285,101)	(3,703,483)
Grants and Subsidies - non-operating	2,640,842	70,066,581	6,497,507
Contributions Reimbursements and Donations - non-operating	60,017	5,175,706	4,738,136
Profit/Loss on Asset Disposals	(35,534)	(32,000)	61,301
Fair value - Investments adjustment	0	1,987,226	(193,144)
	9,871,464	72,912,412	7,400,317

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE 28 FEBRUARY 2010

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value Dec-09	Market Value Jan-10	Market Value Feb-10	Latest Monthly Variation
MUNICIPAL ACCOUNT							
Bankwest	28/01/2010	1,000,000	4.40%	1,000,000			
Westpac	27/02/2010	1,000,000	4.60%	1,000,000	1,000,000		
Bendigo	18/01/2010	2,000,000	4.90%	2,000,000			
Bankwest	20/01/2010	1,000,000	4.80%	1,000,000			
Bankwest	15/02/2010	1,000,000	5.00%	1,000,000	1,000,000		
Westpac	17/02/2010	1,500,000	5.05%	1,500,000	1,500,000		
Bendigo	10/03/2010	1,000,000	5.17%	1,000,000	1,000,000	1,000,000	
NAB	30/03/2010	2,000,000	5.25%	2,000,000	2,000,000	2,000,000	
Westpac	30/03/2010	1,500,000	5.75%	1,500,000	1,500,000	1,500,000	
Bendigo	22/04/2010	1,000,000	5.40%		1,000,000	1,000,000	
Bankwest	22/04/2010	1,000,000	5.40%		1,000,000	1,000,000	
Bankwest	10/02/2010	1,000,000	4.00%		1,000,000		
Bendigo	19/03/2010	1,000,000	4.90%			1,000,000	
Bankwest	19/04/2010	1,000,000	5.15%			1,000,000	
Westpac	28/05/2010	1,500,000	5.50%			1,500,000	
				12,000,000	11,000,000	10,000,000	n/a
RESERVES ACCOUNT							
NAB	2/02/2010	1,000,000	4.47%	1,000,000	1,000,000		
NAB	4/03/2010	1,000,000	4.90%			1,000,000	
		1,500,000		1,000,000	1,000,000	1,000,000	n/a

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE 28 FEBRUARY 2010

COMMERCIAL SECURITIES - CDOs (New York Mellon)**								
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	354,120	354,120	354,120		0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750		0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	307,100	307,100	307,100		0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380		0
		2,118,046		976,350	976,350	976,350		0
COMMERCIAL SECURITIES - CDOs - Other								
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	119,000	119,000	119,000		0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	303	303	303		0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,503	68,503	68,503		0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	6,600	6,600	6,600		0
		1,324,656		194,405	194,405	194,405		0
PORTFOLIO TOTAL		4,942,702		14,170,755	13,170,755	12,170,755		0

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

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.1.3
ITEM TITLE: AUDIT COMMITTEE MINUTES AND APPOINTMENT OF AUDITOR

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number (Name of Ward)	: FIN 040 (All Wards)
Summary of Key Points	: Receive recommendations of the Audit Committee Appoint new City of Albany Auditor
Proponent	: City of Albany
Reporting Officer(s)	: Manager Finance (P Wignall)
Disclosure of Interest	: Nil
Business Entity Name	: Lincolns Accountants and Business Advisers Please enter business names
Previous Reference	: Please enter
Bulletin Attachment(s)	: <ul style="list-style-type: none"> • Letter of Resignation from Russell Harrison (Lincolns Accountants and Business Advisers) • Audit Committee Minutes dated 8 Dec 2009. • Audit Committee Minutes dated 26 Feb 2010.
Consulted References	: Local Government Act 1995, Division 2, Part 7
Councillor Lounge	: Nil

BACKGROUND

1. In a letter dated 28 January 2010, Russell Harrison (Lincolns Accountants and Business Advisers) advised of his resignation as Auditor of the City of Albany.
2. The City called for tenders to replace Russell Harrison, with tenders closing on Wednesday 24th February.
3. An analysis of tenders was completed and the results submitted to the Audit Committee on Friday 26th February 2010 for consideration and recommendation to Council.

DISCUSSION

4. Nil

PUBLIC CONSULTATION / ENGAGEMENT

5. C1003 – Provision of Audit Services tender placed on City of Albany website and advertised in Local and State-wide newspapers.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.3 continued.

GOVERNMENT CONSULTATION

6. Nil.

STATUTORY IMPLICATIONS

7. Division 2, Part 7 of the Local Government Act 1995 deals with the appointment of auditors.

7.3. Appointment of auditors

(1) A local government is to, from time to time whenever such an appointment is necessary or expedient, appoint a person, on the recommendation of the audit committee, to be its auditor.*

** Absolute majority required.*

(2) The local government may appoint one or more persons as its auditor.

(3) The local government's auditor is to be a person who is —

(a) a registered company auditor; or

(b) an approved auditor.

FINANCIAL IMPLICATIONS

8. Acceptance of the recommended tender will result in a small reduction in the annual allowance for audit costs.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision

Nil

Priority Goals and Objectives

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

Objective 4.1: The City of Albany will be a cohesive Council delivering ethical and responsible government committed to excellence in board governance.

City of Albany Mission and Values Statement

At the City of Albany we apply Council funds carefully.”

POLICY IMPLICATIONS

10. Nil

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.3 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Nil. It is a statutory requirement for the City of Albany to appoint an auditor.

SUMMARY CONCLUSION

12. That the recommendation of the Audit Committee to appoint Grant Thornton Audit Pty Ltd as the City of Albany auditors be accepted.

9:17:47 PM Councillor Matla left the chamber after declaring a financial interest.

ITEM 14.1.3 – MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR HAMMOND**

THAT Committee Recommendations 1, 2 & 3 are CARRIED EN BLOC.

**MOTION CARRIED 9-1
ABSOLUTE MAJORITY**

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, D Wolfe, D Dufty and R Sutton.

Against the Motion: Cr D Bostock

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.1.3 – COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the CONFIRMED minutes of the Audit Committee meeting held on the 8th December 2009 be RECEIVED.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.1.3 – COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Audit Committee meeting held on the 26th February 2010 be RECEIVED.

**MOTION CARRIED
EN BLOC**

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.3 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM: 14.1.3 – COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Grant Thornton Audit Pty Ltd be appointed as the City of Albany's Auditor for a four (4) year term, commencing financial year 2009/2010.

**MOTION CARRIED
EN BLOC**

9:20:03 PM Councillor Matla returned to chamber.

14.2 – ADMINISTRATION

Nil

14.3 – LIBRARY SERVICES

Nil

14.4 – DAY CARE CENTRE

Nil

14.5 – TOWN HALL

Nil

14.6 – RECREATION SERVICES

Nil

14.7 - ECONOMIC DEVELOPMENT

Nil

14.8 - TOURISM & VISITORS CENTRE

Nil

14.9 – AIRPORT MANAGEMENT

Nil

14.10 – CONTRACT MANAGEMENT

Nil

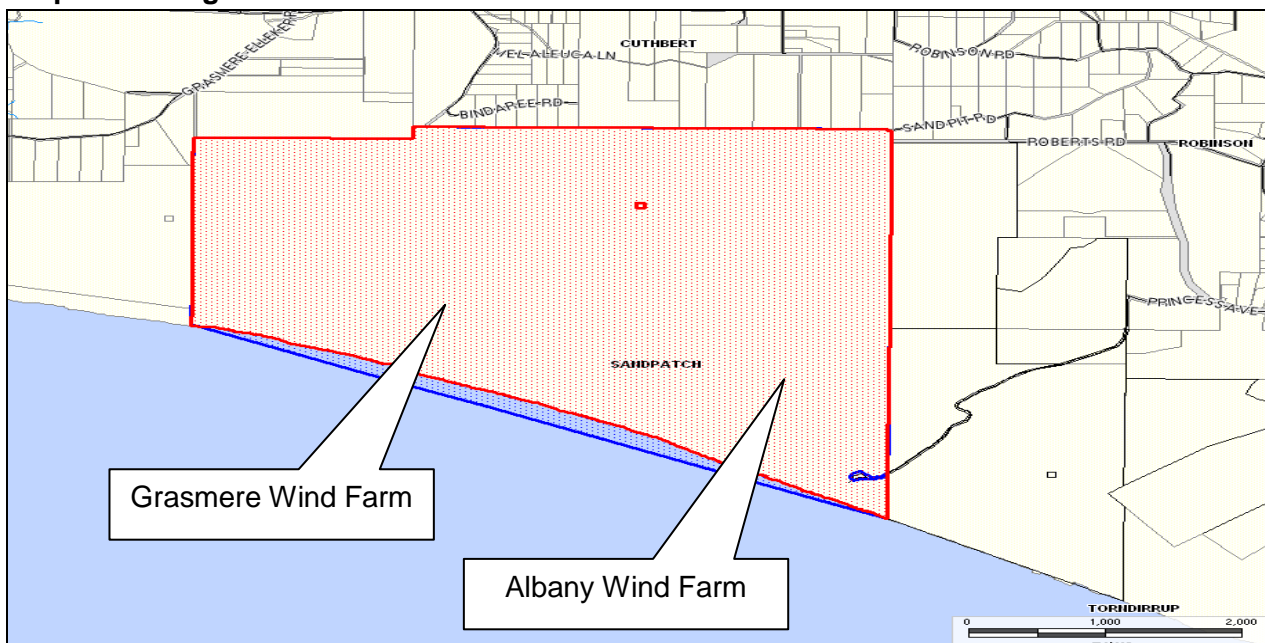
14.11 – PROPERTY MANAGEMENT

ITEM NUMBER: 14.11.1
ITEM TITLE: CONSIDER REQUEST FROM VERVE ENERGY FOR THE GRASMERE WIND FARM LEASE TO BE CONDITIONAL ON VERVE ENERGY'S BOARD APPROVAL BY 28 FEBRUARY 2012

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

- File Number or Name of Ward** : PRO352, A165274 (West Ward)
- Summary of Key Points** : Consider a request from Verve Energy for the Grasmere Wind Farm lease on Portion of Reserve 13773 to be conditional on Verve Energy's board approval being obtained by 28 February 2012
- Land Description** : Portion of Reserve 13773, Lot 7736 on Plan 92133, Sand Patch
- Proponent** : Verve Energy
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 11.04.00 Item 12.1.15 & Item 13.2.6
OCM 17.06.03 Item 19.2
OCM 21.12.05 Item 14.3.2
OCM 21.02.06 Item 14.3.1
OCM 21.10.08 Item 13.5.1
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council's Policy – Property Management – Leases
- Maps and Diagrams** :



CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

BACKGROUND

1. Reserve 13773 is under Management Order H518229 issued to the City of Albany with the power to lease, sub-lease or licence for the purposes of Conservation, Recreation, Water Supply and Wind Power Generation for a term not exceeding 21 years and subject to the consent of the Minister for Lands.
2. In March 2002 Council entered into a lease agreement between the City of Albany and Western Power Corporation (WPC) over Portion of Reserve 13773 for a term of 21 years expiring 20 March 2023 for the purpose of constructing and operating twelve wind turbines known as the Albany Wind Farm.
3. Council resolved in June 2003 to enter into a First Option to Lease Agreement with WPC for a consideration of \$250,000 for 10 years, subject to the payment being an offset against any future lease rentals being based upon market valuation, and: any future development being still subject to standard Council development approval processes. These funds were applied to sealing Sand Patch access road.
4. As WPC advised of their wishes to exercise this option, in February 2006 Council resolved to enter into a further lease agreement with WPC for a term of 21 years for the establishment of the Grasmere Wind Farm consisting of seven wind turbines (2 Megawatt (MW) each), for an upfront rent payment of \$650,000 of which \$250,000 had already been paid, subject to:
 - Approval of the Minister for Lands;
 - Western Power Corporation Board approval to proceed with the Grasmere Wind Farm project;
 - Planning Scheme Consent being granted by the City of Albany; and
 - Apply the outstanding balance of funds of \$400,000 as a contribution to capital works for construction of the Anzac Peace Park at the Albany Waterfront.
5. The Grasmere Wind Farm will be located immediately west of the existing Albany Wind Farm on Sand Patch Reserve 13773. The additional wind turbines would produce 14MW of electricity and raise the percentage of renewable energy used in the town to more than 80%.
6. Minter Ellison Lawyers were instructed to develop the lease documentation. Clause 7.2 of the First Option to Lease Agreement provides that the terms of the Grasmere Wind Farm lease in respect of the premises are to be substantially the same as those contained in the Albany Wind Farm lease.
7. As part of the State Government energy market reforms, WPC separated into four businesses on 1 April 2006 with the Electricity Generation Corporation, trading as Verve Energy being assigned to the Albany Wind Farm lease.
8. Verve Energy requested amendments to the Grasmere Wind Farm lease conditions to vary the number of wind turbines from seven to six, increase the capacity of each turbine from 2MW to 2.3MW and tenure of the lease to be increased from 21 years to 30 years.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

9. In October 2008, Council resolved to amend the lease conditions to incorporate Verve Energy's request and also agreed to an additional annual rental of \$6,670 (indexed to CPI) for consideration of the longer term of 30 years. This annual rental is in addition to the rent paid 'up front' of \$650,000, of which the entire sum has already been paid to the City of Albany.
10. Ministerial consent has been granted to increase the term of the Power to Lease for Reserve 13773 from 21 years to 30 years.
11. Planning Scheme Consent for the additional six wind turbines was approved by Council In October 2008.
12. Verve Energy has reviewed the draft lease and requested the lease be conditional on Verve Energy's board approval being obtained by 28 February 2012. Verve Energy has advised that it is not in a position to execute the Grasmere Wind Farm lease without the approval of Verve Energy's Board, and the Board has stipulated this date as the 28 February 2012.

DISCUSSION

13. In response to Verve Energy's request Minter Ellison Lawyers have provided information and advice on the relevant lease Clause 3 - Board approval:
14. Clause 3 of the lease operates as follows:
 - the lease is conditional on Verve Energy's board approving the lease by a certain date (which is yet to be agreed). This type of condition is commonly referred to as a 'condition subsequent' which means that:
 - despite the condition subsequent, once the lease is executed, there is still a valid and binding lease between the parties; however
 - if the condition is not fulfilled, the lease will effectively be terminated;
 - in order for the condition subsequent to be satisfied, Verve Energy must either:
 - give written notice to the City stating that its board has approved the lease; or
 - waive the condition subsequent in writing prior to 28 February 2012 (Latest Date); and
 - if the condition subsequent is not satisfied:
 - there will, from the Latest Date, be no lease agreement (i.e for practical purposes, the lease will effectively be terminated);
 - neither party will have any claim against the other under the lease (except in relation to breaches occurring before the Latest Date); and
 - Verve Energy will not be entitled to a refund of rent and any rent paid in advance (i.e. before the Latest Date) will be forfeited to the City.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

15. Advice on Clause 3 as follows:

The period requested by Verve Energy is a considerably long period of time for the lease to remain conditional;

- the effect of clause 3 is ultimately the same as if Verve Energy had the right to terminate the lease on 28 February 2012; however
- our view is that this will not materially affect the City's position as we have amended Clause 3 of the lease to provide that the rent paid 'up front' by Verve Energy is non-refundable (under any circumstances).

16. Should Council agree to the lease being conditional on obtaining Verve Energy's board approval date by 28 February 2012, the lease will then be submitted to the Minister for consent.

PUBLIC CONSULTATION / ENGAGEMENT

17. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.

18. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.

19. Section 30 of the Local Government Act (Functions and General) Regulations 1996 deals with dispositions to which the advertising requirements of section 3.58 of the Act does not apply. Section 30 (2) (c) states that Section 3.58 of the Act is exempt if:

(c) *The land is disposed of to –*

- (i) *the Crown in right of the State or the commonwealth*
- (ii) *a department, agency, or instrumentality of the Crown in right of State or the Commonwealth; or*
- (iii) *another local government or a regional local government;*

20. Verve Energy as an instrument of the State Government is exempt from the advertising requirements of Section 3.58 of the Local Government Act 1995.

GOVERNMENT CONSULTATION

21. 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.

22. As this is Crown land, Ministerial approval is required. Preliminary approval for the lease has been obtained and formal approval will be required.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

STATUTORY IMPLICATIONS

23. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.
24. 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.

FINANCIAL IMPLICATIONS

25. All costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent.
26. An upfront payment of \$650,000 has been paid with an annual rental of 6,670 plus GST being applied at lease commencement.
27. The lease annual income will be directed to COA 140530 Income – Miscellaneous Commercial.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

“Community Vision

Nil.

Priority Goals and Objectives

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

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

City of Albany Mission Statement

At the City of Albany we are accountable and act as a custodian with respect to Council Assets.”

POLICY IMPLICATIONS

29. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
30. The recommendation is consistent with Council’s Policy – Property Management – Leases.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.11.1 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

31. Council has the following options in relation to this item, which are:
 - a. Approve the request for the Grasmere Wind Farm lease to be conditional on Verve Energy's board approval being obtained by 28 February 2012, or
 - b. Decline the request.
32. Should Council approve the request, once the lease agreement is executed, in accordance with Clause 3 of the lease the rent paid 'up front' of \$650,000 is non refundable (under any circumstances).
32. Should Council not approve the request the Grasmere Wind Farm lease would not proceed and there would be a high level of uncertainty with regards to retaining the rent paid 'up front' of \$650,000.
33. The First Option to Lease Agreement would remain static until expiry on 29 June 2013.

SUMMARY CONCLUSION

34. In view of legal advice determining that the request for the Grasmere Wind Farm lease to be conditional on Verve Energy's board approval being obtained by 28 February 2012 will not materially affect the City's position, the opportunity to execute the lease agreement securing the rent paid 'up front' by Verve Energy, and the prospect of increasing the amount of renewable energy supplied to Albany, the request is recommended.

**ITEM 14.11.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT Council subject to section 3.58 of the Local Government Act 1995 APPROVES the Verve Energy request for the Grasmere Wind Farm lease on Portion of Reserve 13773 be conditional on Verve Energy's board approval being obtained by 28 February 2012.

MOTION CARRIED 11-0

9:22:04 PM

Councillor Paver returned to chamber.

CORPORATE & COMMUNITY SERVICES REPORTS

14.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE

ITEM NUMBER: 14.12.1

ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 18 FEBRUARY 2010

File Number or Name of Ward : MAN 131 (All Wards)
Summary of Key Points : Receive the minutes of the Seniors Advisory Committee.
Reporting Officer(s) : Executive Director Corporate & Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting minutes – 18 February 2010
Seniors Advisory Committee Terms of Reference

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.1 – MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR DUFTY

SECONDED COUNCILLOR MATLA

THAT Committee Recommendations 1 & 2 are CARRIED EN BLOC.

**MOTION CARRIED 11-1
ABSOLUTE MAJORITY**

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

ITEM 14.12.1 - COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 18 February 2010 be RECEIVED.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.1 - COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ENDORSE the reviewed Terms of Reference for the City of Albany Seniors Advisory Committee and the committee act under the guidance of these terms of reference effective immediately upon endorsement by Council.

**MOTION CARRIED
EN BLOC**

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.2
ITEM TITLE: COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 19 FEBRUARY 2010

File Number or Name of Ward : MAN 233 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee Meeting minutes – 19 February 2010

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.2 – MOTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON

THAT Committee Recommendations 1,3 & 4 are CARRIED EN BLOC.

MOTION CARRIED 11-1
ABSOLUTE MAJORITY

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton
Against the Motion: Cr D Bostock

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Community and Economic Development Strategy and Policy Committee held on the Friday 19 February 2010 be RECEIVED.

MOTION CARRIED
EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

ALBANY WELCOME WALL PROJECT

“THAT Council SUPPORT the museum site as the preferred location for the welcome wall recognising that the site would be maintained by the museum.”

**ITEM 14.12.2 – COMMITTEE RECOMMENDATION 2 - ALTERNATE OFFICER
RECOMMENDATION – ALBANY WELCOME WALL PROJECT**

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR DUFTY**

THAT:

- i. Council SUPPORT the museum site as the preferred location for the welcome wall recognising that the site would be maintained by the museum, and the current lease area with WA Museum be extended to incorporate the Welcome Wall.
- ii. WA Museum submit the final design of the wall for Council approval prior to construction taking place.

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

Officer's Reason (WP Madigan):

The proposed location of the Welcome Wall is outside the area currently leased to WA Museum and needs to be included to ensure that all requirements in relation to the Wall are the responsibility of WA Museum.

In addition, Council previously had concerns with the design of the wall, and the amended recommendations presents Council with the opportunity of reviewing the design before final approval.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

PURPOSE: To govern commercial and public use of the City's Emu Point Boat Pens and Public use Jetty's.

EFFECT: The law specifies the safety requirements, rules, regulations and enforcement provisions for public use of these facilities.

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

JETTIES, BRIDGES AND BOAT PENS LOCAL LAW 2010

THAT Council, in accordance with Section 3.16 of the *Local Government Act 1995*:

- i. Gives state-wide public notice for a period of 6 weeks advertising its intention to review the local law, makes available copies of the local law with proposed changes and invites public submissions in relation to the proposal.
- ii. At the conclusion of this period brings the results and a recommendation to Council for consideration.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: EXECUTIVE FUNCTION

PURPOSE: To govern commercial and public use of the HMAS Perth artificial dive reef.

EFFECT: The law specifies the safety requirements, rules, regulations and enforcement provisions for commercial and recreational diving on the HMAS Perth. It also provides an instrument for protection of the amenity of the artificial reef by prohibiting fishing, dumping and damage to the vessel; and setting the penalties for non-compliance with these.

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

HMAS PERTH LOCAL LAW 2010

THAT Council, in accordance with Section 3.16 of the *Local Government Act 1995*:

- i. Gives state-wide public notice for a period of 6 weeks advertising its intention to review the local law, makes available copies of the local law with proposed changes and invites public submissions in relation to the proposal.
- ii. At the conclusion of this period brings the results and a recommendation to Council for consideration.

**MOTION CARRIED
EN BLOC**

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.2 - COMMITTEE RECOMMENDATION 5

VOTING REQUIREMENT: SIMPLE MAJORITY

HUMAN RESOURCE STRATEGY

- i. THAT Council ADOPTS the 'Human Resources Strategy'.
- ii. Recommends to the CEO a structural change with the appointment of an appropriately qualified Human Resource Manager who has a direct line of reporting to the CEO.

**ITEM 14.12.2 – COMMITTEE RECOMMENDATION 5 – ALTERNATE OFFICER
RECOMMENDATION**

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR MATLA**

THAT Council ADOPTS the Human Resources Strategy as detailed in the Elected Member Information Bulletin.

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

Officer's Reason (WP Madigan):

Section 5.41 of the *Local Government Act 1995*, sets out the functions of the CEO in Australia as follows:

“(d) manage the day to day operations of the local government;”

“(g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);”

Accordingly, it is recommended that Part (ii) of the Committee Recommendation be DELETED.

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.3
ITEM TITLE: FINANCE STRATEGY COMMITTEE MEETING MINUTES – 15 FEBRUARY 2010

File Number or Name of Ward : FIN 066 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Business Entity Name : Nil
Bulletin Attachment(s) : Committee Meeting minutes – 15 February 2010

ITEM 14.12.3 – MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR SUTTON

THAT the Committee Recommendations 1&2 be CARRIED en bloc.

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Wolfe, D Duffy, J Matla and R Sutton

Against the Motion: Cr D Bostock

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.3 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Finance Strategy Committee held on the Monday 15 February 2010 be RECEIVED.

MOTION CARRIED
EN BLOC

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.3 - COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council CONFIRM the appointment of Councillor Leavesley as Chairperson to the Finance Strategy Committee.

MOTION CARRIED
EN BLOC

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.3 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 14.12.3 - COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council CONFIRM the appointment of Councillor Price as Deputy Chairperson to the Finance Strategy Committee.

Note: Committee Recommendation was not moved as a result of Councillor Price's resignation.

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.4
ITEM TITLE: ALBANY TOURISM MARKETING ADVISORY COMMITTEE MEETING MINUTES – 3 MARCH 2010

File Number or Name of Ward : STR 208 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee Meeting minutes – 3 March 2010

COUNCIL'S ROLE: EXECUTIVE FUNCTION

9:29:48 PM Councillor Paver and Councillor Hammond left the chamber after declaring a financial interest. Councillor Leavesley left the chamber.

ITEM 14.12.4 – MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR SUTTON

THAT the Committee Recommendations 1,3&4 be CARRIED en bloc.

MOTION CARRIED 8-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, C Holden, R Paver, D Wolfe, D Dufty, J Matla
And R Sutton
Against the Motion: Cr D Bostock

ITEM 14.12.4 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Albany Tourism Marketing Advisory Committee held on the Wednesday 3 March 2010 be RECEIVED.

MOTION CARRIED
EN BLOC

Item 14.12.4 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

**ITEM 14.12.4 - COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR DUFTY**

THAT Council APPROVE the total expenditure of \$100,000 on the Albany traveller magazine with \$40,000 in Council funds from the Albany Tourism Marketing Budget and \$60,000 in income.

MOTION CARRIED 7-2

Record of Vote

For the Motion: Mayor Evans, Crs C Holden, R Paver, D Wolfe, D Dufty, J Matla
And R Sutton

Against the Motion: Crs J Bostock and D Bostock

COUNCIL'S ROLE: EXECUTIVE FUNCTION

**ITEM 14.12.4 - COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE the expenditure, income, potential exposure, risks and stall location be investigated and the results brought back to next meeting for consideration.

**MOTION CARRIED
EN BLOC**

COUNCIL'S ROLE: EXECUTIVE FUNCTION

**ITEM: 14.12.4 - COMMITTEE RECOMMENDATION 4
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE staff writing to Skywest and seeking that the new Commercial Manager or an appropriate equivalent undertakes the position previously held by Ian Wheeler on the ATMAC.

**MOTION CARRIED
EN BLOC**

9:32:30 PM Councillors Hammond and Paver returned to chamber.

14.13 – COMMUNITY DEVELOPMENT

Nil

WORKS & SERVICES Reports

WORKS & SERVICES REPORTS

15.0 REPORTS – WORKS & SERVICES

15.1 WASTE MANAGEMENT

Nil

WORKS & SERVICES REPORTS

15.2 CAPITAL WORKS

ITEM NUMBER: 15.2.1
ITEM TITLE: PROPOSAL TO CLOSE THE INTERSECTION OF MAWSON STREET WITH HANRAHAN ROAD

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

Executive Function: Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at hand.

File Number or Name of Ward	: SER 086 (West Ward)
Summary of Key Points	: Proposal to close off the end of Mawson Street at the intersection with Hanrahan Road Objections by Main Roads WA
Land Description	: Mawson Street Road Reserve
Proponent	: City of Albany
Owner	: Crown
Reporting Officer(s)	: Principal Engineer Asset Planning (Graeme Hoey)
Disclosure of Interest	: Nil
Business Entity Name	: Not Supplied
Previous Reference	: Ordinary Meeting of Council 21 July 2009.
Bulletin Attachment(s)	: Nil
Consulted References	: Nil
Maps and Diagrams	: See below



WORKS & SERVICES REPORTS

Item 15.2.1 continued

BACKGROUND

1. City staff identified the intersection of Mawson Street and Hanrahan Road as a potential safety problem because of its proximity to Serpentine Road. There is potential for confusion for traffic signalling to turn into Serpentine Road.
2. A road safety audit was carried out in 2009 which confirmed the safety issues. Based on this a submission for Federal Government Nation Building (formerly Black Spot) funding to close the intersection was made which was successful.
3. At the ordinary Council meeting in July 2009 it was agreed to proceed with the advertising of the closure.

DISCUSSION

4. Main Roads WA has raised concerns about the proposal to close Mawson Street. They see Mawson Street as a detour option when maintenance or accidents necessitate the closure of the main roundabout. They could accept the closure if it were designed to be openable at short notice, but no satisfactory solution could be found with Main Roads to achieve this.
5. Main Roads do not see the safety issue that the closure would address as a significant matter.

PUBLIC CONSULTATION / ENGAGEMENT

6. In accordance with Section 3.50 of the Local Government Act, 1995 the proposal to close one end of Mawson Street was advertised.
7. The responses to the proposal were:
 - The owners of the property on the north side of Mawson Street objected, but were prepared to discuss options.
 - A nearby resident supported the proposal.

GOVERNMENT CONSULTATION

8. Government agencies were consulted with the following outcomes.
 - Western Power, Telstra, and the Department of Housing and Works responded with no objections.
 - Main Roads objected to the closure due to their requirement to have Mawson Road open as a potential detour when the main roundabout needs to be closed for maintenance works or accidents.

STATUTORY IMPLICATIONS

9. Section 3.50 of the Local Government Act, 1995, -
“3.50 Closing certain thoroughfares to vehicles.

(1) A local government may close any thoroughfare that it manages for the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

WORKS & SERVICES REPORTS

Item 15.2.1 continued.

- (1a) *A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.*
- (2) *The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.*
- (3) *Repealed]*
- (4) *Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to:*
- (a) *give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission:*
 - (b) *give written notice to each person who:*
 - (i) *is prescribed for the purposes of this section; or*
 - (ii) *owns land that is prescribed for the purposes of this section; and*
 - (c) *allow a reasonable time for submissions to be made and consider any submissions made.*
- (5) *The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).*
- (6) *An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which the local public notice is given.*
- [(7) Repealed]*
- (8) *If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.*
- (9) *The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.”*

Item 15.2.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

- 10. This item directly relates to the following element from the Albany Insight – Beyond 2020 Corporate Plan:
*“4. Governance:
4.2 Manage our municipal assets to endure they are capable of supporting our growing community.”
City of Albany Mission Statements:
At the City of Albany.....”*

POLICY IMPLICATIONS

- 11. There are no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

- 12. There are no viable alternatives for improving the potential safety of this intersection.

SUMMARY CONCLUSION

- 13. Main Roads do not support the closure of Mawson Street because of the potential impact that would have on their ability to manage issues on the main roundabout. No satisfactory solution could be found to overcome their objections. Without that support the closure is not possible.

9:33:29 PM Councillor Leavesley returned to chamber.

Councillor Wolfe foreshadowed a motion to lay this item on the table.

<p>ITEM 15.2.1 - OFFICER RECOMMENDATION VOTING REQUIREMENTS: SIMPLE MAJORITY</p> <p>MOVED COUNCILLOR MATLA SECONDED COUNCILLOR DUFTY</p> <ul style="list-style-type: none">i. THAT Council support MRWA in retaining Mawson Road as an emergency link to manage traffic in emergency situations;ii. THAT Council does not support the closure of Mawson Street at its intersection with Hanrahan Road. <p style="text-align: right;">MOTION CARRIED 9-3</p>

Record of Vote

For the Motion: Crs J Bostock, R Hammond, D Wellington, C Holden, D Bostock, R Paver, D Dufty, J Matla and R Sutton
Against the Motion: Mayor Evans, Crs D Wolfe and M Leavesley

WORKS & SERVICES REPORTS

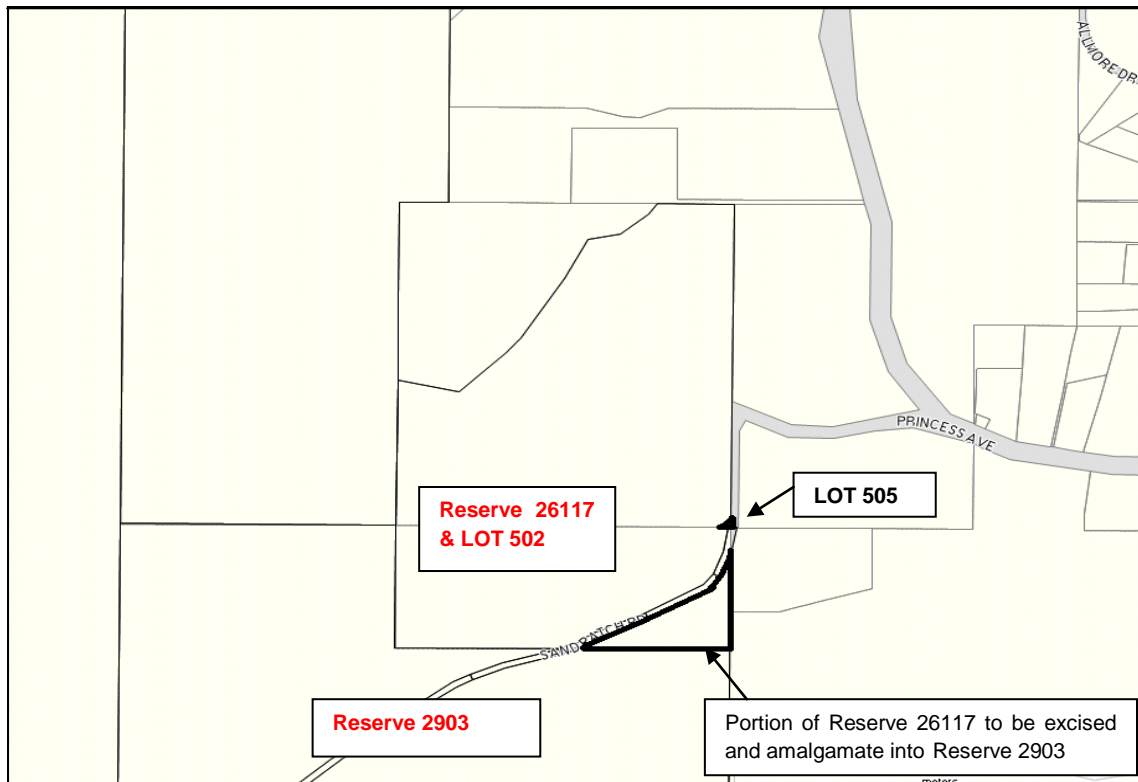
9:35:02 PM Councillor Hammond left the chamber.

ITEM NUMBER: 15.2.2
ITEM TITLE: PROPOSAL TO CLOSE PORTION OF SAND PATCH ROAD LOT 505 AND AMALGAMATE INTO LOT 502. IN ADDITION, EXCISE PORTION OF RESERVE 26117 AND AMALGAMATE INTO RESERVE 2903.

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number (Name of Ward) : SER088; SER086
Summary of Key Points : Proposal to close portion of road reserve Lot 505 and include into Lot 502. Additionally excising portion Reserve 26117 and include in Reserve 2903.
Land Description : Lots 505 & 502, Reserve 26117 and 2903
Proponent : Department for Planning and Infrastructure
Owner : City of Albany
Reporting Officer(s) : City Projects Finance Officer – J Ferry
Disclosure of Interest : Nil
Business Entity Name : Not Supplied
Previous Reference : Nil
Bulletin Attachment(s) : Nil
Consulted References : Nil
Councillors Lounge : N/A
Maps and Diagrams : See below



WORKS & SERVICES REPORTS

Item 15.2.2 continued.

BACKGROUND

1. A meeting was held by the Albany Prison and Department for Planning and Infrastructure State Land Services on 5 December 2009 regarding Reserve 26117.
2. The following was agreed:
 - Albany Prison's new fence line to be adopted as their new reserve boundary.
 - Portion of Reserve 26117 to be excised and included into Reserve 2903.
 - The remainder of Reserve 26117 to remain under the control of Department of Corrective Services.

DISCUSSION

3. The existing Sand Patch road reserve has a small portion (Lot 505), that protrudes into Lot 502 (Reserve 26117). The Albany Prison has requested that this portion be included in their reserve to simplify their land boundary.
4. In addition, due to Sand Patch Road running through the Albany Prison Reserve, the Prison has used the road as their boundary for the Prison's new fence line. This has resulted in a portion of Reserve 26117 being unable to be utilised by the Prison.
5. The Albany Prison has also requested to have that portion excised from their Reserve and have it amalgamated into Reserve 2903 to simplify their land boundary.
6. The Department of Planning and Infrastructure State Land Services indemnifies the City of Albany from any costs.

PUBLIC CONSULTATION / ENGAGEMENT

7. The request came from the Department of Planning and Infrastructure State Land Services, and should Council agree to the request, other affected landowners would be consulted, in accordance with legislative requirements of the Land Administration Act.

GOVERNMENT CONSULTATION

8. While the Department of Planning and Infrastructure State Land Services have already been consulted, in accordance with the provisions of the Land Administration Act, all other public utilities would be consulted and their comments included in any assessment of the proposal.

STATUTORY IMPLICATIONS

9. Section 58 of the Land Administration Act, 1997, - Closure of Roads -

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

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

- (2) *When a local government resolves to make a request under subsection (1), the local authority must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) –*
 - a. *By order grant the request;*
 - b. *Direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - c. *Refuse the request.*
- (5) *If the Minister grants a request under subsection (4) –*
 - a. *The road concerned is closed on and from the day on which the relevant order is registered; and*
 - b. *Any rights suspended under section 55(3) (a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road*
 - a. *Becomes unallocated Crown land; or*
 - b. *If a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.”*

Section 51 of the Land Administration Act, 1997:

“Cancellation, etc of reserves generally.

Subject to sections 42, 43 and 45, the Minister may by order cancel, change the purpose of or amend the boundaries of, or the locations or lots comprising, a reserve.”

FINANCIAL IMPLICATIONS

10. There would be no financial implications for Council, as the subsequent road would be amalgamated into Reserve 26117; and the excised portion of Reserve 26117 will be amalgamated into Reserve 2903, with all survey costs borne by Department of Planning and Infrastructure.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

11. This item directly relates to the following element from the Albany Insight – Beyond 2020 Corporate Plan:

“4. Governance..... 4.2 Manage our municipal assets to endure they are capable of supporting our growing community.”

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

13. Council has the following options in relation to the proposal:

- a. Seek approval for the closure of portion of Sand Patch Road Lot 505 and amalgamate into Lot 502; and
In addition excise portion of Reserve 26117 and amalgamate into Reserve 2903; or
- b. Decline the request and leave the land and road reserve in their current form.

SUMMARY CONCLUSION

14. Should the Council agree to the closure of portion of Sand Patch Road, the resultant land would be amalgamated into Lot 502 and the boundary simplified.

15. In addition should the Council agree to the excision of portion of Reserve 26117, the resultant land would be amalgamated into Reserve 2903 and the boundary simplified.

**ITEM 15.2.2 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR SUTTON**

THAT Council:

- i) in accordance with the provisions of section 58 of the Land Administration Act, agrees to the closure of portion of Sand Patch Road, Lot 505 and seeks public comment on that action;**
- ii) should there be no objections to the closure, staff proceed with the administrative requirements; and**
- iii) in accordance with the provisions of section 51 of the Land Administration Act, seeks the Minister's approval to amalgamate the resultant land into Lot 502.**

AND

- iv). in accordance with the provisions of section 51 of the Land Administration Act, seeks the Minister's approval to excise portion of Reserve 26117, and amalgamate the resultant land into Reserve 2903.**

MOTION CARRIED 11-0

9:36:32 PM Councillor Hammond returned to the chamber.

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.3
ITEM TITLE: REGIONAL FUNDING ALLOCATIONS

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number	: REL088 Great Southern District
Summary of Key Points	: Regional Road Group Funding Allocations
Reporting Officer(s)	: Executive Director, Works & Services – Kevin Ketterer
Disclosure of Interest	: Great Southern District
Business Entity Name	: Nil
Previous Reference	: Asset Management Policy and Strategy Committee Meeting Minutes – 19 Feb 2010.
Bulletin Attachment(s)	: Nil
Consulted References	: Minutes of past Regional Road Group Meetings State Road Funds to Local Government Agreement GSRRG Policy & Procedure Manual – Councillors Lounge

BACKGROUND

1. This report deals with the funding allocations of funding stream made available for distribution throughout the Great Southern Region, usually through a committee representing each council in the region.
2. The pattern of allocations to the member councils leaves the clear impression that the City of Albany is not been allocated its fair proportion of these funding streams, and this report serves to provide sufficient information to allow Council to decide on a course of action to rectify this impression.

DISCUSSION

Great Southern Regional Roads Group (GSRRG)

3. This committee is aware of the history of the establishment of the GSRRG and the mandate under which it operates, but for the purposes of this report, some portions are repeated to provide clarity and continuity of argument.
4. The City of Albany is one of eleven local authorities in the Greater Southern Region, and it is well established as the regional city and in most respects serves and services the greatest portion of the Great Southern Region.
5. In this respect Albany is home to some 65% of the residents of the Great Southern and contains a similar proportion of roads, infrastructure and vehicular traffic.
6. In terms of the original allocations to the GSRRG from the State, Albany clearly played a major role in influencing this allocation due to its large population, number of roads and the level of expenditure on roads.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

7. It is clear that Albany is not receiving its fair proportion of funding relative to its influence on the amount allocated from state.
8. Albany also has one of the highest growth rates in the region, whereas many other towns and communities are in fact reducing in population. It is evident that Albany's role in the Great Southern will only increase in significance, and should therefore be supported through the appropriate apportionment of infrastructure funding. This allocation is required to fund the infrastructure expansion and infrastructure rehabilitation and maintenance in order to maintain and improve the service levels of the roads infrastructure serving the region and the City.
9. The relationship between the State funding body and the various Regional Road Groups is governed by an Agreement which specifies the allocation of funding from the Regional Road Group to the member Councils. The guidelines specifically state that funds are to allocate using the following criteria, weightings and formulae:

		Raw Score	Factor Weight	Net Score
Transport	Traffic	0	2.376	0.00
	Tourism	0	0.648	0.00
	All Weather	0	0.648	0.00
	Travel Time	0	0.648	0.00
	Economic Activity	0	1.08	0.00
Safety	Accident History	0	0.96	0.00
	Accident Geometry	0	0.64	0.00
Environment	Surface Water	0	0.24	0.00
	Ground Water	0	0.14	0.00
	Air & Dust Pollution	0	0.18	0.00
	Noise	0	0.14	0.00
	Flora & Fauna	0	0.3	0.00
Social	Emergency Access Route	0	0.54	0.00
	Inter Community Access Route	0	0.46	0.00
	School/Pedestrian/Cyclist Facilities	0	0.50	0.00
	Community Expectations	0	0.50	0.00
Total Project Score				0.00

The highest scoring projects are then prioritised.

10. Measured against the above, and in terms of the allocation of State funding for the maintenance and expansion of roads infrastructure through the GSRRG, Albany should qualify for the greatest allocation of funding, but has been restricted to a maximum allocation of 20% of the available funding through the adoption of a capping system. In the opinion of the City of Albany, this capping system has been implemented improperly and against the principles and spirit of the State Roads Funds to Local Government Agreement of 2000/01 to 2004/05 allocation.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

11. Below is a table indicating the past years allocations to the City of Albany from the GSRRG.

Regional Road Group Allocations 2006/07 – 2010/11:

Road Name	RRG Portion	CoA Portion	Total	Pool Total	CoA%
2006/07					
Nanarup Road	\$204,000	\$102,000	\$306,000		
Frenchman Bay Road	\$141,600	\$91,400	\$233,000		
Frenchman Bay Road	\$280,000	\$140,000	\$420,000		
	\$625,600			\$3,128,000	20%
2007/08					
Frenchman Bay Road	\$340,000	\$170,000	\$510,000		
Lower Denmark Road	\$265,453	\$132,547	\$398,000		
	\$605,543			\$3,027,265	20%
2008/09					
Frenchman Bay Road	\$50,000	\$25,000	\$75,000		
Le Grande Avenue	\$130,000	\$65,000	\$195,000		
Lower Denmark Road	\$276,000	\$138,000	\$414,000		
Millbrook Road	\$209,037	\$104,963	\$314,000		
	\$665,037			\$3,325,185	20%
2009/10					
Lower Denmark Road	\$474,000	\$237,000	\$711,000		
Millbrook Road	\$208,086	\$252,356	\$460,442		
	\$682,086			\$3,410,429	20%
2010/11					
Lower Denmark Road	\$380,000	\$190,000	\$570,000		
Lower King Road	\$300,000	\$150,000	\$450,000		
Millbrook Road	\$129,167	\$64,584	\$193,751		
	\$809,167			\$4,045,833	20%

12. This report therefore serves to recommend to the GSRRG that the previous resolutions of the GSRRG be rescinded and that the original mandate of the GSRRG be reinstated.

FUNDING FORMULAE FOR ALLOCATIONS FROM STATE

13. The State allocates funds to the various Regional Road Groups based on their current total expenditure on roads (asset preservation model APM) and the local authority population (2008 data) on a 75% / 25% formula. In terms of this formula, the GSRRG was allocated a total of \$3,410,429 for the 09/10 financial year, made up of \$2,592,911 from APM and \$819,642 from population.

WORKS & SERVICES REPORTS

Item 15.2.3 continued

14. The table below details the contributions in terms of percentages.

	APM % contribution	Population % contribution	Net Contribution % (APM x 0.75 + Population x 0.25)
City of Albany	21.4	58.0	30.6
Broomehill / Tambellup	7.1	2.0	5.8
Cranbrook	7.7	1.9	6.3
Denmark	5.5	8.6	6.3
Gnowangerup	7.2	2.4	6.0
Jerramungup	7.0	1.9	5.7
Katanning	5.9	7.4	6.3
Kent	7.7	1.0	6.0
Kojonup	8.1	3.8	7.0
Plantagenet	10.2	8.2	9.7
Ravensthorpe	8.6	4.1	7.5
Woodanilling	3.5	0.7	2.8

15. Should the contribution to the formula attracting funds be taken into account, then the City should attract at least 30.6% of the available funds, amounting to \$1,043,591. The City currently was allocated \$706,961 for the 09/10 financial year.
16. It would therefore not be unreasonable to demand that the current cap be revised to reflect the contributions made by local authorities to the income stream.

GSRRG MEMBER CONSULTATION

17. In an effort to defuse a possible volatile situation in the City challenging the capping principle, the City Regional Road Group representative and the EDWS consulted with each of the member Shires. Those attending the consultations were mostly the elected member of the Shire serving on the GSRRG as well as the technical manager of the Shire.
18. The members of Kent and Broomehill/Tambellup declined the request for a meeting, both requesting that any discussions on the capping subject should be put to the GSRRG in the form of a report for consideration.
19. In summary the outcome of the consultations was as follows:
- There was great understanding for the position of the City of Albany.
 - With one exception, no member council was prepared to support the City.
 - Reasons were focussed on the retention of their ability to obtain road funding through the GSRRG.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

- Many cited that without their allocations they would have to fund their roads crews from own funds.
- Almost all were wary that the City would be in a position to have the great majority of funds allocated to Albany.
- Kojonup suggested that they would be willing to support the following proposal:
 - A minimum allocation of approx \$100,000 to allow the smaller councils to retain some funding.
 - The balance allocated on a strict priority basis based on the outcome of the technical team recommendations.
 - Albany capped to a 40% allocation.

20. This proposal is deemed to be workable and practical as the City could be hard pressed to afford a greater allocation due to the 50% allocation match funding requirement, although it still support the capping principle which is against the funding agreement.

21. A short history of the actions to date is provided below to place the situation in context.

- a. In July 2002, the GSRRG endorsed the use of the MRWA Policy and Procedure manual.
- b. At the 21 October 2002 meeting, the GSRRG amended the manual with the following clause - *“the maximum allowable allocation in any one financial year for an individual Council is to be 20% of pool funds.”* The following quotation out of the minutes of the 22 October 2002 meeting reflects this decision as follows:

At the RRG meeting held on the 21st October 2002 it was passed 10/3 to cap the maximum allowable funding per council to 20% of the available funds.

The smaller councils centred the debate on the following facts:

- *Funding should not be population based*
- *No residential streets should be funded*
- *The City’s roads were all residential*
- *Public utilities should not be funded*
- *Lower Denmark was a parallel road anyway*
- *The money should be spread*
- *Smaller councils may not be able to operate*
- *The Country is missing funding*

22. A careful examination of the above reasons provided reveals that none of them are valid reasons in terms of the criteria contained in the Agreement for the allocation of funds. It is also clear from this record that the so-called smaller councils are using this allocation of funds as an income source to fund their internal works teams where this is not the intention of the allocation of funds.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

23. In June 2003 the City of Albany notified the GSRRG of its intention to move to rescind the 20% capping, and reinstate original undertaking. However there was no resolution on the matter at the next meeting.
24. The matter was then referred to The Western Australian Local Government Association to assist with resolution. WALGA advised that the matter had been referred to the August 2003 GSRRG meeting for consideration. Unfortunately there was again no action taken.
25. The Commissioner of MRWA in March 2003 wrote to the Chairperson of the GSRRG advising that:
 - a. The capping practice was ill advised and not in the spirit of the Agreement, and furthermore confirmed that the funds were intended to be allocated on a priority need basis, as advised by the Technical Advisory Committee.
 - b. The Commissioner of Main Roads went even further to advise the GSRRG as follows:

“The Advisory Committee stresses that Road Project Grant funding is allocated to reach the areas of highest identified need for the region, and not for individual shires. By imposing a capping of 20% of the pool funds this priority is not achieved. The Advisory Committee recommends that the GSRRG reviews its policy to reflect an allocation method for prioritising projects which best suits the principle of funding the highest ranking projects in the GS Region”
26. A clearer direction towards the abolishment of the capping system could not have been given.
27. There is no record of this advisory of the Commissioner’s response ever being submitted to the GSRRG for consideration.
28. A letter was forwarded to the Minister for Planning and Infrastructure on 24 October 2003, seeking intervention in this matter. The Minister advised that the matter had been referred to MRWA for discussion with the GSRRG, with the suggestion that the matter be reviewed in the new State Road Funds to Local Government Agreement.
29. At the May 2004 GSRRG meeting, a motion was put that a review of the distribution of funding within the following financial year be forwarded to State Advisory Committee and WALGA. No action in response to this motion has been forthcoming.
30. The City is of the opinion that it is being disadvantaged by this restriction, as it has the largest population (65%) and hence traffic movement (greater than 66%). The City is in effect forced to subsidise the smaller councils who benefit financially through this arrangement. This has the effect of the City funding a great proportion of their roads programme while other members of the GSRRG rely largely upon the RRG funding for their roads programme funding. This additional funding was incurred from the time of inception of the capping system, until the 2008/9 financial year, but has been ceased due to affordability.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

31. This has resulted in the greatest proportion of the Great Southern population unnecessarily experiencing a lower level of service than that to which they are entitled.
32. It is therefore recommended that the capping system be challenged in an appropriate forum.

Royalties for Regions (R4R)

33. Funding allocations were made by the State departments based on populations and the City of Albany was allocated a fair allocation in 2009/10.
34. The City was however the only local authority in the State to submit the required acquittals by the required deadlines, and be in a position to proceed with project implementation of the next Royalties for Regions allocations.
35. Discussions with various parties indicate that most local authorities, particularly the regional authorities, do not have the capacity to spend their allocations. With the establishment of the Projects Office, the City of Albany is in a position to spend far greater allocations, as demonstrated by the project management capacity with the first Royalties for Regions allocation.
36. It is therefore recommended that an approach be made to the State Department that all unspent allocations be made available to local authorities with the required capacity.

Timber Industry Road Evaluation Strategy (TIRES)

37. The TIRES Committee comprises the representatives of the local authorities of City of Albany, Plantagenet, Cranbrook and Denmark, as well as representatives of the five timber companies operating in the region. Funding is allocated by committee according to pre-determined criteria.
38. Funding is allocated according to timber tonnages recorded by the local authorities, based on submissions to the TIRES Committee. There is usually a rough correlation to the condition and rate of deterioration of the roads listed for consideration. There is however no system of prioritisation for the allocation of funds and the allocation is considered too arbitrary to be considered appropriate.
39. The following tables of data are relevant when comparing allocations of the other competing local authorities and patterns of these allocations.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

Tyres allocations 2005/06 to 2009/10

Year	Albany	Cranbrook	Denmark	Plantagenet	TOTAL
05/06	\$135,000	\$100,000	\$268,322	\$396,678	\$900,000
06/07	\$400,000	\$100,000	\$100,000	\$300,000	\$900,000
07/08				\$900,000 \$100,000	\$900,000 \$100,000
08/09	\$350,000	\$300,000	\$50,000	\$200,000 \$100,000	\$900,000 \$100,000
09/10	\$280,000	\$70,000	\$100,000	\$550,000	\$1,000,000
	\$1,165,000 24%	\$570,000 12%	\$518,322 11%	\$2,546,678 53%	\$4,800,000 100%

Data extracted from GSDC Analysis – March 2009 – Next 4 years

	Albany	Cranbrook	Denmark	Plantagenet	TOTAL
Number of Roads	49 31%	24 15%	16 10%	68 43%	157 100%
Tonnes	10,568,627 46%	4,734,022 20%	409,427 2%	7,458,254 32%	23,170,331 100%
Road Length	548 30%	402 22%	173 9%	704 39%	1827 100%

40. It is clear that there is a distinct disparity between the infrastructure and tonnage data and the funding allocation patterns.
41. It should however be mentioned at this juncture that the plantations in the Plantagenet Shire were planted ahead of the Albany plantations, which would account for the skewed funding allocations through the TIRES Committee.
42. An example of an inappropriate allocation would be the small amounts allocated to Down Road, where this road carries five million tonnes of the timber traffic and is currently deteriorated to the extent that there are concerns regarding its ability to last through the next winter.
43. It is therefore recommended that the TIRES allocations be more closely scrutinised and an appropriate funding allocation system be sought from the TIRES Committee.

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

FINANCIAL IMPLICATIONS

44. From the above it is clear that the City is largely under-funded in preserving and expanding the road network under its management. Should this pattern be prolonged, the need to maintain and expand the road system will become a massive financial burden on the Albany ratepayers; with large increases an inevitable consequence.
45. This approach is blatantly unfair on the citizens of Albany considering that the funding available is meant to be allocated to the priority areas – which is clearly not the case.
46. The City has in the past contributed in the order of \$700,000 per year towards roads works, most of which should have been sourced from the above allocations, were these done on a priority basis. This situation is not sustainable when the reconstruction of Down Road alone at some \$4,000,000 over 4 years is taken into consideration.
47. It should also be mentioned that should a greater allocation be made through the GSRRG that the City of Albany would have to contribute an additional 50% of any increased funding in terms of the agreement. It is believed that an increased allocation of up to a 40% limits would be affordable by the City. This increase would represent a funding increase of \$800,000 which would require an additional allocation from City funds of \$400,000.

The Way Forward

48. The City has on numerous occasions raised this matter, and is willing and wanting to work in a spirit of cooperation, but cannot endure policies and systems which are by all appearances structured to disadvantage the City and the greatest proportion of the Great Southern population.

RECOMMENDATION

49. Considering the contents of the above report, it is recommended:
 - a. That Council enter into discussions with the State Department for the reallocation of unspent Royalties for Regions funds from local authorities who do not have the capacity to implement projects.
 - b. That Council request that the second grant of Royalties for Regions funding be made available as soon as possible in order for the City of Albany to deliver on State and City undertakings.
 - c. That Council request that the GSRRG rescind the resolution of 22 Oct 2002 to implement the capping system for funding allocations.
 - d. That Council request that the GSRRG apply the allocation of funds in terms of the original guidelines as issued by the State funding body.
 - e. That Council request that the GSRRG revisit the 2010/11 funding allocations in line with the above recommendations.
 - f. That Council request that the TIRES committee revisit its allocation criteria and apply these consistently across all participating local authorities.

Item 15.2.3 continued.

**ITEM 15.2.3 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR MATLA**

Considering the contents of the above report, it is recommended:

- i. That Council enter into discussions with the State Department for the reallocation of unspent Royalties for Regions funds from local authorities who do not have the capacity to implement projects.**
- ii. That Council request that the second grant of Royalties for Regions funding be made available as soon as possible in order for the City of Albany to deliver on State and City undertakings.**
- iii. That Council request that the GSRRG rescind the resolution of 22 Oct 2002 to implement the capping system for funding allocations.**
- iv. That Council request that the GSRRG apply the allocation of funds in terms of the original guidelines as issued by the State funding body.**
- v. That Council request that the GSRRG revisit the 2010/11 funding allocations in line with the above recommendations.**
- vi. That Council request that the TIRES committee revisit its allocation criteria and apply these consistently across all participating local authorities.**

MOTION CARRIED 9-3

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, D Wellington, C Holden, R Paver,
M Leavesley, D Bostock, J Matla and R Sutton
Against the Motion: Crs D Dufty, D Wolfe and R Hammond

WORKS & SERVICES REPORTS

Item 15.2.3 continued.

ITEM NUMBER: 15.2.3 - COMMITTEE RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

That a delegation be formed to represent the City of Albany Council to meet with the Minister of Transport, Simon O'Brien as a matter of urgency to seek re-dress in terms of the capping arrangement relating to the allocation of funding by the Regional Road Group.

Wording of the recommendation was changed to include That the delegation consists of the Mayor, Cr Leavesley, Cr Wolfe and Executive Director Works and Services.

ITEM 15.2.3 - COMMITTEE RECOMMENDATION - AMENDED

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR DUFTY

- i) That a delegation be formed to represent the City of Albany Council to meet with the Minister of Transport, Simon O'Brien as a matter of urgency to seek re-dress in terms of the capping arrangement relating to the allocation of funding by the Regional Road Group.**
- ii) That the delegation consists of the Mayor, Cr Leavesley, Cr Wolfe and Executive Director Works and Services**

MOTION CARRIED 12-0

9:45:33 PM Councillor Sutton left the chamber

15.3 RESERVES, PLANNING & MANAGEMENT

ITEM NUMBER: 15.3.1
ITEM TITLE: FINAL ADOPTION OF THE MIDDLETON BEACH MANAGEMENT PLAN

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

- File Number or Name of Ward** : STR 220 (Breaksea Ward)
- Summary of Key Points** : Final adoption of the Middleton Beach Management Plan
- Land Description** : Middleton Beach Reserve, Middleton
- Proponent** : City of Albany
- Owner** : Crown Reserves (Vested with the City of Albany)
- Reporting Officer(s)** : Reserves (Bush and Coastal) Officer (A. Tucker)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 15/9/09 - Item 15.4.1 (Committee Item 8.0)
- Bulletin Attachment(s)** : Nil
- Consulted References** : Nil
- Councillors Lounge** : Copy of final draft – Middleton Beach Management Plan available in Councillors Lounge.
- Maps and Diagrams** : See below



WORKS & SERVICES REPORTS

Item 15.3.1 continued.

BACKGROUND

1. The Reserves Officer has completed a management plan for the Middleton Beach area (including Emu Point) and seeks adoption of it by Council.
2. At the September 2009 Ordinary Council Meeting the draft Middleton Beach Management Plan was received with the following resolution;

“THAT:

- i) The DRAFT Middleton Beach Management Plan be advertised for public consultation;*

3. The document was advertised and circulated to key stakeholders and the public. City of Albany staff was also encouraged to provide input. Following a five (5) week public consultation period, a total of ten (10) submissions were received. A schedule of submissions, with a draft comment and recommendation, is included in the Information Bulletin.

DISCUSSION

4. Ten (10) submissions were received; most of them were positive and agreed with the management goals within the plan. It is acknowledged within the plan itself that whilst the area, as a premier tourist area, faces substantial management challenges, this Middleton Beach Management Plan is focused primarily on environmental sustainability of the area and therefore many of the more complex design issues need to be addressed through other technical reports.
5. The submission from the Department of Planning was primarily focused around a successful funding application from the City of Albany for the Coastal Management Plan Assistance Program (CMPAP) in 2005. The City received \$20,000 from CMPAP and used the funds to commission a set of concept drawings for the major recreational nodes. Due to the age of these drawings the decision was made to leave them out of the draft plan, but after a reassessment staff has decided to include them in the final draft. It was considered that whilst Council does not agree with all aspects of the concept plans, they are a good place to start for future designs of the major recreational nodes.
6. The other major change to the plan is the inclusion of the State Coastal Planning Policy 2.6 as a guide to ensure all future foreshore developments are protected from coastal processes, such as erosion by maximising recommended setback distances.
7. Other substantive issues raised by the community include;
 - Storm water drainage pipes at Ellen Cove;
 - Standardisation of signage;
 - Due to it being a premier tourist area there is a need to generally improve aesthetics;
 - Increase Ranger patrols on dog beach;
 - More frequent cleaning of public toilets;
 - The need to acknowledge the long neck turtle populations in Lake Seppings and how any management issues may impact them; and
 - The inadequate vegetation/weed surveys of the area.

WORKS & SERVICES REPORTS

Item 15.3.1 continued

8. A full list of public submissions and the officer comments and recommendations are contained in the schedule of submissions included in the Information Bulletin.

PUBLIC CONSULTATION / ENGAGEMENT

9. The draft plan was advertised for public consultation for a period of 5 weeks from the Thursday 24th September 2009 to Friday 30th October 2009. The public were asked to comment via advertisement and the draft plan was available for viewing from the City of Albany Library and the City's North Road offices. The details of the seven (7) public submissions received are included in the Information Bulletin.

GOVERNMENT CONSULTATION

10. The draft plan was sent to Department of Environment and Conservation, Landcorp, Department of Planning and Infrastructure and Department of Water for consultation for a period of 5 weeks between 24th September and 30th October, 2009. The details of the three (3) government submissions received are included in the Information Bulletin.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

12. The attraction of the area as a premier tourist is likely to increase the demand and usage of the area by locals and visitors alike over the next few years.
13. The final draft management plan tables an estimated cost to complete various aspects of the plan. The City of Albany will need to include the implementation of the management plan into budget considerations for future financial years.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

14. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan, the Middleton Beach Management Plan achieves the following strategic objectives;

Item 1 – Lifestyle & Environment...Albany will be western Australia's regional City of first choice offering a diverse range of healthy and active lifestyle opportunities, with energy efficient housing and development that respects our environment.

Albany will be a City where...Recreational facilities provide a diverse range of sporting and exercise opportunities.

Development...

- *Responds to our unique historical and environmental values;*
- *Incorporates healthy lifestyle activities and access to green space.*
- *The long term problems of climate change ... have been recognised and responded to.*

WORKS & SERVICES REPORTS

Item 15.3.1 continued.

The City of Albany will be an industry leader in good governance and service delivery...Manage our municipal assets to ensure they are capable of supporting our growing community.

POLICY IMPLICATIONS

15. There are no policy implications associated with this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. There are no alternatives or legal implications associated with this item.

SUMMARY CONCLUSION

17. The adoption of the Middleton Beach Management Plan will provide the City with a strategic direction for the management of this asset over a five (5) year period.

ITEM: 15.3.1 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

- i) THAT Council ADOPT the final draft of the Middleton Beach Management Plan, with the current amendments, as detailed in the Elected Member Information Bulletin; and
- ii) THAT the recommendations included in the plan be considered for prioritisation in the 2010/2011 budget.

Cr Wellington questioned the scope of improvements to be included in the 2010/11 budget. Through the Mayor, Mr Ketterer responded that improvements to Middleton Beach would form the basis on which to allocate funding. Adopting the plan first would provide budget foundation to motivate the projects. Mr Ketterer supported the notion of funding being allocated in the budget for the projects.

Cr D Bostock raised a point of clarification- that the people of Middleton Beach will be given preference in what they want and that Council should specify an amount to be allocated in budget.

ITEM 15.3.1 - ALTERNATE MOTION BY COUNCILLOR JILL BOSTOCK

- i) That final adoption of Middleton Beach Management Plan is deferred, to allow the results of the recent Community Survey conducted by the Middleton Beach and Friends of Emu Point to be considered by Council and incorporated in the plan where appropriate.
- ii) That the cost of improvements to the Middleton Beach area is included in the 2010/11 budget.

WORKS & SERVICES REPORTS

Item 15.3.1 continued.

Councillors Reason:

Active community participation is highlighted in the LGA and is the aim of Local Governments. This Survey attracted around 700 replies, a significant public representation. It is entirely desirable that we take advantage of this commendable public input.

OFFICERS REPORT: Author: Executive Director Works & Services (K Ketterer)

It is recommended that the following amended officer recommendation is adopted:

“That the Middleton Beach Management Plan be adopted.

That the results of the recent Community Survey conducted by the Middleton Beach and Friends of Emu Point to be considered by Council and incorporated in the MBMP where appropriate, once these have been received, presented to and considered by the appropriate committee.

That the cost of any recommended improvements to the Middleton Beach area be included in the 2010/11 budget for consideration.”

9:47:24 PM Councillor Sutton returned to chamber.

ITEM 15.3.1 - ALTERNATE MOTION BY COUNCILLOR JILL BOSTOCK

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR J BOSTOCK

SECONDED COUNCILLOR PAVER

- i) That final adoption of Middleton Beach Management Plan is deferred, to allow the results of the recent Community Survey conducted by the Middleton Beach and Friends of Emu Point to be considered by Council and incorporated in the plan where appropriate.
- ii) That the cost of improvements to the Middleton Beach area is included in the 2010/11 budget.

MOTION LOST 5-7

Record of Vote

For the Motion: Mayor and Crs J Bostock, R Paver, D Bostock and D Wolfe

Against the Motion: Crs R Hammond, D Wellington, C Holden, M Leavesley,
D Duffy, J Matla and R Sutton

Item 15.3.1 continued.

ITEM 15.3.1 - ALTERNATE OFFICERS RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR DUFTY

SECONDED COUNCILLOR MATLA

- i) That the Middleton Beach Management Plan be adopted.**
- ii) That the results of the recent Community Survey conducted by the Middleton Beach and Friends of Emu Point to be considered by Council and incorporated in the MBMP where appropriate, once these have been received, presented to and considered by the appropriate committee.**
- iii) That the cost of any recommended improvements to the Middleton Beach area be included in the 2010/11 budget for consideration.**

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.3.2
ITEM TITLE: FINAL ADOPTION OF THE BETTY'S BEACH RESERVE MANAGEMENT PLAN

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward	: STR207 (Kalgan Ward)
Summary of Key Points	: Final adoption of the Betty's Beach Reserve Management Plan
Land Description	: Reserve 2031 Normans Beach Rd
Owner	: Crown Reserve (vested with the City of Albany)
Reporting Officer(s)	: Reserves (Bush and Coastal) Officer (S Maciejewski)
Disclosure of Interest	: Nil
Previous Reference	: OCM 15/09/09 - Item 15.4.1 (Item 7.0)
Bulletin Attachment(s)	: Betty's Beach Management Plan 2010 Schedule of Submissions
Consulted References	: Nil
Councillors Lounge	: Copy of Betty's Beach Reserve Management Plan placed in Councillors Lounge
Maps and Diagrams	: Nil

BACKGROUND

1. The Reserves Officer has completed a management plan for Betty's Beach Reserve (including Norman's Inlet Camp Site and Walk Trail) and seeks adoption of the plan by Council.
2. At the September 2009 Ordinary Council Meeting, the draft Betty's Beach Reserve Management Plan was received with the following resolution:

"THAT the DRAFT Betty's Beach Management Plan be advertised for public consultation."
3. The document was publically advertised and circulated to key stakeholders for comment. Following a five (5) week consultation period, a total of three (3) submissions were received. A schedule of submissions is included in the Information Bulletin.

DISCUSSION

4. Three (3) submissions were received, most of them were positive and agreed with the management recommendations within the plan.
5. A full list of public submissions and officer comments are contained in the schedule of submissions included in the Information Bulletin

WORKS & SERVICES REPORTS

Item 15.3.2 continued

PUBLIC CONSULTATION / ENGAGEMENT

6. The draft plan was advertised for public consultation for a period of five (5) weeks from 1st October 2009 to 6th November 2009. The public were asked to comment via advertisement and the draft plan was available for viewing from the City of Albany Library and the City's North Road offices. The details of the three (3) public submissions received are included in the Information Bulletin.

GOVERNMENT CONSULTATION

7. The draft plan was sent to the Department of Environment and Conservation, Department of Water, Water Corporation and Department of Indigenous Affairs for consultation for a period of 5 weeks between 1st October and 6th November 2009. The details of the one (1) government submission received are included in the Information Bulletin.

STATUTORY IMPLICATIONS

8. There are no statutory implications associated with this item.

FINANCIAL IMPLICATIONS

9. The total estimated budget for the implementation of the Betty's Beach Reserve Management Plan is \$258,500 (excluding staff time). External funding will be sought to cover at least 50% of the cost of the three larger projects (i.e. new toilets, stairs and close and rehabilitate track). The amount required each financial year over the life of the Management Plan (i.e. 5 years) will be weighed against other priorities identified through the Asset Management Plan – Reserves (Natural) currently being developed.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

10. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan, the Betty's Beach Reserve Management Plan achieves the following strategic objectives:

Item 1 – Lifestyle & Environment...Albany will be Western Australia's regional City of first choice offering a diverse range of healthy and active lifestyle opportunities, with energy efficient housing and development that respects our environment.

Albany will be a City where...Recreational facilities provide a diverse range of sporting and exercise opportunities

Development...

- *Responds to our unique historical and environmental values;*
- *Incorporates healthy lifestyle activities and access to green space.*

WORKS & SERVICES REPORTS

Item 15.3.2 continued.

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

The City of Albany will...

- *Manage our municipal assets to ensure they are capable of supporting our growing community.*

POLICY IMPLICATIONS

11. There is no policy implications associated with this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. There are no alternatives or legal implications associated with this item.

SUMMARY CONCLUSION

13. The adoption of the Betty's Beach Reserve Management Plan will provide the City with a strategic direction for the management of this asset over a five (5) year period.

ITEM 15.3.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

- i) **THAT Council ADOPT the Betty's Beach Reserve Management Plan with the current amendments, as detailed in the Elected Member Information Bulletin; and**
- ii) **THAT the recommendations included in the Betty's Beach Reserve Plan be considered for prioritisation in the 2010/2011 budget.**

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden, M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

WORKS & SERVICES REPORTS

15.4 WORKS & SERVICES COMMITTEES

ITEM NUMBER: 15.4.1

ITEM TITLE: ASSET MANAGEMENT POLICY AND STRATEGY COMMITTEE MEETING

File Number or Name of Ward : MAN 236 (All Wards)
Summary of Key Points : Committee Items for Council Consideration
Reporting Officer : Executive Director Development Services
(K Ketterer)
Disclosure of Interest : Nil
Bulletin Attachments : Minutes from the Asset Management Policy & Strategy Committee Meeting, held on 19 February 2010

COUNCIL'S ROLE: EXECUTIVE FUNCTION

ITEM 15.4.1 - COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON

That the UNCONFIRMED Minutes of the Asset Management Policy and Strategy Committee Meeting held on Friday, 19 February 2010 be RECEIVED as a true and accurate record of proceedings.

MOTION CARRIED 12-0

COUNCIL'S ROLE: EXECUTIVE FUNCTION

Note: Committee Recommendation 2 addressed at Report Item 15.3.1.

ITEM 15.4.1 - COMMITTEE RECOMMENDATION 2 - Middleton Beach Management Plan

- i) THAT Council ADOPT the Middleton Beach Reserve Management Plan, dated January 2010, with the current amendments, as tabled; and
- ii) THAT the recommendations included in the Middleton Beach Reserve Management Plan be considered for prioritisation in the 2010/2011 budget.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

Note: Committee Recommendation 3 addressed at Report Item 15.3.2.

ITEM 15.4.1 - COMMITTEE RECOMMENDATION 3 - Betty's Beach Reserve Management Plan

- i) THAT Council ADOPT the Betty's Beach Reserve Management Plan, dated January 2010, with the current amendments, as tabled; and
- ii) THAT the recommendations included in the Betty's Beach Reserve Management Plan be considered for prioritisation in the 2010/2011.

WORKS & SERVICES REPORTS

Item 15.4.1 continued.

COUNCIL'S ROLE: EXECUTIVE FUNCTION

Note: Committee Recommendation 4 addressed at Report Item 15.2.3.

ITEM 15.4.1 - COMMITTEE RECOMMENDATION 4 - Regional Road Group Funding Allocations

Considering the contents of the above report, it is recommended that the Works and Services Strategy and Policy Committee recommend to Council that a delegation be formed to represent the City of Albany Council to meet with the Minister of Transport, Simon O'Brien as a matter of urgency to seek re-dress in terms of the capping arrangement relating to the allocation of funding for the Regional Road Group.

**GENERAL MANAGEMENT
SERVICES
Reports**

GENERAL MANAGEMENT SERVICES REPORTS

16.1 STRATEGIC DEVELOPMENT

ITEM NUMBER: 16.1.1

ITEM TITLE: REGIONAL TRANSITIONAL GROUP – INVITATION FROM MINISTER FOR LOCAL GOVERNMENT

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Advocacy: Council advocating on behalf of the community on matters affecting the betterment of the City.

File Number (Name of Ward)	: MAN 251 (All Wards)
Summary of Key Points	: Report to Council on consider participating in a Regional Transitional Group (RTG)
Land Description	: City of Albany
Proponent	: Department of Local Government
Owner	: Not applicable.
Reporting Officer(s)	: Executive Manager Business Governance (S Jamieson)
Disclosure of Interest	: All elected members - Impartiality All Staff – Impartiality
Business Entity Name	: Nil
Previous Reference	: SCM 10/03/2009 Item 5.1 OCM 18/08/2009 Item 16.2.1 OCM 16/02/2010 Item 19.3
Bulletin Attachment(s)	: Nil
Consulted References	: Local Government Act 1995 Department of Local Government & Regional Development (DLGRD) – Structural Reform Guidelines City of Albany Structural Reform Report
Councillor Lounge	: Nil

BACKGROUND

1. At the Ordinary Council meeting held on the 16 Feb 10, Council resolved:

“THAT Council engage neighbouring Councils to determine whether forming a Regional Transition Group (RTG) would be beneficial to the City of Albany and their communities.

THAT Council report the findings to the Ordinary Council meeting on the 16 Mar 2010 and resolve to inform the Minister of a decision.

THAT Council instruct the CEO to write to the Minister requesting additional time to debate the issue of RTG's and an extension of the submission deadline until May 2010.

With Councillor Wolfe attending the meeting on 19th February 2010 to elicit information with only a watching brief at that meeting.”

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.1.1 continued.

2. The purpose of this report is to provide feedback on actions to date.

DISCUSSION

3. On the 19 Feb 2010, Councillor Wolfe and Mr K Ketterer met with the Shires of Denmark, Gnowangerup, and Katanning and it was reported that no Councils presented were not interested in forming a Regional Transition Group (RTG).
4. The following letter was sent to the Minister as directed:

Our Ref: MAN251 / LT8032639

Cross Ref: EF8097419

Your Ref:

Enquiries: Paul Richards

22 February 2010

Hon John Castrilli MLA

Minister For Local Government, Heritage, Citizenship And Multi-Cultural Interests

Level 12 Dumas House

2 Havelock Street

WEST PERTH WA 6005

Dear Minister

Further to your letter dated 2nd February 2010 regarding the City of Albany and Regional Transition Groups (RTGs) Council have met and considered the issue at their Ordinary Council Meeting in February, 2010 and also attended the Department of Local Government briefing at Gnowangerup held on 19th February, 2010.

At the Ordinary Council Meeting your request was considered to join a RTG and specific focus was given to the timeline for submissions to you by 26th March, 2010. Council resolution was passed as follows:

THAT Council engage neighbouring Councils to determine whether forming a Regional Transition Group (RTG) would be beneficial to the City of Albany and their communities.

THAT Council report the findings to the Ordinary Council meeting on the 16 Mar 2010 and resolve to inform the Minister of a decision.

THAT Council instruct the CEO to write to the Minister requesting additional time to debate the issue of RTG's and an extension of the submission deadline until May 2010.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.1.1 continued.

With Councillor Wolfe attending the meeting on 19th February 2010 to elicit information with only a watching brief at that meeting.

MOTION CARRIED 8-3

Please accept this letter as a formal request by the City of Albany Council for an extension on the submission deadline until May 2010 to allow Council to properly engage with its communities and fellow Local Governments, plus to then receive an Officer report to allow meaningful debate on the issue of RTGs and by formal resolution reply to you.

Thank you for your consideration of tis request and I look forward to hearing from you at your earliest convenience on Council's request.

Yours sincerely

*Paul Richards
Chief Executive Officer*

5. Recent informal discussions held on the 19 Feb 10 at the Local Government briefing conducted in Gnowangerup included the Shire of Plantagenet and the Shire of Denmark (with the Shire of Jerramungup having declined to attend the briefing, stating there was no value in it as they were not interested in forming an RTG) have indicated that neighbouring municipalities do not want to form a regional grouping with the City of Albany.
6. The only municipality that has expressed a desire to form a Regional Transition Group (RTG) with the City of Albany was the Shire of Katanning.
7. It is requested that Council determine the City's ongoing actions in regards to this matter.

PUBLIC CONSULTATION / ENGAGEMENT

8. At the onset of the reform process the City of Albany conducted local advertising through the Albany Advertiser and Weekender, engaged a respected local government facilitator, and conducted two information sessions.
9. Only two members of the public responded and attended the information sessions.

GOVERNMENT CONSULTATION

10. Local Government briefing conducted in Gnowangerup on the 19 Feb 10.
11. WALGA Local Government Reform Forum held on the 09 Feb 10. A copy of the ministers speech is available at: <http://dlq.wa.gov.au/>

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.1.1 continued.

STATUTORY IMPLICATIONS

12. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

13. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan... Goal 4: Governance ... The City of Albany will be an industry leader in good governance and service delivery.

POLICY IMPLICATIONS

14. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. Option One. Continue to try and engage neighbouring municipalities to form an RTG.

16. Option Two. The City of Albany formally write to all neighbouring municipalities to inform them that the Minister will be advised that no bordering neighbours have indicated a desire to form a RTG with the City of Albany.

RECOMMENDATION

**ITEM 16.1.1 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PAVER**

THAT Council write to the Minister to inform him that preliminary informal discussions with neighbouring municipalities have NOT indicated a desire to form a Regional Transition Group (RTG) with the City of Albany.

MOTION CARRIED 12-0

GENERAL MANAGEMENT SERVICES REPORTS

16.2 ORGANISATION DEVELOPMENT

ITEM WITHDRAWN - DEALT WITH AT SPECIAL COUNCIL MEETING 9 MAR 10

ITEM NUMBER: 16.2.1

ITEM TITLE: UPDATE ON DLG RESPONSE TO INQUIRY

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number (Name of Ward)	: STR248 (All Wards)
Summary of Key Points	: Update on actions from the Dept of Local Government in relation to Ministers response to request for inquiry
Reporting Officer(s)	: EM Business Governance (S Jamieson)
Disclosure of Interest	: Impartiality – All Staff
Business Entity Name	: City of Albany
Previous Reference	: OCM 15/12/2009 Item 18.2 OCM 16/02/2010 Item 19.1
Bulletin Attachment(s)	: Nil
Consulted References	: Nil
Councillor Lounge	: Nil
Maps and Diagrams	: N/A

BACKGROUND

1. At the ordinary meeting of council held on the 16 Feb 10, Council resolved:

“THAT Council call a Special Meeting of Council on the 9th March 2010 AT 6PM in Council Chambers for the purpose of defining appropriate terms of reference to guide and facilitate:

(1) A full review of the Development Services Department (processes and procedures) by an independent consultant who would report his/her conclusions and recommendations to Council;

(2) A review of the adequacy of and adherence to the City's general management policies and procedures by staff and Councillors where applicable; and

(3) Mentoring and assistance for the Mayor & CEO in meeting processes and procedures. “

2. The purpose of this report is to simply update Council on the actions that have been initiated by the Dept.

DISCUSSION

3. On the 04 Mar 10, the Dept of Local Government, Senior Investigations Officer, contacted the CEO and informed him that a “Better Practice” review team has been formed and the preliminary planning phase initiated.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.2.1 continued.

4. The following documentation has been requested by the Dept:
 - a. Current Strategic Plan;
 - b. Policy manual;
 - c. Current Annual Report;
 - d. Auditor's report and letter;
 - e. Organisational chart;
 - f. Financial Interest Register (just the index or computer-based document is fine);
 - g. Notifiable Gifts Register (as above); and
 - h. 2009/2010 Budget.

PUBLIC CONSULTATION / ENGAGEMENT

5. Nil

GOVERNMENT CONSULTATION

6. Department of Local Government, Investigations.

STATUTORY IMPLICATIONS

7. Local Government Act 1995, Part 8, Division 2 Under section 8. Scrutiny of the affairs of local governments.

FINANCIAL IMPLICATIONS

8. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

9. Nil

POLICY IMPLICATIONS

10. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Nil

SUMMARY CONCLUSION

ITEM 16.2.1 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Officer's Report.

ITEM WITHDRAWN - DEALT WITH AT SPECIAL COUNCIL MEETING 9 MAR 10

GENERAL MANAGEMENT SERVICES REPORTS

16.3 CORPORATE DEVELOPMENT

ITEM NUMBER: 16.3.1

ITEM TITLE: ALBANY ENTERTAINMENT CENTRE (AEC) BUSINESS PLANNING
ADVISORY COMMITTEE

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number (Name of Ward)	: MAN234 (All Wards)
Summary of Key Points	: Receive the AEC Discovering document that leads to the draft AEC business plan. Establish an AEC Committee for the purpose of providing strategic direction and business planning.
Land Description	: City of Albany – Albany Entertainment Centre
Proponent	: City of Albany
Reporting Officer(s)	: Executive Director Corporate & Community Services (WP Madigan) EM Business Governance (S Jamieson)
Disclosure of Interest	: Nil
Business Entity Name	: Not applicable.
Previous Reference	: SCM 17/02/2010 Finance Committee Meeting - 15/02/2010
Bulletin Attachment(s)	: Discovery document distributed separately.
Consulted References	: Local Government Act 1995

BACKGROUND

1. At the Finance Committee meeting held on 15 Feb 10, the CEO presented draft operating figures of the Albany Entertainment Centre (AEC) and a "Sensitivities Report" under cover of CEO – In – Confidence.
2. The Chair of the finance committee stated that the Finance Committee is not an appropriate forum to be making recommendations on the management of the AEC and recommended that a committee be formed by Council for the specific purpose of providing strategic direction and business planning.
3. As there is currently no appropriate committee, to progress the direction and business planning of the AEC it was necessary to bring this direct to Council.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.3.1 continued.

DISCUSSION

4. A discovery document has been drafted as the precursor to a draft Business Plan, will be forward facing and not review historical issues.
5. However, a number of critical decisions have to be made by Council in regards the AEC to allow this Business Plan to offer clarity.
6. Critical business decisions need to be made by Council; therefore it is considered appropriate to form a committee of Council for the specific purpose of governing the development of the AEC Business Plan.
7. It is recommended that the discovery document be reviewed and recommendations given to Council to allow an updated AEC Business Plan to be progressed.
8. It is also recommended that the committee meet fortnightly for the first two (2) months to expedite AEC business planning.

PUBLIC CONSULTATION / ENGAGEMENT

9. Nil

GOVERNMENT CONSULTATION

10. Nil

STATUTORY IMPLICATIONS

11. Local Government Act 1995, Part 5, Division 2.
s.5.8. Establishment of committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

FINANCIAL IMPLICATIONS

12. Nil

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.3.1 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision: Nil

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

Objective 4.2 The City of Albany will manage our municipal assets to ensure they are capable of supporting our growing community.

City of Albany Mission Statement: At the City of Albany we are results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.

POLICY IMPLICATIONS

14. Governance Meeting Framework Policy document will require to be amended.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. Option One. Establish an AEC Committee.
16. Option Two. Extend and therefore amend the terms of reference for the Finance Committee.

SUMMARY CONCLUSION

17. Option One is the preferred option. As the committee will be established for the specific purpose of formulating strategic direction and addressing critical decisions.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.3.1 continued.

RECOMMENDATION

ITEM 16.3.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

That Council:

- i) RECEIVE the AEC Discovery Document that is the precursor document to the Draft AEC Business Plan.
- ii) ESTABLISH an Albany Entertainment Centre (AEC) Business Planning Advisory Committee to provide input and direction in formulating the AEC Business Plan.
- iii) APPOINT the following elected members to the Committee:_____.

ITEM 16.3.1 - MOTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR SUTTON

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

MOTION CARRIED 12-0

Councillor's Reason:

In light of recent confidential correspondence received from the Great Southern Development Commission (GSDC).

GENERAL MANAGEMENT SERVICES REPORTS

16.4 CORPORATE GOVERNANCE

ITEM NUMBER: 16.4.1

ITEM TITLE: ANNUAL COMPLIANCE AUDIT RETURN 2009

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number (Name of Ward)	: GOV039
Summary of Key Points	: Council is required to undertake an Annual Compliance Audit Return
Proponent	: City of Albany
Reporting Officer(s)	: Executive Manager Business Governance (S Jamieson)
Disclosure of Interest	: Nil
Business Entity Name	: City of Albany
Previous Reference	: OCM 17/03/2009
Bulletin Attachment(s)	: Copy of Compliance Audit Return 2009
Consulted References	: Local Government Act 1995
Councillor Lounge	: Nil

BACKGROUND

1. Local Government authorities are required to undertake an audit of compliance for the preceding calendar year. A copy of the 2009 Compliance Audit Return is included in the Elected Members Report / Information Bulletin.
2. The compliance audit return is to be:
 - a. Presented to council at a meeting of council;
 - b. Adopted by the council; and
 - c. Recorded in the minutes of the meeting at which it is adopted.

DISCUSSION

3. The Compliance Audit Return forms an important part of the City's compliance monitoring program.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.4.1 continued.

4. The identified areas of non compliance are:

- a. **Local Laws (13).** s3.16 (1). Have all reviews of local laws under section 3.16(1) of the Act been carried out within a period of 8 years? No.

Reason: The review of outstanding local laws has been initiated, however has not been finalised within the 8 year review period. Local laws continue to be reviewed and actively workshopped via the relevant Policy and Strategy committees.

Status: Local Laws that required review in 2009:

- Activities in Thoroughfares and Public Places and Trading Local Law – new draft ready, awaiting review by committee prior to advertising for public comment;
- Animals Local Law, review initiated 21/07/2009, waiting on Council determining horse exercise areas at Middleton Beach;
- Extractive Industries Local Law 2009 – Gazetted 12 Feb 2010;
- Fencing Local Law 2009 – review initiated 15/09/2009, public submission completed, waiting to be submitted to committee for recommendation to Council for adoption;
- Health Local Law, new local law partially drafted, in line with a new Waste Local Law to be drafted required due to removal of waste issue from the Health Local Law (required due to adoption of Waste Avoidance Resource Recovery Act 2007);
- Local Government Property Law 2001 – review initiated new draft ready, to be presented to committee in 2010;
- Local Law Relating to the Former Perth 2001 – presented to 16 Mar 2010 OCM for review;
- Parking and Parking Facilities Local Law 2009 – Gazetted 12 Feb 2010;
- Sand Drift Prevention and Abatement Local Law 2009 – Gazetted 12 Feb 2010;
- Signs Amendment Local Law 2008 – Gazetted 26 Sep 2008; and
- Standing Orders Local Law 2009 – Gazetted 24 Jun 2009, Amended – 15/09/2009.

- b. **Finance (22).** FM Reg 33. Was the 2009/2010 budget forwarded to the DLG within 30 days of its adoption? No.

Reason: The task was overlook due to changeover in staff.

Status: Sent on the 02 Feb 2010.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.4.1 continued.

- c. **Tenders (23).** F&G Reg 17 (2)(3). Does the local governments tender register include (for each invitation to tender) particulars of the decision made to invite tenders and if applicable the decision to seek expressions of interest under regulation 21(1). ? No.

Reason: The register only detailed the description and not the particulars of the decision to go to tender.

Status: Register Amended 10 Feb 10.

- d. **Local Government Employees (10), s5.38.** Was the performance of each employee, employed for a term of more than one year, (including the CEO and each senior employee), reviewed within the most recently completed 12 months of their term of employment? No.

Reason: Due to an organisational restructure 4 performance reviews of 251 were not completed (Junior Officers).

Status: Completed.

PUBLIC CONSULTATION / ENGAGEMENT

5. Nil

GOVERNMENT CONSULTATION

6. Nil

STATUTORY IMPLICATIONS

7. Section 7.13(1)(i) of the Local Government Act 1995 and Regulations 14 of the Local Government (Audit) Regulations 1996 establish the requirements for Local Governments to undertake an annual compliance audit and submit a copy of that audit to the Department of Local Government (DLG).

8. Regulations 14 of the Local Government (Audit) Regulations 1996 states:

14. Compliance audit return to be prepared

(1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.

(2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.

(3) A compliance audit return is to be —

(a) presented to the council at a meeting of the council;

(b) adopted by the council; and

(c) recorded in the minutes of the meeting at which it is adopted.

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.4.1 continued.

FINANCIAL IMPLICATIONS

9. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision: Nil

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

City of Albany Mission Statement: At the City of Albany we are results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.

POLICY IMPLICATIONS

11. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

12. Nil

SUMMARY CONCLUSION

13. The Compliance Audit final submission date is the 31st March 2010.

RECOMMENDATION

**ITEM 16.4.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR SUTTON**

THAT Council:

- i) ADOPT the Compliance Audit Return for the City of Albany for the period 1 January 2009 to 31 December 2009; and**
- ii) ENDORSE the Certificate contained within the Compliance Audit Return, being endorsed appropriately by the Mayor and Chief Executive Officer and submitted to the Department of Local Government (DLG).**

MOTION CARRIED 9-3

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden,
M Leavesley, D Wolfe, D Dufty, J Matla and R Sutton
Against the Motion: Crs D Bostock, J Bostock and R Paver

GENERAL MANAGEMENT SERVICES REPORTS

16.5 GENERAL MANAGEMENT SERVICE COMMITTEES

ITEM NUMBER: 16.5.1

ITEM TITLE: CORPORATE STRATEGY AND GOVERNANCE STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 18 FEB 10

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : MAN 234 (All Wards)
THAT Council RECEIVES the UNCONFIRMED
Summary of Key Points : Minutes of the Corporate Strategy and Governance Strategy and Policy Committee meeting held on the 18 Feb 10.
Reporting Officer(s) : EM Business Governance (S Jamieson)
Disclosure of Interest : Nil.
Business Entity Name : Not applicable.
Bulletin Attachment(s) : Committee meeting minutes.
Consulted References : Local Government Act 1995, section 5.25
Local Government (Administration) Regulations 1996, Reg. 12.

ITEM 16.5.1 – MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR DUFTY**

THAT the Committee Recommendations 1 & 2 be CARRIED en bloc.

MOTION CARRIED 11-1

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden, M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

COUNCIL’S ROLE IN THIS MATTER: EXECUTIVE FUNCTION

ITEM 16.5.1 – COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the UNCONFIRMED minutes of the Corporate Strategy and Governance Strategy and Policy Committee meeting held on 18 Feb 10 be RECEIVED.

**MOTION CARRIED
EN BLOC**

GENERAL MANAGEMENT SERVICES REPORTS

Item 16.5.1 continued.

COUNCIL'S ROLE IN THIS MATTER: EXECUTIVE FUNCTION

ITEM 16.5.1 – COMMITTEE RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Strategic Assessment Document distributed under CONFIDENTIAL cover in accordance with 5.23(c) of the Local Government Act 1995, being: a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

**MOTION CARRIED
EN BLOC**

17.0 ADOPTION OF THE INFORMATION BULLETIN

ITEM 17.0 – MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR DUFTY

THAT the Information Bulletin and Addendum as circulated, be received and the contents noted.

MOTION CARRIED 12-0

18.0 MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

ITEM NUMBER: 18.1

ITEM TITLE: NOTICE OF MOTION – COUNCILLOR PRICE-DREDGING OF PRINCESS ROYAL HARBOUR AND KING GEORGE SOUND

MOTION LAPSED DUE TO RESIGNATION OF COUNCILLOR PRICE

ITEM 18.1 NOTICE OF MOTION – COUNCILLOR PRICE

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council formally write to the State Government to request that a condition is placed on the removal and dumping of dredging spoil (sand) from Princess Royal Harbour and King George Sound by requesting the following conditions be placed on this proposed activity:

- a) Sea dumping of dredging spoil (sand) is to occur within no less than 6 NM (nautical miles) of the coast and south of Eclipse Island; and/or
- b) Land dumping is to occur on a site that will facilitate future use by the City of Albany.

Councillor's Reason:

Members of the community have expressed desire for Council to appeal to State Government to place conditions on any proposed dredging of the port.

A number of proposals (ideas) have been presented from the community and are worthy of future investigation, for example:

- a) The dumping of the dredged soil in front of the Albany Entertainment Centre (AEC) to help mitigate sea grass build up or make the cleanup operation easier; and
- b) To replenish the eroding foreshore at Emu Point.

Officer Comment (R Fenn):

The Environmental Protection Authority released EPA Report 1346 – Albany Port Expansion as a public document on the 18th January 2010 and the Executive Director Development Services reported the release of the report to the January meeting of Council (following a comment from Mr Harrison in the Open Forum Session).

Appeals relating to Report 1346 were required to be lodged by the 1st February 2010 and an attempt by City staff to submit an appeal (on behalf of the community) on the 8th February 2010 was rejected; the grounds of the appeal related to the acknowledged impact of dredging on local recreational and commercial operators, as well as shortcomings in the hydrographical analysis identified in the peer reviews of the environmental management plan.

Item 18.1 continued.

Any appeals that were submitted during the statutory period will now be assessed by the Minister's Appeals Convenor and reported to the Minister for the Environment. The Minister will be constrained by statutory requirements in the assessment of those appeals.

The EPA website contains a press release from the Chairman of the EPA advising that “*up to 12 million cubic metres of material would be dredged over a seabed area of approximately 247 hectares.*” That volume of material is well in excess (by a substantial percentage) of the quantities that would be reasonably required to undertake localised beach replenishment or land based filling programs. The impact of dumping additional spoil on local beaches has not been modelled and it is unlikely that the EPA would consent to beach replenishment programs without adequate research being undertaken.

It is unclear whether lobbying of the State Government will influence or add to the process that the Minister for the Environment is required to undertake by statute.

ADDENDUM TO OFFICER'S REPORT

1. At the Council meeting on the 18th March 2008, Council considered an Officer's report on the “Public Environmental Review – Albany Port Expansion Proposal” and resolved:

“THAT Council advise the Environmental Protection Authority (WA), the Federal Department of Environment and Water Resources and the Department of Water (WA) that the City of Albany, accepting the precautionary principles applying to environmental assessment, is opposed to spoil being dumped in King George Sound as part of the Albany Port Expansion Proposal (EPA Assessment 1594) without:
 - (1) The proponents examining the environmental consequence of the dumping of spoil in King George Sound on previous occasions;*
 - (2) The proponents assessing other potential dump sites on land and outside King George Sound;*
 - (3) The proponents methodology and conclusions receiving independent endorsement from the CSIRO; and*
 - (4) The State and/or Federal Government agreeing to compensate individuals and businesses for economic loss incurred as a consequence of sand drift from any dump site in King George Sound that could and should have been foreseen by Environmental Protection Agencies.”*
2. A copy of the correspondence sent to the Chairman of the Environmental Protection Agency is attached and no response has been received to that correspondence.
3. The EPA released Bulletin Report 1346 and within that Bulletin, the City of Albany is not listed as an agency that has a formal submission under consideration. A review of the documents also highlights that:
 - a. There appears to be no attempt to review or document the impacts of previous harbour dumping within the Bulletin to inform current decision-making;
 - b. There was no additional research done or additional documentation undertaken to examine additional dump sites outside King George Sound;

Item 18.1 continued.

- c. There are Appendices attached to the Bulletin containing independent peer reviews of the hydrological data performed by the University of Western Australia and the CSIRO. Those reviews accept that the methodology employed to make the assessment on future movement of the sand stockpile is soundly based acknowledging that it uses a relatively short monitoring period. Both reviews note that greater certainty would be provided if that monitoring was extended; and
 - d. There is an acknowledgement in the Bulletin that there will be impacts upon recreational activities and the fishing industry within the Sound during the dredging period. [note; the dredging is being undertaken as a Public Work using State Government funding and it could be argued that the State Government is the developer and would be held accountable for any economic losses from their actions]. The issue of longer term monitoring and being able to quantify any subtle changes in beach profiles, loss of fisheries, smothering of reefs, etc becomes more problematic and that does not appear to be addressed in the management plan (as recorded in the Bulletin Report).
4. The above documents can be downloaded from the EPA's web site:
<http://www.epa.wa.gov.au/>

Item 18.1 continued.

Our Ref: GOV005 / LT8016545
Enquiries: Robert Fenn

1 April 2008

The Chairman
Environmental Protection Authority
Locked Bag 33
CLOISTERS SQUARE WA 6850
Attn: Penny Williams

Dear Sir

EPA ASSESSMENT 1594 - ALBANY PORT EXPANSION PROPOSAL

The City of Albany has recently been asked to advocate, on behalf of the Albany community, to ensure that any dredging associated with the Albany Port Expansion Proposal for the Albany Iron Ore Project does not create long term environmental concerns. The City acknowledges that the submission period for the lodgement of submissions on this project closed several months ago; nonetheless, the City wishes to bring forward a number of issues that the EPA may wish to consider in its final assessment of the Public Environmental Review (PER) report.

The City notes that the EPA takes into account a number of principles in its decision-making and more particularly the precautionary principle and the principles of intergenerational equity. The dumping of millions of cubic metres of dredge spoil in King George Sound has the potential to irreversibly alter the environmental characteristic of the sound. The Albany community therefore requires assurances that the science behind any decision making is soundly based, particularly as earlier coastal works at Emu Point and adjacent to Whaleworld (both involving smaller scale activities than this development) have failed to deliver the desired outcomes.

It has been resolved by a majority decision of the Albany City Council that the Council is opposed to spoil being dumped in King George Sound as part of the Albany Port Expansion Proposal (EPA Assessment 1594) without:

- (1) The proponents examining the environmental consequence of the dumping of spoil in King George Sound on previous occasions;
- (2) The proponents assessing other potential dump sites on land and outside King George Sound;
- (3) The proponents methodology and conclusions receiving independent endorsement from the CSIRO; and
- (4) The State and/or Federal Government agreeing to compensate individuals and businesses for economic loss incurred as a consequence of sand drift from any dump site in King George Sound that could and should have been foreseen by Environmental Protection Agencies.

In reaching this conclusion, Council was concerned that there had been no attempt made by the Port Authority to inspect previous spoil dumps within King George Sound, created by earlier dredging of the Port entrance channel, and correlate any sand movements from those dumps with the current environmental assessment. Also, the PER document has only considered two potential dump sites and that restriction may have unfairly influenced the decision making process and removed other viable disposal options.

Item 18.1 continued.

GOV005/LT8016545
Environmental Protection Authority
Locked Bag 33
CLOISTERS SQUARE WA 6850

Page 2

The remaining requirements requested by Council are self explanatory. Should you require further information on this matter please do not hesitate to call me.

Yours sincerely

Robert Fenn
Executive Director Development Services

cc. *Director, Department of Environment and Water Resources, CANBERRA*
Director, Department of Water, PERTH
Chairman, Albany Port Authority

ITEM NUMBER: 18.2
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR SUTTON-DEVELOPMENT APPLICATION-OVERSIZE OUTBUILDING-LOT 204 BON ACCORD ROAD, KALGAN

10:07:58 PM Councillor J Bostock left the chamber.

ITEM 18.2 – NOTICE OF MOTION – COUNCILLOR SUTTON
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR WELLINGTON

THAT the report item 13.1.4 - DEVELOPMENT APPLICATION – OVER SIZE OUTBUILDING – LOT 204 BON ACCORD ROAD, KALGAN, Alternate Motion presented by Councillor Sutton; being:

“THAT Council SUPPORTS the issuing of a Planning Scheme CONSENT for an oversized Outbuilding at Lot 204 Bon Accord Road, Kalgan, and staff be delegated authority to apply appropriate conditions.”

That was not accepted under the requirements of clause 5.2(3)(b) of the Standing Orders, be presented to Council for resolution.

MOTION CARRIED 10-1
ABSOLUTE MAJORITY

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden, M Leavesley, R Paver, D Bostock, D Wolfe, D Dufty and R Sutton

Against the Motion: Cr J Matla

Councillor’s Reason:

The item was presented to Council for resolution, however, was not resolved by Council. Therefore it is requested that the resolution is re presented to Council.

Officer’s Comment (R FENN):

The Council, at its January 2010 meeting failed to make a decision on this application and no action has been taken by City of Albany staff to forward a Notice of Planning Scheme Consent or Refusal to the applicant.

The comments contained in the officer report for the January meeting (item 13.1.4) remain unchanged. The proposed shed is 180m² in area and the current policy provides for a maximum floor area of 160m². The Planning and Environment Strategy and Policy Committee has made a recommendation to Council on increase of the permissible floor area for a shed(s) in Special Rural areas (see earlier item in agenda).

ITEM NUMBER: 18.3
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR D BOSTOCK-SALARY CONTRIBUTION BY FESA TO EMERGENCY MANAGEMENT OFFICER

10:11:56 PM Councillor J Bostock returned to chamber.

ITEM 18.3 NOTICE OF MOTION – COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR D BOSTOCK
SECONDED COUNCILLOR PAVER

THAT Council requests the CEO to investigate, in conjunction with senior officers of the Volunteer Bushfire Brigades in the Albany area, the possibility of half the salary and related costs of the Emergency Management Officer being funded directly by FESA.

MOTION CARRIED 12-0

Mr Fenn through the Mayor requested the motion be altered to read the “Emergency Officer”, as Andriena Ciric has tendered her resignation. Councillor D Bostock concurred. Mr Fenn said that FESA originally subsidised a fire management officer to local government. This position dealt with fire management issues only. FESA have abandoned that scheme as it was felt by Local Government to be too restrictive. Guidelines have now changed and it is a straight cash contribution, with a requirement to provide an annual report to FESA with regard to the employee.

Councillor’s Reason:

There is a long standing arrangement whereby FESA pays 50% of the salary of some Emergency fire officers, and the City should take advantage of this as long as the Bush Fire Brigade officials concur.

Officer’s Comment (R FENN):

This suggestion was referred to the Bush Fire Advisory Committee (meeting convened by the City on behalf of the City’s 16 volunteer bush fire brigades) on the 8th March 2010. The recommendations of the Advisory Committee will be then referred to the Bush Fire Management Committee (a formal committee of Council and a statutory requirement under the Bush Fires Act) on the 24th March 2010 for a recommendation to the April 2010 Council meeting.

The retention of the Emergency Management Officer position as a full time employee of the City of Albany has allowed that position to remain independent of FESA influence / direction, and that has previously been a positive outcome for the City’s bush fire brigades and for emergency management planning, response and recovery. A verbal report on the reaction of the Advisory Committee will be provided at the meeting and this item will come forward for debate in April as part of the tabling of the minutes of the Management Committee.

ITEM NUMBER: 18.4
ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK-OUTBUILDING POLICY

ITEM 18.4 – NOTICE OF MOTION –COUNCILLOR D BOSTOCK

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR D BOSTOCK
SECONDED COUNCILLOR J BOSTOCK

THAT Council removes the size and height restrictions on outbuildings provided:

- a) The building is not visible from any public right of way; and**
- b) Written evidence is provided that no objections have been received from owners of contiguous properties.**

MOTION LOST 1-11

Record of Vote

For The Motion: Cr D Bostock

Against the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Dufty, D Wolfe, J Matla and R Sutton

Councillor's Reason:

Landowners should be able to enjoy their property without interference from Council, provided their actions have no detrimental effect on their neighbours or the wider community.

Officer's Comment (R FENN):

A review of the City of Albany's Outbuildings policy was conducted at the February 2010 meeting of the Planning and Environment Strategy and Policy Committee, and a recommendation has been submitted to this meeting to adjust the sizes of certain outbuildings. The committee received a presentation from City staff of the impact on neighbouring properties of increasing wall heights for outbuildings and the committee agreed that it would not seek an adjustment of the current policy.

The removal of a size limit on outbuildings on land zoned for residential purposes will automatically revert the controls back to the Residential Design Codes, and a maximum floor area of 60m², well below the current standard of 100m² permitted within the City.

19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

ITEM NUMBER: 19.1

ITEM TITLE: APPOINTMENT TO VACANT POSITIONS ON COMMITTEES OF COUNCIL

19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

In accordance with Standing Orders Local Law 2009, clause 3.6, Urgent business, being:

(1) Subject to clause 3.6(2), in cases of urgency, a matter may, by an absolute majority decision, be raised without notice and decided at a meeting.

(2) The determination of a matter or exercise of a discretion under the Town Planning Scheme is not permitted to be dealt with as urgent business.

ITEM 19.1- MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR DUFTY**

THAT Report Item 19.1 – Appointment to vacant positions on Committees of Council be accepted as an URGENT item.

**MOTION CARRIED 11-1
ABSOLUTE MAJORITY**

Record of Vote

For the Motion: Mayor Evans, Crs J Bostock, R Hammond, D Wellington, C Holden, M Leavesley, R Paver, D Wolfe, D Dufty, J Matla and R Sutton

Against the Motion: Cr D Bostock

ITEM 19.1 – OFFICER RECOMMENDATION 1

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Councillor Holden is appointed as a deputy member to the following committees:

- 1) Community and Economic Development Strategy and Policy Committee
- 2) Asset Management Strategy and Policy and Policy Committee
- 3) Corporate Strategy and Governance Strategy and Policy Committee
- 4) Planning and Environment Strategy and Policy Committee

Reason (WP Madigan):

To allow Councillor Holden the opportunity to be formally appointed and participate in committee work, and appoint Councillors to vacant committee positions.

Item 19.1 continued.

10:23:14 PM

Councillor D Bostock left the chamber.

AMENDED OFFICER RECOMMENDATION

ITEM 19.1 – AMENDED OFFICER RECOMMENDATION 1

VOTING REQUIREMENT: ABSOLUTE MAJORITY

- i) THAT Councillor Holden is appointed as a:
- 1) MEMBER to the Community and Economic Development Strategy and Policy Committee.
 - 2) DEPUTY MEMBER to the Asset Management Strategy and Policy and Policy Committee.
 - 3) DEPUTY MEMBER to Corporate Strategy and Governance Strategy and Policy Committee.
 - 4) MEMBER to the Planning and Environment Strategy and Policy Committee.

Officer Comment (S Jamieson):

The Governance and meeting framework policy states that membership to the strategy and policy committees shall comprise of 6 Councillors all from a different ward with the corresponding ward councillor being their deputy.

As a result of three Councillors not nominating to be appointed to the four strategy and policy committees and the resignation of Councillor Price, a number of vacancies exists on these committees.

Ward representation currently does not exist on these committees for the Vancouver Ward and as a result, representation for all wards at the committee level does not exist.

Prior to the extraordinary election for the Kalgan Ward, Councillor Leavesley was appointed as a member to all four committees.

Councillor Holden has expressed a desire to be appointed as a member of the:

- a. Community and Economic Development Strategy and Policy Committee; and
- b. Planning and Environment Strategy and Policy Committee.

The current vacancies are:

Asset Management Strategy and Policy Committee

Members: Mayor Evans, Cr Hammond (Breaksea), Vacant - (Frederickstown), Cr Leavesley (Kalgan) - Deputy Chair, Vacant - (Vancouver), , Cr Sutton (Yakamia), Cr Wolfe (West) - Chair

Deputies: Vacant - (Breaksea), Cr Wellington (Frederickstown), Vacant - (Vancouver), Vacant (Kalgan), Cr Matla (Yakamia), Cr Dufty (West)

Community and Economic Development Strategy and Policy Committee

Members: Mayor Evans, Cr Hammond (Breaksea), Cr Wellington (Frederickstown), Cr Leavesley (Kalgan), Vacant - (Vancouver), Cr Dufty (West), Cr Sutton (Yakamia).

Deputies: Vacant - (Breaksea), Vacant (Frederickstown), Vacant - (Vancouver), Vacant (Kalgan), Cr Matla (Yakamia), Cr Wolfe (West) - Chair

Item 19.1 continued.

Corporate Strategy and Governance Strategy and Policy Committee

Members: Mayor Evans, Cr Hammond (Breaksea), Vacant - (Frederickstown) – Chair, Cr Leavesley (Kalgan) - Deputy Chair, Vacant - (Vancouver), Cr Matla (Yakamia), Cr Wolfe (West)

Deputies: Vacant - (Breaksea), Cr Wellington (Frederickstown), Vacant - (Kalgan), Vacant - (Vancouver), Cr Dufty (West), Cr Sutton (Yakamia)

Planning and Environment Strategy and Policy Committee

Members: Mayor Evans, Cr Hammond (Breaksea), Cr Wellington (Frederickstown), Vacant - (Vancouver), Cr Leavesley (Kalgan), Cr Matla (Yakamia), Cr Dufty (West)

Deputies: Vacant - (Breaksea), Vacant - (Frederickstown), Vacant (Kalgan), Vacant - (Vancouver), Cr Wolfe (West), Cr Sutton (Yakamia).

RECOMMENDATION

That Councillor Holden is appointed as a member to the committee requested.

If other Councillors express a desire to be appointed as a member to these committees that they nominate accordingly and a ballot be conducted were necessary.

10:23:14 PM

Councillor D Bostock left the chamber.

ITEM 19.1 – AMENDED OFFICER RECOMMENDATION 1 VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR SUTTON SECONDED COUNCILLOR LEAVESLEY

ii) **THAT Councillor Holden is appointed as a:**

- 5) **MEMBER to the Community and Economic Development Strategy and Policy Committee**
- 6) **DEPUTY MEMBER to the Asset Management Strategy and Policy and Policy Committee**
- 7) **DEPUTY MEMBER to Corporate Strategy and Governance Strategy and Policy Committee**
- 8) **MEMBER to the Planning and Environment Strategy and Policy Committee**

**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

Item 19.1 continued.

No nomination received for appointment to the Bush Fire Management Committee.

ITEM 19.1 – OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT the vacant position on the Bush Fire Management Committee is filled by Councillor_____ .

Terms of Reference

The City of Albany Bush Fire Management Committee terms of reference are defined as advising the City on:

- strategic matters relating to the preventing, controlling and extinguishing of bush fires;
- the strategic requirements for planning of the layout of fire-breaks in the district;
- the performance of the City in regards to it's obligations under the Bush Fires Act 1954;
- the operational efficiency of bush fire brigades and the grouping thereof under group brigade officers;
- opportunities and deficiencies identified in the levels of co-operation and co-ordination of bush fire brigades in their efforts and activities and between bush fire brigades and other fire agencies; and
- any other matter relating to bush fire control.

Nature of Committee: Internal (Advisory)

No nomination received for appointment to the Bush Fire Management Committee.

ITEM 19.1 – OFFICER RECOMMENDATION 3
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT the vacant position on the South Coast Resource Management Committee is filled by Councillor _____.

Terms of Reference

- Vision: To bring together people, organisations and information, so that communities in the South Coast Region are able to work in partnership, to improve the quality of the coastal and marine environment, resulting in environmental, social and economic sustainability.
- Preparing a regional strategy between Denmark and Esperance for Coastal issues. Focus on local government and Community groups.

Nature of committee: External (Advisory)

10:27:45 PM Councillor D Bostock returned to chamber

ITEM NUMBER: 19.2
ITEM TITLE: REQUEST TO REVIEW HUDSON, HENNING AND GOODMAN LEGAL ADVICE – RE: ITEM 18.1 OCM 16 FEB 10

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward : LEG003 (All Wards)
Summary of Key Points : Request to Hudson, Henning and Goodman legal advice
Reporting Officer(s) : Executive Director Corporate and Community Services (WP Madigan)
Disclosure of Interest : Nil
Previous Reference : OCM 16/02/2010 Item 18.1 (Follows this report)
Bulletin Attachment(s) : Nil
Consulted References : *Local Government Act 1995*

ITEM 19.2 – MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council ACCEPT Item 19.2 as an urgent item.

ITEM 19.2 – URGENT ITEM – CR PAVER – REVIEW OF LEGAL ADVICE

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council requests Hudson, Henning and Goodman to:

- 1) Reconsider its opinion that Councillor Paver’s motion (Item 18.1 OCM 16 Feb 10) is contrary to Regulation 10 of the Local Government (Rules of Conduct) Regulations
- 2) Indicate whether it remains of this opinion
- 3) Advise Council whether Councillor Hammond’s motion (Item 21.1 OCM 16 Mar 10) is contrary to Regulation 10 of the Local Government (Rules of Conduct) Regulations 2007
- 4) Furnish Council with its response by no later than the April Agenda Briefing Session of Council

Councillor’s Reason:

Hudson, Henning and Goodman advice that a Councillor motion that directs the CEO to do something “purports to empower Councillors to direct the CEO in contravention of Sec 10 (sic) of the Local Government (Rules of Conduct) Regulations 2007” has created serious uncertainty about the legitimacy of past and future Council resolutions. This uncertainty must be resolved without delay.

Item 19.2 continued.

OFFICER’S COMMENT (WP Madigan):

In accordance with Standing Orders Local Law 2009, clause 3.6, Urgent business, being:

(1) Subject to clause 3.6(2), in cases of urgency, a matter may, by an absolute majority decision, be raised without notice and decided at a meeting.

(2) The determination of a matter or exercise of a discretion under the Town Planning Scheme is not permitted to be dealt with as urgent business.

If Council accepts the item to be dealt with as urgent business, Council may then consider the motion.

Point of Order

Councillor Paver raised a Point of Order in regards to clause 3.6 of the Standing Orders Local Law 2009, being:

“3.6 Urgent business

(1) Subject to clause 3.6(2), in cases of urgency, a matter may, by an absolute majority decision, be raised without notice and decided at a meeting.

(2) The determination of a matter or exercise of a discretion under the Town Planning Scheme is not permitted to be dealt with as urgent business.”

and tabled his address, which gave his reasons for this being Item being admitted as an Urgent Item.

Mr Mayor, I seek a ruling from you as the presiding member on the process of determining the admissibility of late items, by which I mean items that have not been included in the agenda.

The new Standing Orders regrettably fudge the distinction between late and urgent items, and the result of this fudging has been that late items which have been presented under the heading of urgent items, are being admitted on a mere show of hands. If you look at the minutes you will see that this is what happened last month. They record no mover and seconder of the resolutions by which late items were admitted as urgent items. I respectfully submit that this practice is inappropriate and must be put right if we are not to slip into the habit of dealing at short notice with items that could and should reasonably be dealt with at the next meeting.

Mr Mayor, what I am suggesting is that Clause 3.6 of the Standing Orders be construed as requiring late items to be admitted on a show of hands only after a motion to admit them on the grounds of urgency has been properly moved, seconded and debated. I ask that you rule accordingly and that your ruling be recorded in the minutes.

Councillor Paver read and tabled the following addresses:

Urgent Motion Admissibility

Mr Mayor, I move that this motion be admitted on the grounds of urgency for the following reason.

Item 19.2 continued.

Last month Councillor Paver moved a motion directing the CEO to provide written reasons for declining to provide Councillors with information that they request in the performance of their role and responsibilities. The CEO had previously sought and obtained from Hudson Henning and Goodman an opinion on the lawfulness of this motion. Their advice, in a nutshell, was that the motion was an attempt to direct the CEO and that that as such it was contrary to Regulation 10 of the Local Government (Rules of Conduct) Regulations, and therefore unlawful. The CEO distributed this advice to Councillors presumably to inform their decision making. We must assume that the majority of Councillors who voted against the motion did so in reliance on this advice. Certainly no other reason was put forward by any of them for voting against the motion.

At this meeting Councillor Hammond has given notice of a motion to be dealt with next month that directs the CEO to immediately disclose to Council information on any event which may result in a non recoverable financial loss or financial loss arising from an uninsured event or budget variation in excess of \$10,000. The question posed by this notice of motion is this : On the advice of Hudson Henning and Goodman is Councillor Hammond's motion also unlawful? Clearly it is an attempt to direct the CEO. If, according to Hudson Henning and Goodman this is what rendered Councillor Paver's motion contrary to regulation 10, logic demands that Councillor Hammond's motion must likewise be regarded as contrary to Regulation 10, and therefore unlawful.

At this point you will appreciate that those Councillors who opposed my motion last month, but who are disposed to support Councillor Hammond's motion next month, are caught on the horns of a dilemma. They must either act consistently with the advice of Hudson Henning and Goodman and vote against Councillor Hammond's motion, or they must treat Hudson Henning and Goodman's advice as erroneous and acknowledge, at least to themselves, that they ought not to have placed reliance on it when voting against Councillor Paver's motion last month.

Mr Mayor, this late item seeks to relieve Councillors of this dilemma before it confronts them at the next meeting of Council. If I may say so, Mr Mayor, it will not do for Councillors to bury their heads in the sand and pretend that this dilemma does not exist. Unless the CEO or the majority of Councillors seek and obtain clarification of this matter from Hudson Henning and Goodman there is a real danger that they will be seen to be acting in a manner that is carelessly and unjustifiably discriminatory. Since there is no guarantee that the CEO will submit this matter to Hudson Henning and Goodman for clarification, and since, according to Hudson Henning and Goodman's previous advice, it would be unlawful for me to move a motion directing him to obtain further advice, I have drafted the present motion for Council's endorsement as a matter of urgency.

Urgent motion.

Mr Mayor, No Council can hope to function satisfactorily unless there exists among Councillors a clear common understanding of the rules that regulate the lawfulness of their conduct. These rules are to be found in the common law, in the Local Government Act and in the Local Government Regulations.

Item 19.2 continued.

The rules with which we are presently concerned are those contained in the Local Government (Rules of Conduct) Regulations. Regulation 10, sub regulation (1) states that a person who is a Council member must not direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee.

Hudson Henning and Goodman, when giving their advice on Councillor Paver's motion last month, saw that the motion was an attempt by a Council member to direct the CEO to do something and concluded that it was contrary to Regulation 10. If their advice is correct it must follow that Councillor Hammond's motion is also contrary to Regulation 10, because it too is an attempt by a Council member to direct the CEO to do something.

But the logical application of Hudson, Henning and Goodman's advice raises a question far more serious than whether or not Councillor Hammond's motion is unlawful. Mr Mayor, Council frequently passes resolutions that direct the CEO either expressly or impliedly to do something in his capacity as CEO. These resolutions always originate as motions, and no distinction has ever been drawn in the past between motions that seek to give effect to officer recommendations and motions that are prepared and submitted autonomously by Councillors.

Are we now, on the strength of Hudson Henning and Goodman's advice, to regard all past resolutions that expressly or impliedly direct the CEO to do something as unlawful? Hudson Henning and Goodman's advice suggests that they are because they all originate in motions that, to quote from their advice, "purport to empower Councillors to direct the CEO in contravention of Regulation 10".

Mr Mayor, the massive uncertainty that Hudson Henning and Goodman's advice has given rise to must be resolved. Hence, my motion, tonight. It invites Hudson Henning and Goodman to reconsider their opinion, to state whether they still adhere to it, and to advise us whether Councillor Hammond's motion is contrary to Regulation 10.

I suspect that when Hudson Henning and Goodman have looked more carefully at Regulation 10 they will discover that sub regulation (1) is qualified by sub regulation (2) which provides that sub regulation (1) does not apply to anything a Council member does as part of the deliberations at a Council meeting. They will find, in other words, that while Regulation 10 prohibits a Councillor from attempting individually to direct the CEO it allows a Councillor to attempt to do so by way of a motion deliberated and adopted by Council at a Council meeting.

Mr Mayor, I am not certain that this will result in Hudson Henning and Goodman admitting that their advice on my motion was wrong but I do hope that it will clear the way for Councillors to deliberate and determine Councillor Hammond's motion next month in the certain knowledge that it is not unlawful.

Item 19.2 continued.

10:31:05 PM

Through the Mayor Mr Madigan clarified Standing Order 3.6, and said that he believed that standing order to be correct. According to Standing Order 3.6, for an item to be considered it needs an absolute majority to bring it forward to the meeting.

Through the Mayor-Mr Madigan clarified that council was voting on whether to accept Item 19.2 as an urgent item.

ITEM 19.2 – MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PAVER

SECONDED COUNCILLOR J BOSTOCK

THAT Council ACCEPT Item 19.2 as an urgent item.

MOTION LOST 9-3

Record of Vote

For the Motion: Crs R Paver, D Bostock and J Bostock

Against the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley,
D Wolfe, D Dufty, J Matla and R Sutton

20.0 REQUEST FOR REPORTS FOR FUTURE CONSIDERATION

Nil

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

ITEM NUMBER: 21.1
ITEM TITLE: NOTICE OF MOTION – COUNCILLOR R HAMMOND – FINANCIAL REPORTING
RECEIVED: WED 24 FEB 10.

ITEM 21.1 NOTICE OF MOTION – COUNCILLOR R HAMMOND
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council DIRECT the CEO to provide immediate disclosure to Council, details of any event which may result in a material non recoverable financial loss or financial loss arising from an uninsured event, or budget variation in excess of \$100,000 (year to date).

Councillor's Reason:

It is intended that the disclosure occurs in a routine report format. Ideally, this information should be provided at the preceding Meeting of Council following any such occurrence. For the most part disclosure of basic details and most particularly estimated quantum of any financial exposure to loss would meet the most fundamental and prudential requirement for good Corporate governance. This in turn should provide opportunity for a more measured and considered response to issues arising.

Officer's Comment (S Jamieson):

It is recommended that this notice of motion is considered with the questions seeking Council direction presented at the FINANCE STRATEGY COMMITTEE held on the 15/02/2010.

ITEM NUMBER: 21.2
**ITEM TITLE: THAT COUNCIL REQUEST WALGA TO PROVIDE TO ALL COUNCILS
A WRITTEN REPORT ON ADEQUATE RECOMPENSE FOR
COUNCILLORS**

DATE & TIME RECEIVED: MON 15 MAR 10

**ITEM 21.2 NOTICE OF MOTION BY COUNCILLOR PAVER
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council request WALGA to provide to all Councils a written report on the steps it has taken since 2004 to ensure that Councillors in Western Australia are adequately recompensed for the work they do, and the response it has received from the Western Australian Government to any representations it has made in regard to this matter.

Councillors Reason:

Councillor Paver raised this matter before WALGA at their AGM in 2008, and to date has heard nothing from WALGA.

22.0 ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC**ITEM NUMBER: 22.1****ITEM TITLE: CEO PERFORMANCE REVIEW; KEY PERFORMANCE INDICATORS; CONTRACT OF EMPLOYMENT****THE NATURE OF COUNCIL'S ROLE IN THIS MATTER****Executive Function:** Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward	: STR238 (PF Richards)
Summary of Key Points	: Receive the consolidated CEO Performance feedback for reporting period Dec 08 to Aug 09.
Proponent	: City of Albany
Reporting Officer(s)	: Executive Director Corporate & Community Service (WP Madigan)
Disclosure of Interest	: EDCCS, Mr Madigan. Impartiality. Motion 6 (iii). Appointment as acting CEO.
Previous Reference	: OCM 15/09/2009 – Item 22.5
Bulletin Attachment(s)	: Nil
Consulted References	: Local Government Act 1995 Local Government (Administration) Regulations 1996

In accordance with section 5.23(a)(b)(c) of the Local Government Act 1995, being:

If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

(a) a matter affecting an employee or employees;

(b) the personal affairs of any person;

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

ITEM 22.1 – MOTION 1**VOTING REQUIREMENT: ABSOLUTE MAJORITY****MOVED COUNCILLOR SUTTON****SECONDED COUNCILLOR LEAVESLEY****THAT Council resume Standing Order 3.1 - Recording of Proceedings, to stop recording of proceedings.****MOTION CARRIED 11-1
ABSOLUTE MAJORITY**

Item 22.1 continued.

Record of Vote:

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley,
D Wolfe, D Dufty, J Matla, R Sutton, R Paver, and J Bostock

Against the Motion: Councillor D Bostock

ITEM 22.1 – MOTION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR SUTTON

THAT the Council meet behind closed doors to consider CONFIDENTIAL item 22.1 CEO performance review, Key Performance Indicators and contract of employment in accordance with Section 5.23 (2)(a) (b) (c) of the Local Government Act 1995 – matters affecting staff and contract.

MOTION CARRIED 12-0

10:56 PM Staff and public vacated the Chamber.

Acting CEO, Mr Madigan and Councillors remained in the Chamber.

ITEM 22.1 – MOTION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WELLINGTON

SECONDED COUNCILLOR LEAVESLEY

THAT Standing Orders Local Law 2009, clause 5.7, Order of call in debate, be suspended.

MOTION CARRIED 12-0

ITEM 22.1 – MOTION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR HOLDEN

THAT Standing Orders Local Law 2009, clause 5.7, Order of call in debate, be resumed.

MOTION CARRIED 11-1

Record of Vote:

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley,
D Wolfe, D Dufty, J Matla, R Sutton, D Bostock, and J Bostock

Against the Motion: Councillor R Paver.

Item 22.1 continued.

11.53 PM Councillor Paver left the chamber.

ITEM 22.1 – MOTION 5

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON**

THAT a committee consisting of the Mayor, Councillor Hammond, Councillor Wolfe and Acting Chief Executive Officer be formed to consider the options, negotiate with Mr Richards via ITEM 22.1 – MOTION 6 below and recommend to Council on the preferred course of action and quantum as soon as possible.

MOTION CARRIED 9-2

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, M Leavesley, D Wolfe, D Dufty, J Matla, R Sutton and D Bostock.

Against the Motion: J Bostock and D Bostock

11.58 PM Councillor Paver returned to the chamber.

11.58 PM Councillor D Bostock left the chamber.

ITEM 22.1 – MOTION 6

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR DUFTY
SECONDED COUNCILLOR SUTTON**

THAT:

- i) Mr Richards be advised he is on paid leave subject to instructions in relation to his conduct and activities during this period.**
- ii) In relation ITEM 22.1 – Motion 5, Councillor Wolfe be appointed the sole point of contact between Mr Richards and Council.**
- iii) Executive Director Corporate & Community Services, Mr Madigan be appointed acting CEO.**

MOTION CARRIED 11-0

12:01 AM Councillor D Bostock returned to the Chamber.

Item 22.1 continued.

ITEM 22.1 – MOTION 7

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR HAMMOND

SECONDED COUNCILLOR WELLINGTON

THAT the Committee formed at ITEM 22.1 – MOTION 5 be authorised to seek legal advice as necessary.

MOTION CARRIED 12-0

ITEM 22.1 – MOTION 8

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR WOLFE

SECONDED COUNCILLOR DUFTY

- i) THAT Council RECEIVE the consolidated CEO performance review feedback and ACCEPT the elected member review feedback for the period December 2008 to August 2009.**
- ii) THAT Council convene a meeting of the Chief Executive Officer appraisal committee in order to:
 - a. Review the CEO's Key Responsibilities as per the CEO Position Description; and**
 - b. Review the CEO's Key Focus Areas (KFAs).****
- iii) THAT a CEO Performance Appraisal Policy and Guidelines be developed for consideration by Council.**

MOTION CARRIED 8-4

Record of Vote

For the Motion: Mayor Evans, Crs R Hammond, D Wellington, C Holden, D Wolfe,
D Dufty, J Matla, and R Sutton

Against the Motion: Crs R Paver, J Bostock, D Bostock, and M Leavesley.

Item 22.1 continued.

ITEM 22.1 – MOTION 9

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED COUNCILLOR MATLA

SECONDED COUNCILLOR WOLFE

THAT Council come out from behind closed doors.

MOTION CARRIED 12-0

The meeting was re-opened to the public and media at 12:18 AM

No members of the public or media returned to the Chamber.

23.0 NEXT ORDINARY MEETING DATE

Tuesday 20th April 2010, 7.00pm

24.0 CLOSURE OF MEETING

The Chair declared the meeting closed at 12:20 AM.

Confirmed as a true and accurate record of proceedings.

Mayor MJ Evans, JP
MAYOR

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

Meeting Date	Item Number	Details/Status
19/01/2010	13.1.4	Development Application – Over Size Outbuilding – 204 Bon Accord Road, Kalgan. In accordance with policy refused and applicant to be referred to the State Administrative Tribunal (SAT). Resolved 16/02/2010 OCM.
19/01/2010	14.6.1	Lease of Albany Leisure and Aquatic Centre Cafe. Laid on the table till a Special Council Meeting is convened by Council. Outstanding.

CORRECTIONS TO UNCONFIRMED MINUTES

17 FEB 10 – Special Council Meeting:

SPECIAL COUNCIL MEETING MINUTES – 17/02/2010
** REFER DISCLAIMER **

Item 6.1 continued.

37. In addition, a claim has been made that the structure is slowly sinking due to an underestimation of the soft foundations. This is being investigated by Building Management and Works, who have already confirmed that there are no issues according to Cox and Doric.
38. Given the number of points that needs direction, it was recommended to Council at the 09 Feb 09 briefing session that a Special Meeting be convened for the purpose of defining an appropriate course of actions and strategic direction from Council.

SUMMARY CONCLUSION

ITEM: 6.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT a Special Council Meeting be convened to consider all aspects in relation to the management and future operations of the Albany Entertainment Centre.

ITEM: 6.1 – AMENDED OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council confirm that the following Councillors: _____ are appointed to form an AEC - City of Albany delegation for the purpose of meeting with the Minister for Treasury on Friday 19th February 2010 in order to establishing direct dialogue with the State Government;

THAT the City of Albany delegation is formed with the specific purpose of to seek initial and on-going operational funding support for the AEC from the State Government.

6:30:27 PM Cr D Wellington.

Councillor Wellington expressed concern that the Officer Recommendation did not allow Council to have any discussion.

Mayor Evans interjected and said that he would move to resume Standing Order 3.1 to stop recording so that Councillors could comment.

Councillor Wellington concurred.

ITEM: 6.1 - MOTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR WELLINGTON
SECONDED COUNCILLOR DUFTY

THAT Council suspend Standing Order 5.7 – Order of call in debate, to allow all elected members to be given the opportunity to speak.

MOTION CARRIED 11-0
ABSOLUTE MAJORITY

B-2

Item 6.1 continued.

ITEM:6.1 - MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR PRICE**

THAT Council resume Standing Order 5.7 – Order of call in debate, to allow all elected members to be given the opportunity to speak.

**MOTION CARRIED 7-4
ABSOLUTE MAJORITY**

RECORD OF VOTE

For the Motion: Mayor Evans, Crs R Hammond, D Price, D Wolfe, J Matla,
R Sutton and R Paver

Against the Motion: Crs D Duffy, D Bostock, M Leavesley and D Wellington

Councillor Wolfe requested that the Amended Officer's Recommendation be amended, and moved the following motion:

(1) **THAT Council confirm that the Mayor and following Councillors:**

- a. **Deputy Mayor, Cr Wellington; and**
- b. **Chair of the Finance Strategy Committee, Cr Leavesley;**

And the Chief Executive Officer;

Are appointed to form an AEC - City of Albany delegation for the purpose of meeting with the Minister for Treasury on Friday 19th February 2010 in order to establishing direct dialogue with the State Government;

(2) **THAT the City of Albany delegation is formed with the specific purpose of investigating options to seek initial and on-going operational funding support for the AEC from the State Government and any other sources.**

In accordance with clause 7.7 of the Standing Orders Local Law 2009, Councillor Sutton moved the procedural motion that the motion under discussion be now put.

ITEM: 6.1 – PROCEDURAL MOTION BY COUNCILLOR SUTTON

VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR HAMMOND**

That the motion be now put.

MOTION CARRIED 9-2

RECORD OF VOTE

For the Motion: Mayor Evans, Crs R Hammond, D Price, D Wellington, M Leavesley,
D Wolfe, D Duffy, J Matla and R Sutton

Against the Motion: Crs R Paver and D Bostock

APPENDIX C

TABLED DOCUMENTS

Document Tabled By	Subject	Page No
Mr Richard Vogwill	Memorandum to Mayor and Councillors re-Residential Zoning-Proposed 5-Star Resort Development, Frenchman Bay	9
Mr Neil Smithson	Tabled Address to Council re Frenchman Bay Resort and National Party Conference	13
Ms Vera Anne Torr	Petition 221-259 York Street (inclusive) Central Albany	173
Ms Kim Stanton	Tabled Address referring to dredging of King George Sound and Princess Royal Harbour	14

ELECTED MEMBER TABLED DOCUMENTS

Document Tabled By	Subject	Page No
Cr J Bostock	Item 3.0-Announcements by Mayor and Councillors without Discussion	5, 169
Cr J Bostock	Item 13.5.1-Planning and Environmental Strategy and Policy Meeting-Recommendation 2	170
Cr J Bostock	Item 15.3.1-Final Adoption of the Middleton Beach Management Plan	171
Cr R Paver	Item 19.2-Request to Review Hudson Henning and Goodman Legal Advice-Re Item 18.1 OCM 16 Feb 10.	151-153
Cr D Bostock	Notice of Motion - Pathway on Bay View Drive, Little Grove	172

STAFF TABLED DOCUMENTS

Document Tabled By	Subject	Page No
	Nil	

Councillor J Bostock. RE: Item 3 Announcements by Mayor and Councillors without discussion.

OCM 16 March 2010

Item 3 Announcements by Mayor and Councillors without discussion.

Following the fires at the weekend I would like to say thank you to the volunteer bushfire brigades and all those involved in keeping us safe. The dedication and time given by these special volunteers tends to be forgotten and the events this weekend highlight their invaluable contribution.

We are blessed with a great number of volunteers in many areas of need in our City and they all require support encouragement and recognition, it is this public participation that converts a City into a community. Being actively involved brings rewards not only individually but for everyone, a sense of ownership, well being, positive hope for the future and pride in our City.

As representatives, it is our role to foster this public involvement, demonstrate and reinforce our recognition of its importance and keep it central in all we do. By gaining the public confidence that we are listening and value their input our Community will flourish, the job of Local Government becomes easier and development, services and progress is in line with public needs and wishes.

In my ward, The Friends of Emu Point are a shining example of self help; they meet monthly and devote their attention to maintaining their piece of beautiful Albany. Not just asking for Council help, but with working 'Bs" and individuals finding solutions to problems. Trees have been planted and watered by hand, grounds cleared and tidied repairs made, and park areas have been enhanced with not one but five picnic tables, all donated and made by a member, Philip Drage. The Cities Works and Services have also contributed, an excellent example of combined forces, with Government and community working together.

I would like to formally thank them all, not only for keeping Emu Point beautiful, keeping the community spirit alive but for making my job easier, Thank you Friends of Emu Point.

Councillor Jill Bostock.

Councillor J Bostock. RE: Item 13.5.1 Recommendation 2

OCM 16 March 2010.

Item 13.5.2 Recommendation 2

Mayor and Councillors I am tired of defending this site, the planning scheme and the wishes of the public and one can only marvel at the tenacity of the developers and their supporters.

This strategically significant site is essentially a Public Reserve and the freehold should not have been sold but this was merely the first error, in the catalogue of misunderstandings, misinformation and difficulties that have dogged this beautiful area.

The last development application was subject to a SAT review, the details of which I hope all Councillors are aware; the planning approval was upheld apparently to the satisfaction of the proponent.

The majority of this small area of land is a public reserve with only a small portion zoned Special Site Caravan Park and I am staggered at the events that have taken place thus far, TPS 3 is a statutory document, not only is "Residential" prohibited under the scheme but the protection of such sites from residential encroachment is central to all thinking and policy in tourism consideration, and features prominently in the recommendations of the Ministerial TaskForce.

This most recent approach to use the Tourism Strategy as a stepping stone, to obtaining residential development is incredible, given the weight of protection afforded this exceptional and strategic tourism site, the suggestion is entirely contrary to all that the tourism ministerial task force was trying to achieve.

Councillors, if our planning controls and our decision making is to have any credibility we cannot allow any "Residential" component on this site.

Councillor Jill Bostock.

Councillor J Bostock. RE: Item 15.3.1 Alternative Motion, Adoption of Middleton Beach Plan

OCM 16 March 2010

Item 15.3.1 Alternative Motion, Adoption Middleton Beach Plan.

Firstly I would like to say how delighted I am that the Middleton Beach Group has been invited to present the findings of their Umbrella Survey.

The purpose of my motion is to ensure that their contribution is properly examined and incorporated where appropriate into the final plan. The initiative is after all for the people of Albany and first and foremost it is their needs and wishes that must be met.

I would certainly be concerned if a delay in the adoption of this document resulted in a lack of funding, but I considered the direction given in part (ii) of my motion must preclude that possibility.

The difficulty I have in the adoption of an unfinished document is the problems associated with making changes or additions that may be at variants to the original, creating unnecessary complications that could result in a rescission motion.

Councillors, we are talking about a delay of a few weeks and I cannot imagine given the financial situation that this will in any way impact on the implementation of any aspect of delivery.

Since the community have taken the initiative, shown interest and become involved I consider that we should embrace this, and demonstrate that we are listening and value their contribution, by properly including their ideas in the final plan.

I believe that this is the right way to work with the community and hope that you can support my motion.

Councillor Jill Bostock.

Cr D Bostock - Notice of Motion-Pathway on Bay View Drive, Little Grove

2) That council request the CEO to assess the feasibility of completing the pathway on one side of Bay View Drive, Little Grove, within the next 6 months, and reporting back to council at the April OCM.

Reason.

This pathway has been partially built and residents were assured of its completion some two years ago. However no further progress has been made and they are seriously concerned at the lack of progress.

Bay View Drive was originally the main road through Little Grove and many residents still consider it to be so. It is also a busy route for pedestrians including children travelling to and from the junior school mothers with prams, dog walkers and invalid carriages.

The side of the road is rough, ill defined and unsuitable for pedestrians, who often need to stray onto the road itself, with consequent risk of injury and I have received many more requests for a footpath in this site than any other.

Ms Vera Anne Torr - Petition 221-259 York Street (inclusive) Central Albany

PETITION 221-259 YORK STREET (Inclusive)– CENTRAL ALBANY

To His Worship the Mayor and Councillors of the City of Albany

We, the undersigned, all being electors of the City of Albany, do respectfully ask that Council request the City of Albany to provide to Council effective planning controls for Council approval that reflect the community view that no residential component be allowable in the future development of the above sites - being the designated Civic Centre of the City of Albany - and that the said freehold land must remain the property of the people and not be sold.

These measures would effectively ensure:

- a) The full integrity of Alison Hartman Gardens is not compromised
- b) The retention of public ownership of all said land
- c) The prevention of residential development on the said land.

Albany is a growing City and has a long future. It is seen as essential that this civic land is kept in public ownership for the benefit of the wider community and future generations - as it was intended.

The names and addresses of your petitioners are as follows-

NAME	ADDRESS	SIGNATURE
Vera Anne Torr	18 Sussex St Albany	[Signature]
CHRISTINA BARTON	45 CHARLES STREET ALBANY	[Signature]
Jeff Reimers	20 SIMONS ST ALBANY	[Signature]
MUS. TUOHY	51 ELIZABETH ST.	[Signature]
McGinnity	116. Middleton Rd ALBANY	[Signature]
JEY HARKINS	16 SUSSEX ST ALBANY	[Signature]
KEN HARKINS	16 SUSSEX ST ALBANY	[Signature]
HELEN BRATBY	56 DAVID ST SPENCER PARK	[Signature]
Kylie Houden	1150 Hay River Rd Redmond	[Signature]
J. HANNIG	11 SALISBURY MEKAIL	[Signature]

Correspondence in respect of this petition should be addressed to-
 Mrs Vera Anne Torr PO Box 1126 Albany WA 6331 (18 Sussex St Albany)
 Tel 98 422420 e-mail musso@westnet.com.au

①

PETITION 221-259 YORK STREET (Inclusive)– CENTRAL ALBANY

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The names and addresses of your petitioners are as follows-

NAME	ADDRESS	SIGNATURE
^{Tracey} T. Donaldson	53 Mathew Rd, Youngs	<i>[Signature]</i>
^{Melanie} MWB	21 Pioneer Rd Albany	<i>[Signature]</i>
ESME JUSTUS	11 SHERWOOD DRIVE MCKAIL	<i>[Signature]</i>
LINDA KELLY	7 MCKENZIE DRIVE LOWER KING	<i>[Signature]</i>
Nereidith Ditchburn	56 Barnesby Dr Albany	<i>[Signature]</i>
Beth Hockey	414 Princess Royal Drive ALB	<i>[Signature]</i>
SHIRLEY CARTER	144 USHER RD ALBANY	<i>[Signature]</i>
HELEN CRISP	38 Greenshield St Albany	<i>[Signature]</i>
^{Angie} Audrey Von Korten	15 Wylie Cres. Albany.	<i>[Signature]</i>
Joy M. LENEHAN	24 Kampong Rd Albany	<i>[Signature]</i>

Correspondence in respect of this petition should be addressed to-
Mrs Vera Anne Torr PO Box 1126 Albany WA 6331 (18 Sussex St Albany)
Tel 98 422420 e-mail mussop@westnet.com.au

PETITION 221-259 YORK STREET (Inclusive)– CENTRAL ALBANY

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The names and addresses of your petitioners are as follows-

NAME	ADDRESS	SIGNATURE
Lain Brown	17 Bardoba Way Orana	L.B. Brown
F. Wilson	1 Michaelmas way -	Frank Wilson
M. MOORE	39 Elizabeth St.	M.O. Moore
J. NOOKES	37 Yarana rd	J. Nookes
J. Dawson	71 Seymour Street	J. Dawson
O. HARDISTY	34 LESLIE ST	O. Hardisty
T. Beckwith	9 Hope St. Albany	T. Beckwith
A. MARTINEZ	PO. Box 5231 Albany 6332	A. Martinez
Lee Mills	8 Turner Street Albany	Lee Mills
Evelyn Wagoner	23 Mudge Rd Albany	E. Wagoner

Correspondence in respect of this petition should be addressed to-
 Mrs Vera Anne Torr PO Box 1126 Albany WA 6331 (18 Sussex St Albany)
 Tel 98 422420 e-mail mussop@westnet.com.au

PETITION 221-259 YORK STREET (Inclusive)– CENTRAL ALBANY

To His Worship the Mayor and Councillors of the City of Albany


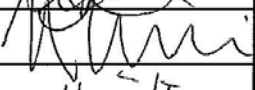
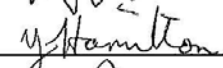
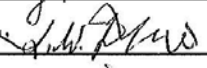
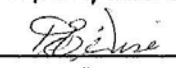
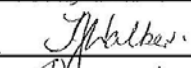
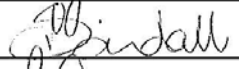
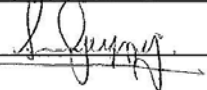
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The names and addresses of your petitioners are as follows-

NAME	ADDRESS	SIGNATURE
L.+J. BARAN	188 Serpentine Rd.	
Nicole Wilkison	204 Barnholm Stn Rd Albany	
Y. HAMILTON	204 BORNHOLM STH RD, ALBANY	
LEWIS, DAVE	14 McKEOWN AVE VIEWER	
Dorothy Wise	17 Sussex St Albany.	
TALMA WALKER	1 MCKENZIE ST MIDDICTON BEACH	
ANNE SANDAU	14 EDWARD ST YAKAMIA	
LEN CALOPY	8 HANSON ST. ALBANY	

Correspondence in respect of this petition should be addressed to-
 Mrs Vera Anne Torr PO Box 1126 Albany WA 6331 (18 Sussex St Albany)
 Tel 98 422420 e-mail mussop@westnet.com.au





