



MEETING AGENDA

**For the Ordinary Meeting of Council
To be held on
Tuesday, 17 May 2011
7.00pm
City of Albany Council Chambers**

ORDINARY COUNCIL MEETING & BRIEFING
 AGENDA – 17/05/2011
 ** REFER DISCLAIMER **

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I. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

II. OPENING PRAYER

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

ITEM 2.0: MOTION 1

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

III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

ITEM 3.0: MOTION

The Mayor’s Report be RECEIVED.

IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC

V. PUBLIC QUESTION AND STATEMENT TIME

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

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

Mayor	MJ Evans
Councillors:	
Breaksea Ward	R Hammond
Breaksea Ward	J Bostock
Frederickstown Ward	Vacant
Frederickstown Ward	D Wellington
Kalgan Ward	C Holden
Kalgan Ward	M Leavesley
West Ward	D Wolfe
West Ward	D Dufty
Yakamia Ward	R Sutton
Yakamia Ward	J Matla
Vancouver Ward	D Bostock
Vancouver Ward	R Paver

Staff:

Chief Executive Officer	F James
A/Executive Director Corporate Services	P Wignall
Executive Community Services	L Hill
Executive Director Works & Services	K Ketterer
Executive Director Planning & Development Services	G Bride
Minutes	J Williamson

Apologies:

VII. APPLICATIONS FOR LEAVE OF ABSENCE

VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

ITEM 8.0: MOTION

THAT the minutes of the Ordinary Council Meeting held on 19 April 2011, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

ORDINARY COUNCIL MEETING & BRIEFING
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IX. DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest
Councillor J Matla	3.1	Impartiality. The nature of the interest being that Councillor Matla is the owner of business which performs maintenance at ALAC.

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

XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil.

XII. ADOPTION OF RECOMMENDATIONS EN BLOC

Item 1.1.1 Streetscape Committee Recommendation

Item 1.1.2 Seniors Advisory Committee Recommendation

RISK MANAGEMENT FRAMEWORK

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

1.1.1: STREETSCAPE ADVISORY COMMITTEE MEETING MINUTES

File Number (Name of Ward) : RD.MEE.2
Proponent : City of Albany
Attachment : Minutes of Streetscape Advisory Committee Meeting
Responsible Officer : Executive Director Works & Services (K Ketterer)

ITEM 1.1.1: COMMITTEE RECOMMENDATION

That the CONFIRMED minutes of the Streetscape Advisory Committee meeting held on the 15 March 2011 be received.

CEO:

RESPONSIBLE OFFICER:

1.1.2: SENIORS ADVISORY COMMITTEE

File Number (Name of Ward) : CR.MEE.2
Attachment : Minutes of the Seniors Advisory Committee Meeting
Responsible Officer : Community Services Team Leader (L Hill)

IN BRIEF

- Receive the minutes of the Seniors Advisory Committee.

ITEM 1.1.2: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

The CONFIRMED minutes of the Seniors Advisory Committee meeting held on Thursday 17 March 2011, be RECEIVED.

ITEM 1.1.2: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

That COUNCIL support the establishment of a working party to develop guidelines to assist the City of Albany Planning & Development Services Department to support Housing for Life Principles for future lifestyle villages. When establishing these guidelines the working party will work in partnership with the City of Albany Planning Department.

Officer’s Comment:

Author: Team Leader Community Services (L Hill)

The purpose of the City of Albany ‘Housing for Life’ working party is to assist the City of Albany planners with the development of housing design guidelines that meet the changing needs of home occupants across their lifetime. The City’s Planners are currently bound by the Residential Design Codes (R Codes) of Western Australia however the R Codes do not sufficiently meet the needs of seniors. The guidelines will complement the R Codes and provide the City’s Planners with additional guidelines that better meet the needs of Seniors when assessing lifestyle villages.

The aim of the guidelines is to encourage Housing for Life Design to be an accepted design principle for future Lifestyle Villages within Albany and to encourage age-friendly built environments, within the broader context of community development and planning.

CEO:	RESPONSIBLE OFFICER:
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The membership of the Housing for Life Working Party will consist of:

- Four Representatives from the Seniors Advisory Committee , including one Councillor
- Two City of Albany Officers including representatives from Planning and Community Development
- Three Professionals from Urban Design, Planning and Health sectors.

In addition identified professionals will be invited onto the working party, for one off consultations or advice.

Meetings will be held fortnightly commencing May to July, then monthly from August to October. Meetings will be no longer than one hour. The Working Party will disband on the completion of the guidelines.

The guidelines will be presented to Council seeking their endorsement.

1.2: PLANNING AND BUILDING REPORTS APRIL 2011

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

IN BRIEF

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

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

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

CEO:

RESPONSIBLE OFFICER:

1.3: COMMON SEAL REPORTS

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

IN BRIEF

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

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Common Seal Report for April 2011 be RECEIVED.

CEO:

2.1: DEVELOPMENT ASSESSMENT PANELS – UPDATE ON IMPLEMENTATION (VERSION 2)

- Land Description** : N/A
Proponent : City of Albany
Attachments :
 - Planning Bulletin 106/2011 – New legislative provisions for development assessment panels.
 - Incoming correspondence from Minister for Planning, Culture and the Arts requesting Local Government Nominations for Development Assessment Panels.**Responsible Officer** : Executive Director Planning & Development Services (G Bride)

IN BRIEF

- The WA Planning Commission has recently released Planning Bulletin 106 which provides an overview of the new provisions relating to the introduction of Development Assessment Panels (DAPs).
- The implementation of Development Assessment Panels requires the City to consider nominating two Councillors and two Alternate members (by 13 June 2011) to be City of Albany representatives on the Development Assessment Panels.
- The recommendation is to note the information contained in the Planning Bulletin and nominate representatives for appointment by the Minister onto the Great Southern Joint DAP.

ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council;

1. **Nominates Councillors _____ and _____ as the City of Albany representatives on the Great Southern Joint Development Assessment Panel, and Councillors _____ and _____ as alternate members; and**
2. **Advises the Minister for Planning of such nominations.**

CEO:

RESPONSIBLE OFFICER:

BACKGROUND

1. The State Government has been pursuing amendments to the planning system to improve its efficiency. The proposed amendments have been the subject of previous consideration by the City, in particular the introduction of compulsory Development Assessment Panels (DAP's) to determine development applications within the City. The Council opposed their introduction.

2. Development Assessment Panels (DAPs) are scheduled to become operational on 1 July 2011. The City of Albany is part of the Great Southern Joint Development Assessment Panel which consists of the following local governments:
 - City of Albany
 - Shire of Broomehill-Tambellup
 - Shire of Cranbrook
 - Shire of Denmark
 - Shire of Gnowangerup
 - Shire of Jerramungup
 - Shire of Katanning
 - Shire of Kent
 - Shire of Kojonup
 - Shire of Plantagenet
 - Shire of Woodanilling

DISCUSSION

3. There are essentially three types of applications under *Planning and Development (Development Assessment Panels) Regulations 2011*:

Type	Threshold Value
Mandatory DAP Applications (i.e. not an excluded development application)	\$7 million or more
Optional DAP Applications (i.e. not an excluded development application; or that has not been delegated by a local government to a DAP)	Between \$3 - \$7 million
Election to DAP (an applicant can elect to refer a development application in the Optional type above to a DAP for determination)	Between \$3 - \$7 million

4. The regulations define an excluded development application (i.e. not required to be referred to a DAP for determination) as follows:
Means a development application for approval of:
 - (a) *Construction of:*
 - (i) *A single house and any associated carport, patio, outbuilding and incidental development;*
 - (ii) *Less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;*
 - (iii) *Less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development; or*
 - (b) *Development in an improvement scheme area; or*
 - (c) *Development by a local government or the Commission; or*
 - (d) *Development in a district for which:*
 - (i) *A DAP is not established at the time the application is made; or*
 - (ii) *A DAP has been established for less than 60 days at the time the application is made;*
5. Where a DAP is established in a district, any DAP application must be determined by the DAP as if they are the responsible authority; and cannot be determined by the local government or WA Planning Commission. All applications with a value of \$7m or more are subject to mandatory referral to the DAP.
6. All applications are to be lodged with the local government including payment of application fees. The applications will attract an additional fee (contained in the regulations) to the existing local government planning application fee.
7. The local government then advises the DAP secretariat (i.e. WA Planning Commission) and completes any advertising, referral, report writing and recommendation on how the application should be determined (i.e. approve/refuse, conditions etc.)-similar to what the City would do in preparing a Council Report.
8. The DAP then make its determination and advise the local government and applicant accordingly. The owner may apply to the DAP to have the determination amended or cancelled. In addition, the person who made the DAP application may apply to the State Administrative Tribunal for a review of the DAP decision.
9. *Part 3 Delegation to DAPs*
This part enables local government to delegate to a DAP an application(s) for determination as set out in the delegation.
10. *Part 4 Development Assessment Panels*
This part sets out the requirements for DAP membership (both local government and specialist members) and their appointment by the Minister etc. It also contains details on meetings, member's fees/allowances and DAP member conduct/powers etc.

11. The Joint DAP will consist of five members with one presiding member, two specialist members and two local government members. The local government's membership will depend on the location of the development applications being determined at the time.
12. Local government members will be rotated on and off the panel to ensure that local knowledge that is relevant to the application is on each panel. Only two representatives from local government can be on the panel.
13. If the Council fails to nominate two representatives, the Minister has the power to appoint two members to the DAP to represent the interests of the local community. These alternative representatives must be eligible to vote in elections for that local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.
14. The period of appointment for DAP members is two years. At the expiration of two years, the Council will be required to nominate two local government members as well as two alternate members. The same individuals may be renominated for the position.
15. Following appointment, all DAP members will be required to undertake training on the Western Australian DAP legal framework and planning decision-making. DAP members cannot sit on a DAP and determine applications until they have attended training. It is understood that a DAP training manual will be provided, which will include the DAP regulations, the Standing Orders, Code of Conduct and DAP member procedures manual. The timing and location of this training for local government members of the DAP has not yet been established but is expected to commence shortly and will be first made available to those with a high-volume of applications.
16. In regards to annual Council elections, should within the two year term, a local government DAP member is not re-elected, they cannot hold the position of local DAP member. Should this occur, advice from the Department of Planning is that the alternate DAP member will take the place of the former DAP member. If both former and alternate members are not re-elected, the local government will need to renominate other Councillors for the Minister to appoint. The Department advises the Council should consider the above in selecting nominees as local DAP members.
17. The Minister will utilise a working group to assist in selecting the specialist DAP members. Once the specialist members have been appointed by the Minister, each local government will be advised.
18. Only the presiding member can comment on the actions or determination of a DAP.
19. *Part 5 Administration*
This part sets out the administrative process for DAPs including support of DAPs, enforcement provisions, powers of the Minister and reporting requirements for the Department of Planning.

20. *Part 6 Miscellaneous*

This part contains the transitional arrangements and Department for Planning review of fees and regulations (required after two years of operation).

21. The timing of meetings has not yet been established but indications are that frequency would be determined by the number of applications being referred. City of Albany representatives would only need to attend meetings when an application is being considered from the City. In the advertising for specialist members it was identified that they may be required to travel on short notice and it is likely that this would also apply to local government members. At this stage the agenda for a DAP meeting is to be made public at least five days before the meeting.
22. Applications to a DAP will incur an additional fee above the fee currently charged by the City for a development application. This fee will be used to cover the costs of administering the DAP process and will be forwarded to the WA Planning Commission accordingly. If the City elects to refer an application to a DAP, then the City will be responsible to pay that fee.
23. All DAP meetings will be open to the Public.
24. The City would be responsible to “host” the DAP meetings relevant to the City of Albany and provide administrative assistance. The City can invoice the DAP Secretariat for costs incurred in hosting a DAP meeting including for the minute taker, light refreshments and security (where necessary).
25. Members of the DAP will receive sitting and training fees in accordance with the fees prescribed in the Regulations. The current amount prescribed for members (not the Presiding member) is \$400 per meeting. A Fee of \$400 will also be paid for attending and completing training.
26. A member of the DAP is also entitled to be reimbursed for motor vehicle and travel expenses at the rate decided by the Public Sector Commissioner for members of Government boards and committees.
27. A member of DAP cannot be paid (unless the Minister has given written consent to the payment) if that member is also;
- a. an employee as defined in the Public Sector Management Act 1994; or
 - b. an employee of a department or other agency of the Commonwealth; or
 - c. a local government employee; or
 - d. a judicial officer or retired judicial officer; or
 - e. an employee of a public academic institution.

GOVERNMENT CONSULTATION

28. No consultation with government is required to be undertaken in relation to this item.

PUBLIC CONSULTATION / ENGAGEMENT

29. No consultation with the public is required to be undertaken in relation to this item.

STATUTORY IMPLICATIONS

30. The statutory implications associated with this item are:

- *Planning and Development Act 2005 and associated Regulations*
- *Planning and Development (Development Assessment Panels) Regulations 2011*
- *Local Planning Scheme No's 1A,2, 3, 3.2B & 7*
- *Local Government Act 1995 and associated Regulations*

STRATEGIC IMPLICATIONS

31. There are no known strategic implications arising from the recommendations of this report.

POLICY IMPLICATIONS

32. There are no known policy implications arising from the recommendations of this report.

FINANCIAL IMPLICATIONS

33. The DAP application fee is in addition to the fee currently charged by the City for a development application as set out in the annual Budget 'Schedule of Fees and Charges' and will not affect the income for planning applications.

34. Costs incurred in hosting a DAP meeting may be claimed back by invoicing the DAP Secretariat which should minimise the procedural cost.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

35. Council has the following options in relation to this information:

Option A

To note the information and nominate member and alternates for appointment as City representatives on the Joint Great Southern DAP.

Option B

To note the information and decline to nominate member and alternates for appointment as City representatives on the Joint Great Southern DAP.

36. It is recommended that Option A be pursued to ensure that the City is represented at any DAP meeting. The alternative at Option B, to decline to nominate members, may see the Minister appoint replacements from eligible voters in the City, rather than Councillors which would effectively totally remove the City from the decision-making process.

SUMMARY CONCLUSION

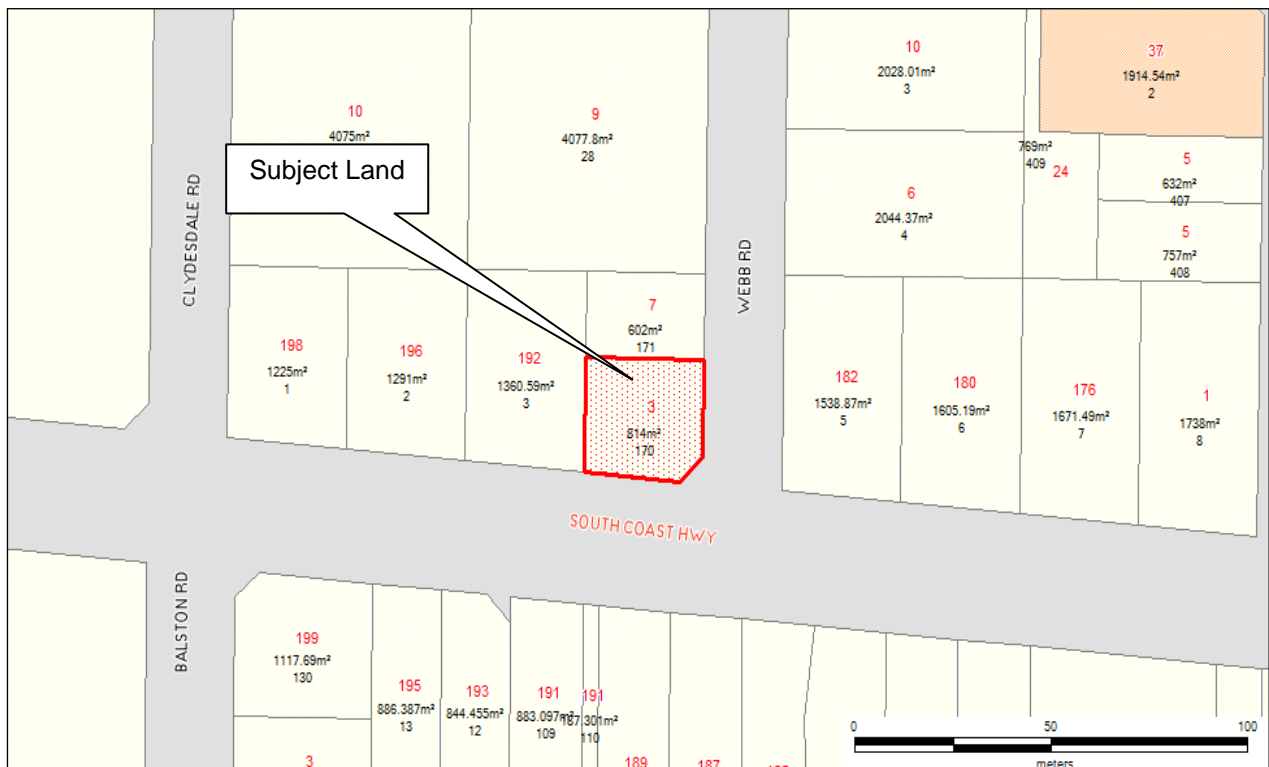
37. The formation of a Great Southern Joint DAP is imminent and the City should proceed to nominate 2 Councillors as members and 2 Councillors as alternate members for appointment onto the Great Southern DAP.

Consulted References	Planning and Development (Development Assessment Panels) Regulations 2011
File Number (Name of Ward)	GOV 093 (All Wards)
Previous Reference	OCM 20/10/2009 – Item 13.1.2

2.2: DEVELOPMENT APPLICATION – AMENDED PLANNING CONSENT – 190 SOUTH COAST HIGHWAY, MCKAIL

- Land Description** : 3 Webb Street, McKail (formerly 190 South Coast Highway)
- Proponent** : The Trustees of Albany Gospel Trust
- Owner(s)** : Robert Dowell, Andrew Hill, Russell Dartnall, Nicholas Dartnall & Stephen Slack
- Business Entity Name** : N/A
- Attachments** : Letter of request for reconsideration
- Appendices** : Letter from Albany Gospel Trust to neighbours
: Letters of objection
- Responsible Officer(s)** : E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



CEO:	RESPONSIBLE OFFICER:
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IN BRIEF

- A request has been received for reconsideration of Condition C2 of planning scheme consent number P295035. The condition restricts the hours of operation to between 8:00am and 10:00pm on any day.
- The request seeks permission for this condition to be amended to allow a 6am start on Sundays only.
- The requested change has been advertised to surrounding landowners with objections received.

ITEM 2.2: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council REFUSES to amend Condition C2 of Planning Scheme Consent P295035 associated with the Change of Use – Public Worship at 190 South Coast Highway, McKail (now 3 Webb Street, McKail), as:

- A. the property is located within a residential area, in close proximity to residential properties, to permit public gatherings at the property from 6am on Sundays would give rise to activity that could potentially have a detrimental impact on the residential amenity of the locality.**

BACKGROUND

1. The subject lot is located on the north side of South Coast Highway to the west of the intersection with Webb Street. The land is zoned 'Residential' under Town Planning Scheme No. 3.
2. Council's Local Planning Policy 3C (Consulting Rooms, Public Worship and Childcare Centres) gives additional direction in relation to Places of Public Worship, encouraging locations on corner lots on local distributor roads.
3. Places of Public Worship are an 'A' use in the Residential zone of Scheme No. 3 and require express planning scheme consent from Council. Although such applications are not required to be advertised, the surrounding landowners were consulted on the proposal given the nature of the proposed use.
4. The concerns and objections raised in response to the consultation resulted in certain conditions being applied to the approval that were considered by officers to alleviate these concerns and thus make the proposed use acceptable.
5. One such condition was condition C2 restricting the hours of operation of the premises. The proponent did not appeal the condition at the time and have now requested Council's support to reconsider this condition, allowing the proponent to operate from 6am on Sundays.
6. Clause 5.3.6 of Town Planning Scheme No. 3 allows for an owner to write to Council to request reconsideration of a granted application or a condition attached to a granted application. It is on this basis that the current request is referred to Council.

7. Since the application was submitted and approved, a preceding subdivision approval has been cleared with new lots created. A Main Roads requirement of this subdivision was for ingress/egress to/from South Coast Highway to be prohibited with access to the lots to be provided from Webb Street. This has resulted in the site address changing from 190 South Coast Highway to 3 Webb Street.

DISCUSSION

8. When the original application was received from the Albany Gospel Trust there was limited detail provided in relation to the proposed operating hours or the proposed pattern of usage. In referring the application to neighbouring properties the major concerns received related to noise during early morning hours. In order to address these concerns it was considered reasonable by officers to restrict the hours of use to prevent congregating at the property at unsociable hours given the residential setting.
9. A letter from the Trustees of the Albany Gospel Trust has been received requesting reconsideration and variation of condition C2 relating to the restricted hours of operation. The justification behind the request is to allow a meeting at 6:00am on Sunday mornings for a gathering to celebrate the 'Lords Supper' (Holy Communion).
10. Given the concerns raised previously in response to the consultation on the application for the use, this request for a relaxation of the condition has been referred to the surrounding landowners. This consultation was sent to fifteen (15) surrounding landowners on 28 February 2011. A total of five (5) responses were received and a summary of these is provided under the Public Consultation / Engagement heading.
11. As the property is within the residential zone, the amenity of the neighbouring residential properties in the locality needs to be considered. From the consultation responses received in relation to this matter, it is clear that the local residents feel the relaxation as requested would have a detrimental impact on their amenity. They have requested the current conditioned hours be retained as a reasonable and acceptable control over the use of the building.
12. Although most churches and places of public worship do not have their hours of operation restricted by planning conditions, most of these pre-date modern development controls and are set further away from residential properties. Where properties have been built close to such places of worship, the pre-existing place of worship has been an accepted and established feature of the locality. Where a new place of worship is proposed in a residential area it is appropriate for Council to consider the potential impacts of this new use on the occupiers of residential properties in the vicinity.
13. As the application relates to a general place of public worship, it could potentially be used by multiple groups with varying impacts (noise) on the surrounding area depending on their method of worship (quiet reading of scripture or loud singing etc). Therefore, to protect the existing residential amenity of the area, it is appropriate for Council to impose controls on the hours of use of the building. The existing condition is considered to adequately fulfil this purpose and is recommended to be re-affirmed without alteration.

PUBLIC CONSULTATION / ENGAGEMENT

14. The request for reconsideration of the condition was referred to fifteen (15) surrounding landowners on 28 February 2011 and they were given until 15 March 2011 to lodge any comments.
15. A total of five (5) responses were received containing many points of objection. A summary of these follows:
- The proposed opening time of 6am is far too early on a Sunday because of the noise generated that disturbs the neighbourhood as local dogs start barking.
 - This is not really a request for a 6am start but would be earlier as church goers arrive prior to the service in order for the service to commence at 6am.
 - The use increases traffic flow in the area and currently Sunday mornings is the only reprieve for residents.
 - The current opening times of 8am to 10pm are considered very generous by residents and the church has no reason to start earlier other than serving its own needs at the expense of others.
 - The Gospel Trust refers to the 6am Lords Supper service being sacred to them, but my Sunday morning sleep in is sacred to me.
 - The church members keep to themselves and do not promote a feeling of integration with the rest of the neighbourhood.
16. The proposal was referred to Main Roads as an adjoining landowner (South Coast Highway). The response received from Main Roads did not relate to the requested reconsideration but was instead about drainage and access arrangements to the site. These issues have already been addressed.

STATUTORY IMPLICATIONS

17. A Place of Public Worship is an 'A' use (discretionary use) in the 'Residential' zone of Town Planning Scheme No.3.
18. Clause 5.4 of Town Planning Scheme No.3 details the matters to be considered by Council when determining an application for planning consent. These matters are equally applicable to the reconsideration of a condition imposed on an approval. The matters listed that are directly applicable in this instance are:
- (i) *the compatibility of a use or development with its setting;*
 - (n) *the preservation of the amenity of the locality;*
 - (y) *any relevant submission received on the application; and*
 - (za) *potential impacts of noise, dust light, risk and other pollutants on the surrounding land uses.*
19. The proposal was assessed against these matters and the conditions imposed were considered sufficient control to minimise detrimental impacts and allow the proposal to be approved.

20. The request to review condition C2 has been considered against the above matters and taking account of the issues raised by surrounding landowners. The condition is considered appropriate and necessary to support the change of use to Public Worship.

FINANCIAL IMPLICATIONS

21. A refusal of the request allows the proponent to lodge an appeal with the State Administrative Tribunal. This would have associated cost implications for the Council.

STRATEGIC IMPLICATIONS

22. The proposal and the request for reconsideration of the condition are not directly reportable against any of the objectives of ALPS or Albany Insight.

POLICY IMPLICATIONS

23. There are no policy implications as the development proposal was assessed as complying with the Development Guidelines Scheme No.3 – Guideline 1.3 (now known as Policy 3C in Council's recently adopted Local Planning Policy Manual).

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

24. Council has the option to grant the request and amend the condition to allow for use of the building from 6am on Sunday mornings as requested. Council may also impose additional conditions including noise attenuation measures being applied to the building (although the arrival of vehicles could still present an issue) and/or making the consent personal to the Albany Gospel Trust, if it is considered that their use provides exceptional circumstances to justify the relaxation.
25. However, such additional conditions may give rise to increased compliance complaints from surrounding residents, for instance, should the operators arrive prior to 6am to set up before a meeting. These compliance investigations outside of normal 'Office Hours' would have associated staff and cost implications for the Council.
26. In addition, the surrounding landowners may lodge a third party appeal with the State Administrative Tribunal. This would have associated cost implications for the Council.

SUMMARY CONCLUSION

27. The request for reconsideration of planning condition C2 (restricted hours of operation) of approval P295035 (change of use to Public Worship), seeking permission to use the building from 6am on Sunday mornings was referred to surrounding landowners for comment. Five objections were received.
28. In assessing the reconsideration request, officers have reviewed the reason behind imposing the condition in the first instance. Although more information has been submitted with regard to the request by the Albany Gospel Trust; such information is unlikely to alleviate the

concerns for the detrimental impact on the residential amenity of the area that the requested hours could potentially give rise to.

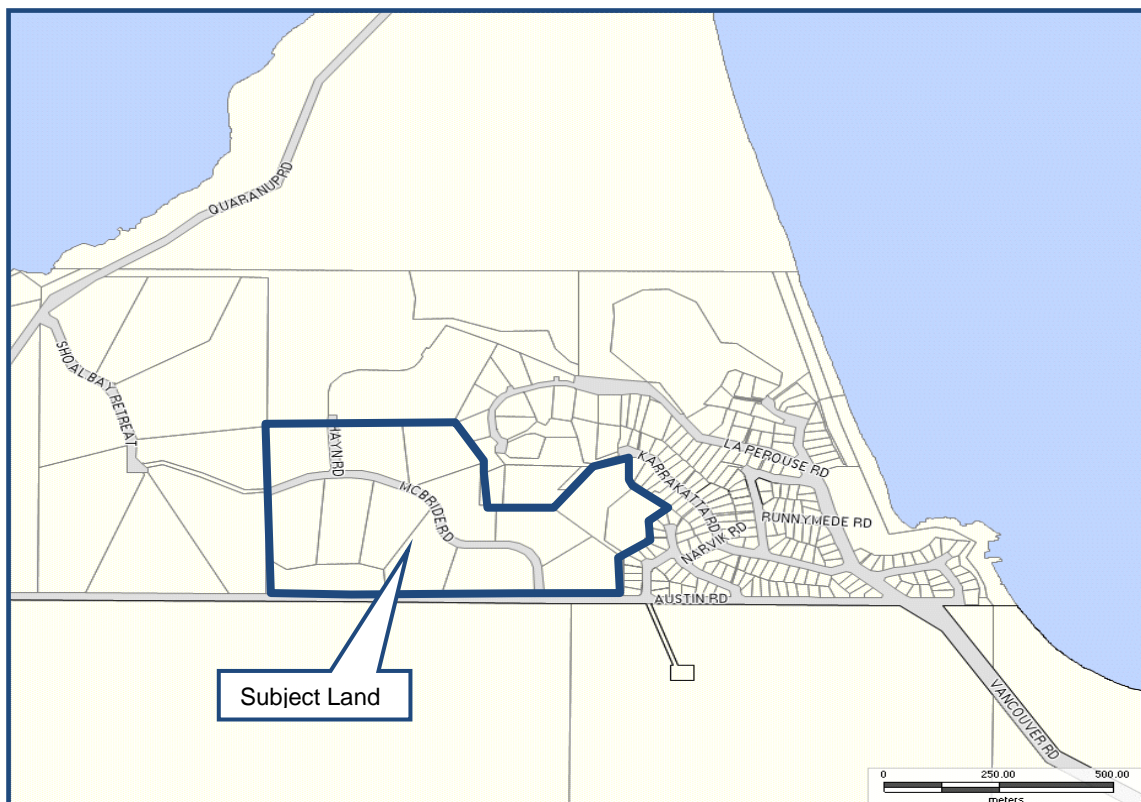
29. It is recommended that the requested reconsideration of the planning condition to allow use of the building from 6am on Sundays be refused and the existing condition be re-affirmed.

Consulted References	Town Planning Scheme No. 3 Development Guidelines Scheme No. 3
File Number (Name of Ward)	: A210469 (West Ward)

**2.3 INITIATION OF SCHEME AMENDMENT – LOTS 6, 7, 8, 9, 10 AND 11
MCBRIDE ROAD, GOODE BEACH**

- Land Description** : Lots 6, 7, 8, 9, 10 & 11 McBride Road, Goode Beach
Proponent : Ayton Baesjou Planning
Owner : Mr John Bates & Ms SA Swift ,J Bell ,Shelley Mettam, WF & FD Beard, B & L Campbell, AW & GM Hogstrom
Business Entity Name : N/A
Directors of Owner Company : N/A
Attachment(s) : Subdivision Guide Plan from amendment
Appendices : Amendment Document (AMD 293) without attachments 2, 3 and 4
Councillor Workstation : Amendment Document (AMD 293) including:
Attachment 1 - Special Provisions.
Attachment 2 - Land Capability, Geotechnical Assessment and Flora and Fauna Assessment.
Attachment 3 - Fire Management Plan.
Attachment 4 - Visual Impact Assessment.
Responsible Officer : E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



CEO:

RESPONSIBLE OFFICER:

IN BRIEF

- Council is requested to consider a Scheme Amendment to Town Planning Scheme No. 3, proposing modifications to the scheme provisions and the subdivision guide plan for “Special Rural Area” No 5.
- The proposal is consistent with the Albany Local Planning Strategy and it is recommended that the amendment be initiated by Council.

ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT 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. 293 to Town Planning Scheme No. 3 for the purpose of:

- i) Modifying the Plan of Subdivision and associated special provisions for “Special Rural” Zone No. 5 - McBride Road, Goode Beach.*

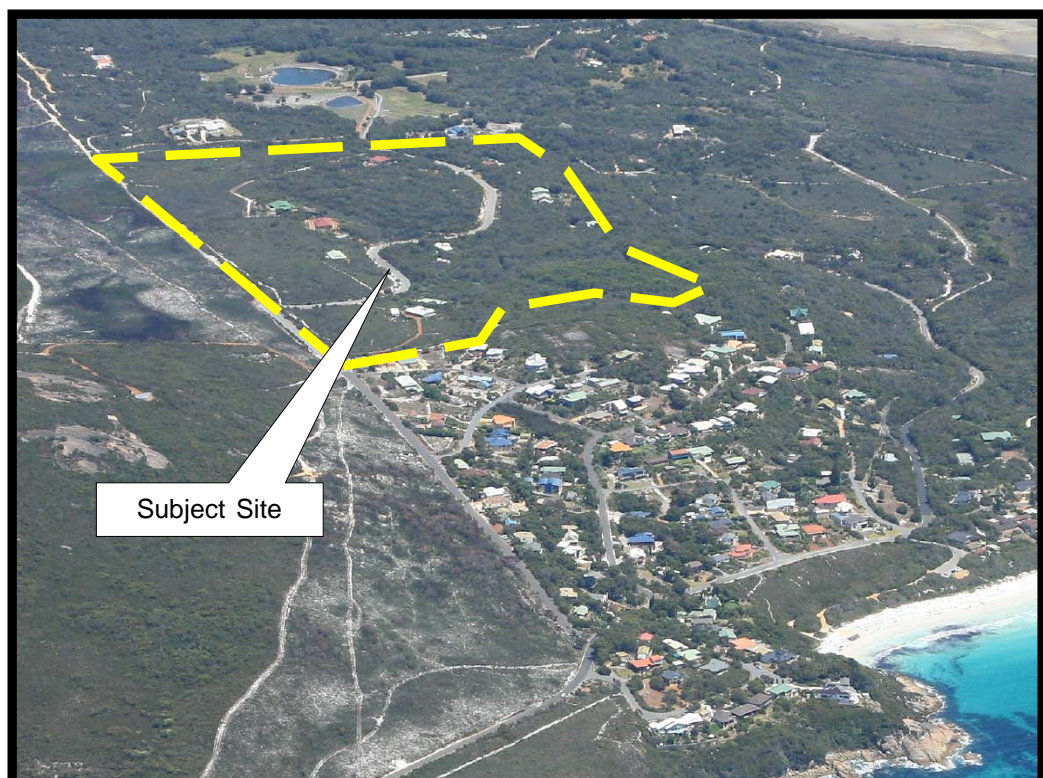
BACKGROUND

1. The City has received an application from Ayton Baesjou Planning (planning consultants) seeking to amend Town Planning Scheme No. 3 by amending the scheme provisions and the subdivision guide plan for “Special Rural Area Zone” No 5.
2. The land is currently zoned “Special Rural” (Special Rural Zone No. 5) in Town Planning Scheme 3.
3. The current subdivision guide plan contains 12 lots of approximately 2 hectares each.
4. By amending the scheme provisions and the subdivision guide plan for “Special Rural Zone” No. 5, the subject area could be developed at a higher density with lot sizes not smaller than 1 hectare.
5. The amendment will potentially result in the creation of 6 additional lots through the subdivision of Lots 6, 7, 8, 9, 10 and 11 McBride Road, Goode Beach.
6. A Scheme Amendment Request (SAR) was considered and supported at Council’s Ordinary Council Meeting of 18 March 2008.

DISCUSSION

7. The subject site area is identified within the Albany Local Planning Strategy (ALPS) as ‘Rural Residential’ (which reflects the current zoning of the land).
8. At its Ordinary Meeting of 18 March 2008 Council resolved to support the submission of a formal scheme amendment application for Lots 6, 7, 8, 9, 10 & 11 McBride Road, on condition that the following matters be addressed:
 - i) The development of a visual impact assessment report for the area and additional recommended landscape protection measures;

- ii) a vegetation study and protection plan;
 - iii) a land capability study;
 - iv) a fire management Plan; and
 - v) The Subdivision Guide Plan to be amended with lot sizes not being smaller than 1 hectare, were supported by the land capability study.
9. The amendment document discusses and includes:
- i) a visual impact assessment report;
 - ii) an initial fauna and flora assessment;
 - iii) a land capability & geotechnical assessment with recommendations prepared by Landform Research consultants in October 2009 (included as an appendix to the document);
 - iv) a fire management plan; and
 - v) a proposed subdivision guide plan with all proposed lot sizes being larger than 1 hectare.
10. The proposed rezoning is considered an opportunity to allow for limited 'infill development' into existing special rural zoned and developed land.
11. The proposal is within an area identified for rural residential purposes and is consistent with the strategic direction of the City as documented in the ALPS. The ALPS recommends increased densification and infill of developed areas.
12. Whilst the amendment is consistent with the strategic intent of the City, the proposal will involve the removal and or disturbance of remnant vegetation to cater for new dwellings, fence lines, driveways and building protection zones.
13. The fire management plan (Attachment 3 of the amendment document) highlights the extent of vegetation that will be affected by the proposal, which is also identified on the attached subdivision guide plan.



14. The amount of clearing involved will be reduced by increasing lot sizes above 1 hectare, placing building envelopes close to roads and through the sharing of building protection zones.
15. The loss of vegetation is unlikely to affect visual amenity as per the consultant's visual assessment, but the proposal will nevertheless still have an impact on vegetation.
16. The Bush Fire Attack Level (BAL) is identified as BAL 19 in accordance with the Planning for Bushfire Protection Guidelines (2010) and is addressed in more detail in the fire management plan.
17. The special provisions and the guide plan includes a requirement for all new dwellings to be constructed to the appropriate Australian Standard for dwellings in bushfire prone areas (AS3959 – 2009) as recommended in the fire management plan.

PUBLIC CONSULTATION / ENGAGEMENT

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

GOVERNMENT CONSULTATION

19. Should Council initiate the amendment, it will be referred to all relevant government agencies for comment.

STATUTORY IMPLICATIONS

20. All scheme amendments undergo a statutory process in accordance with the Planning and Development Act 2005 and Town Planning Regulations 1967.
21. Council's resolution under Regulation 25(i)(c) of the Town Planning Regulations 1967 is required to amend the Scheme.
22. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
23. 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.
24. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

STRATEGIC IMPLICATIONS

25. The Western Australian Planning Commission has prepared the Lower Great Southern Strategy to guide land use planning decisions within the region. The scheme amendment is consistent with the actions identified in the Lower Great Southern Strategy as detailed below:

“Rural residential development should be consolidated in local planning strategies and located close to existing settlements rather than being randomly dispersed throughout rural areas.”

The proposed rezoning will facilitate the densification of land adjacent to an existing *settlement* it is therefore considered to be in line with the LGSS recommendations. As the proposal results in the creation of 6 additional lots the extent of infill however is limited.

26. The subject area is located within an area shown for rural residential uses within the Albany Local Planning Strategy (ALPS) adopted by Council.
27. The proposal is in accordance with the strategic direction of the City as documented in the ALPS which promotes the densification and infill of developed areas, as detailed below:

“ALPS recommends not supporting further subdivision of “greenfield” (undeveloped) rural land for rural residential development and that any subdivision of that type should be restricted to existing rural residential areas (infill development) and around townsites with suitable services.”

8.3.5 Rural Living

The ALPS supports the infill development and subdivision of existing zoning and Council-initiated rezoning of Special Residential and Special Rural land in the City’s current Town Planning Schemes.”

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

29. Council is required to have regard to any WA Planning Commission (WAPC) Statements of Planning Policy (SPP’s) that apply to the scheme amendment. Any amendment to the planning scheme will be assessed by the WAPC to ensure consistency with the following State and regional policies.
30. This item is not subject to the changes made to the Planning Processes Guidelines at the Ordinary Council Meeting held on 19 April 2011, in particular the Public Consultation process with regard to R Codes.
31. The formal prescribed process will be followed for this application.

SPP 1 – State Planning Framework

32. 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.
33. The proposal is consistent with the Lower Great Southern Strategy and the Albany Local Planning Strategy and is therefore in line with SPP1.

SPP 2 – Environment and Natural Resources Policy

34. SPP2 refines the principles of the State Planning Strategy and incorporates the recommendations of the Western Australian State Sustainability Strategy (2002) to ensure that planning decisions meet the needs of current and future generations through

simultaneous environmental, social and economic improvements through the integration of land use planning and natural resource management.

35. The objectives of SPP 2 are:

- To integrate environment and natural resource management within broader land use planning and decision-making;
- To protect, conserve and enhance the natural environment; and
- To promote and assist in the wise and sustainable use and management of natural resources.

36. The proposal includes environmental information and a draft subdivision guide plan, however the extent to which the proposal conserves the natural environment is debatable. The amendment will be forwarded to the Environmental Protection Agency and the Department of Environment and Conservation for comment and advice, should the amendment be initiated.

SPP 3 – Urban Growth and Settlement

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

38. The key policy measures in SPP 3 that apply to this proposal are:

- Managing rural residential growth such that it is located and designed in a sustainable manner which integrates with an overall pattern of settlement and reduces any potential negative impacts such as conflict with traditional rural uses, ensures services can be provided economically and does not occupy areas suitable for urban developments.

39. The amendment proposal is consistent with the key policy measures identified in SPP 3. The subject area is located within an area shown for Rural Residential purposes within the draft Albany Local Planning Strategy (ALPS) adopted by Council the proposal is therefore consistent with the objectives or outcomes of the strategy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

- To resolve to initiate the scheme amendment (with or without modifications);
- To resolve to not initiate the scheme amendment.

41. A Town Planning Scheme initiated by resolution of Council is to be referred to the Environmental Protection Authority (EPA) for assessment of its environmental impacts.

42. 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.

SUMMARY CONCLUSION

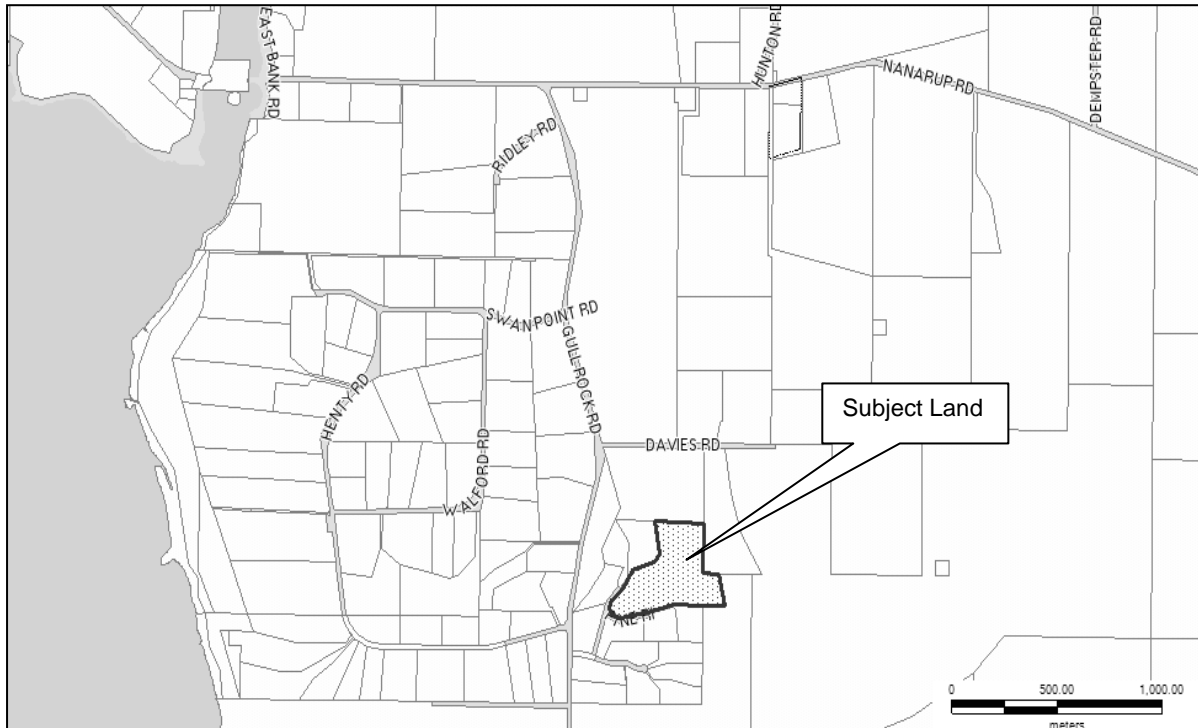
43. It is recommended that the proposed scheme amendment be initiated by Council on the basis that the rezoning will facilitate the densification/infill development of an existing “Special Rural” zone and therefore result in the more efficient use of land already developed.
44. This densification is also considered consistent with the actions and objectives associated with the ALPS and the LGSS.

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1; SPP2 and SPP 3 Lower Great Southern Strategy Albany Local Planning Strategy
File Number (Name of Ward)	AMD 293 (Vancouver Ward)
Previous Reference	OCM 18/03/08 Item 11.3.2 SAR 129

2.4: FINAL APPROVAL OF AMENDMENT – LOT 600 PINE RISE, KALGAN

- Land Description** : Lot 600 Pine Rise, Kalgan
Proponent : Harley Global
Owner/s : P & S Liddiard
Business Entity Name : N/A
Attachment(s) : Copy of OCM 14/12/10 – Item 1.2
: Schedule of Submissions
: Modified Subdivision Guide Plan
Councillor Workstation : Amendment Document (AMD275)
: Copy of Submissions
Responsible Officer(s) : Executive Director – Planning & Development Services
(G Bride)

Maps and Diagrams:



CEO:	RESPONSIBLE OFFICER:
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IN BRIEF

- The amendment was advertised and Council is now required to review the submissions received and determine whether to grant final approval to the proposed Scheme Amendment to rezone Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone.
- It is recommended that the amendment be adopted for final approval subject to modification.

ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- 1) Notes its previous resolution (OCM 14/12/10 – Attachment A)**
- 2) In pursuance of Section 75 of the *Planning and Development Act 2005* and Regulation 17(2) of the *Town Planning Regulations 1967* ADOPTS WITH MODIFICATIONS Amendment No. 275 to Town Planning Scheme No. 3 by:
 - i) Rezoning Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone, and amending the Scheme Maps accordingly;**
 - ii) Remove 'Special Use Zone No.14' from Schedule III of the Scheme Text; and**
 - iii) Modifying Schedule I – Special Rural Zones – to include reference to Lot 600 Pine Rise, Kalgan in 'Special Rural' Area No. 6.****
- 3) NOTES the staff recommendations within the attached Schedule of Submissions and ENDORSES those recommendations.**

BACKGROUND

1. Amendment 275 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to 'Special Rural' zone. The lot would be incorporated into Special Rural Area No. 6, which would allow the provisions set out in Schedule I relating to this zone to appropriately control subdivision, development and use of the lot.
2. The document includes a proposed subdivision guide plan that proposes the lot to be divided into three lots, with all lots meeting the minimum lot size requirement of 2 hectares as per the provisions of Special Rural Area No.6.
3. The lot is just over 12.7 hectares in area, and is located approximately 12 km north-east of the Albany City Centre. The lot is currently accessed via Nanarup and Gull Rock Roads.
4. The lot is mostly surrounded by Special Rural lots that are also located within Special Rural Area No.6. The lot is bordered by two agricultural rural lots, with the northern rural lot currently being used for a turf farm. An 'A' Class Reserve (Reserve 28690), for the purpose of "Conservation of Flora" is located to the east of the site.

5. The proposed Scheme Amendment was initiated at the Ordinary Meeting of Council on 14 December 2010.

DISCUSSION

6. The lot includes a valley with an associated watercourse, which feeds a total of three dams. The land slopes upward to the north-east, gradually getting steeper as it reaches the corner of the northern and eastern boundaries.
7. The majority of the site is currently zoned 'Special Use' Area No.14, which allows for the following additional tourist uses;
 - Freshwater fish production and sale.
 - Holiday Chalets – short stay accommodation.
 - Restaurant.
 - Cultural use.
 - Private Recreation.
 - Shop and Office incidental to the primary uses.
 - Dwellings for manager and staff; and
 - Ancillary tourist facilities.
8. A dwelling stands along the south-eastern corner of the lot, with a chalet located on proposed Lot B and several other outbuildings also located on the property. The limited tourist related uses on the site have ceased; the proponent has stated that these uses are not viable or sustainable due to the lack of exposure to a main tourist route and the surrounding development and land uses.
9. The site currently has a dual zoning as there is a 1 hectare pocket of land located in the south-eastern corner of the site which is zoned rural, and the Scheme Amendment proposes to rectify this anomaly.
10. The subject site is currently connected to power and telecommunications services. Reticulated water and sewer are not available and an effluent disposal system will have to be provided on site, which is similar to surrounding properties.
11. In terms of vehicular access, proposed Lot A will be accessed via a battleaxe driveway from Valley Pond Heights. Access to Lot B will be via the existing crossover that services the Valley Ponds homestead and access to Lot C will be via a new crossover at the end of the cul-de-sac of Pine Rise.
12. There are two main strips of vegetation on the site, one is the native vegetation belt which runs from south-west to north-east on the top half of the site, with the other being the introduced pine tree belt that follows the southern boundary line. There is also native vegetation loosely scattered across the site. Given the vegetation that currently exists on site and to ensure adequate fire safety measures are in place, it would be a requirement that any new habitable buildings constructed on proposed Lot

A are built to the requirements of AS 3959-2009 'Construction of Buildings in Bushfire Prone Areas'. At the time of initiation this was noted and a recommendation made that the amending document be modified with the inclusion of a new Scheme Provision (provision 10.8 within Special Rural Area No. 6) to address this issue.

13. Directly to the north of the site is a 'Rural' zoned property, which is currently used as a turf farm. Although the ALPS designates the site for rural residential purposes in the future, there may be a land use conflict between proposed Lot A and the turf farm in terms of noise, odours, dust etc, from the farming practises (pesticides and machinery) in the interim period. At the time of initiation, a recommendation was made to modify the amending document by incorporating a new Scheme Provision for Special Rural Area No. 6, requiring the placement of a Section 70A Notification on the title of the subject land at the time of subdivision, to make potential purchasers of Lot A aware that they may be affected by the agricultural activity on Lot 21 Davies Road, Kalgan.
14. The proposal was referred to various government agencies and utility providers in accordance with established practice. Responses were received from:
 - Environmental Protection Agency;
 - Water Corporation;
 - Fire and Emergency Services Authority of Western Australia;
 - Department of Regional Development and Lands;
 - Western Power;
 - Department of Health;
 - Department of Environment and Conservation; and
 - Department of Water.
15. At the closing of the public consultation period, some concerns had been raised over land capability, bush fire protection measures, the spread of invasive weeds and the possible effects that the adjacent turf farm may have on the site. These submissions are dealt with in more detail in the attached Schedule of Submissions.
16. Councillors should note that the proposed modifications set out in the attached Schedule of Submissions have already been discussed with the proponent, who is agreeable to the changes and has prepared a draft modified subdivision guide plan, which is also attached for information.
17. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the ALPS. It is recommended that the Amendment be adopted for final approval, subject to modifications.

PUBLIC CONSULTATION/ENGAGEMENT

18. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 10 February 2011 to 24 March 2011 by placement of

sign on-site, direct referral to affected and adjoining/nearby landowners, relevant State Government agencies and advertisement in the local newspaper.

19. A total of two public submissions were received as attached. The submissions received are summarised and discussed with a recommendation for each submission in the attached Schedule of Submissions.

GOVERNMENT CONSULTATION

20. The Scheme Amendment was referred to the following government agencies: Environmental Protection Agency; Water Corporation; Fire and Emergency Services Authority of Western Australia; Department of Regional Development and Lands; Western Power; Department of Health; Department of Agriculture and Food Western Australia; Department of Environment and Conservation; and Department of Water. As previously advised a response was received from all government agencies that were sent a copy of the amendment with the exception of the Department of Agriculture and Food Western Australia.

STATUTORY IMPLICATIONS

21. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*. Council's decision on the final approval of the amendment requires endorsement by the WA Planning Commission and approval of the Minister for Planning.

FINANCIAL

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

STRATEGIC IMPLICATIONS

23. 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.
24. 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”.

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.*

25. 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.”

The 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 5, 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 also not connected to reticulated water”.

26. Overall, the proposal is considered to be consistent with the ALPS on the basis that:

- The proposal will not create additional rural town sites;
- The subject land is not productive agricultural land, does not have known regionally significant natural resources, and although the property is adjacent to a vegetated reserve the proponent has undertaken an analysis of the fire risk relevant to the proposal (which is acceptable as long as the future building is constructed to AS3959);

- The proposal seeks to add one additional dwelling over the subject land which will be on the higher portion of the lot where sufficient clearance from the water table has been observed;
- The proposal is designated in the ALPS as Rural Residential.

POLICY IMPLICATIONS

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

28. 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.

29. 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.*

30. The Amendment proposal is consistent with the key policy measures identified in SPP 3.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

- *To seek final approval to the scheme amendment without modification;*
- *To seek final approval to the scheme amendment with modifications; or*
- *To not seek final approval to the scheme amendment.*

32. Council's decision on the scheme amendment is in effect a recommendation to the WA Planning Commission and Minister for Planning. The Minister for Planning is empowered under the *Planning and Development Act 2005* to make the final decision on the scheme amendment.

SUMMARY CONCLUSION

33. The proposed re-zoning will allow subdivision of the subject land to create three 'Special Rural' lots being a minimum of 2.2ha in size, which is consistent with the strategic planning direction set by the ALPS. Staff would therefore recommend that the proposed Scheme Amendment be adopted for final approval, subject to modifications.

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
File Number (Name of Ward)	AMD275 (Kalgan Ward)
Previous References	OCM 14/12/10 – Item 1.2

3.1: ALBANY LEISURE AND AQUATIC CENTRE

Proponent	:	City of Albany
Owner	:	City of Albany
Business Entity Name	:	Albany Leisure and Aquatic Centre
Attachments	:	<ul style="list-style-type: none"> • Floorplan of ALAC • Minutes of OCM 16/01/07 Item 16.1 • Public Holiday Opening Hours Benchmark 2010/11 • 2009 CERM PI National Benchmarking Survey • Copy of Previous Council Resolution
Responsible Officer	:	Chief Executive Officer (F James)

IN BRIEF

- ALAC is a social enterprise operated by the City of Albany. It consists of four distinct leisure and recreation activity areas: Pool and Wet Area Recreation, Sports Playing Courts; a Gym and Fitness enterprise and a Cafe.
- In addition it operates a children's crèche as an ancillary convenience service for uses of the above leisure and recreation areas.
- ALAC has operated over budget for some time now. Council wishes to be informed and make decisions on its future operation.

ITEM 3.1: RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council AGREES to continue to support the provision of holistic community and regional sport and recreation services.

THAT Council NOTE:

1. The total contribution by Council for operating ALAC in:
 - 2009/10 was \$1.2 million
 - 2010/11 will be approximately \$1.2 million.
2. The Council subsidy for ALAC:
 - 2009/2010 financial year was \$2.82 subsidy per head
 - 2010/2011 (till end of April) is \$2.26 subsidy per head.
3. The Timeout Cafe:
 - 3.1 in 2009/10 experienced a deficit of \$57,232
 - 3.2 is currently budgeted at a \$30,000 deficit for the 2010/2011 year
 - 3.3 the budget build for the 2011/2012 financial year indicates the cafe will have a possible \$37,000 deficit based on current operations.
4. The ALAC Fitness Area is currently operating with restrictions previously endorsed by Council at its Meeting on 16 January 2007 (item 16.1), despite no formal agreement being signed with other private providers in the market.
5. The last Business Plan for ALAC was developed in preparation for operations following the redevelopment of the aquatics and ancillary areas in 2008. That Plan is now outdated.
6. Facility asset maintenance and replacement has previously occurred on an annual needs basis aligning with the financial year budget. The budget has not allowed for proactive equipment servicing or asset replacement.

CONTINUED.

CEO:

- 7. At its February 2011 meeting, Council's Audit Committee recommended an investigation of potential energy efficient systems that could minimise ALAC's financial and environment costs. This study is underway.**

THAT Council DIRECTS the Chief Executive Officer to:

- A. To take all necessary and immediate steps to increase the efficiency of the ALAC enterprise. In the short term, these steps will include:**
- Increased membership fees
 - Reduced operating hours
 - Closure on some public holidays.
- B. Further analyse the operations of ALAC, developing a three year business plan to balance provision of a quality community service, with a cost to the City of Albany for 2011/12 financial year not exceeding \$1.1 million.**
- C. The ALAC Business Plan to include:**
- Maintenance and replacement program for capital infrastructure
 - Results of investigation into "best practice" infrastructure, technology and energy efficient systems to reduce the financial and environment impact (presently underway)
 - Results of customer satisfaction survey (time has not permitted this analysis as yet)
 - Review of operational hours, fitness programs offered, staffing structure, patronage demographics and hours, entry and membership fees, facility benchmark data and a marketing campaign.
- D. Operate ALAC fitness centre to its full potential without competitive restrictions but competing fairly in the market.**
- E. Invite expressions of interest for commercial operation of the Timeout Cafe (acknowledging acceptance of the cafe's role in an emergency situation as ALAC is a designated evacuation centre).**

BACKGROUND

1. ALAC is owned and managed by the City of Albany and incorporates an aquatics area, indoor stadium, fitness area/gym, cafe, and crèche. ALAC services the community of Albany and the broader region of Western Australia's Great Southern. Situated on Barker Road in Albany, ALAC is part of the Centennial Park Recreation Precinct infrastructure.
2. The first facility at the ALAC site was established in 1978 comprising of outdoor netball courts and an ablution block. By the end of 1985 an indoor sports hall and an indoor swimming pool had been established. In 2008 a \$14 million redevelopment of the Centre was completed. The upgraded Centre includes a new (additional) leisure pool, and spa and steam room as well as a new child minding facility, cafe, gymnasium, group fitness room and reception. The latest addition to ALAC occurred in January 2011 with the inclusion of three additional multi-purpose courts and further car parking facilities.
3. There are numerous towns within Western Australia and Australia that provide comparable community sport and recreation facilities similar to ALAC. More detailed comparative data will be required to develop the Business Plan.
4. As a result of Council concerns regarding the efficiency of the ALAC operations, the CEO and her staff provide the following specific details regarding ALAC's operations.

5. A search of the City's records showed the last ALAC (draft) business plan (for a period of five years) was developed in 2008. A review of that document shows it is very outdated, does not reflect current operations and generally lacks the rigour one would expect in a business plan of an operation the complexity of ALAC. The document contains no financial analysis on which business decision making could be based.
6. In October and December 2010, and February 2011, Council (including through its Audit Committee) sought information regarding ALAC operations. Council had expressed concerns regarding ALAC's operations, including whether the ALAC Cafe and gymnasium operations were potentially capable of outsourcing.

DISCUSSION

7. With the employment of the new CEO, the Council has asked the CEO to provide a comprehensive report to Council regarding ALAC operations. The CEO is concerned that data currently available is insufficient to provide comprehensive recommendations to Council, at this time. In particular there is a significant lack of user and stakeholder consultation/input on the future operations of ALAC.
8. Analysis of all four activity areas, and a whole of ALAC analysis (including the synergy opportunities that exist across the four activity areas) has been undertaken in the preparation of this Report using existing data.

AQUATIC AREA

9. The aquatic area consists of an eight lane 25 metre lap pool, a four lane 25 metre leisure pool, toddlers' pool, spa, steam room and water slide (Attachment 1: ALAC Floor Plan). The lap pool is the original City pool, using the original plant and equipment.
10. The leisure pool, toddlers' pool, spa, steam room, and associated plant and equipment are all part of the 2008 development.
11. The Lifeguard and Duty Manager roster extends from half an hour before pool opening hours to half an hour after closing to allow for set up and clean up. Lifeguards also perform cleaning tasks on the playing courts as well as daily set up and pack up of sports and court activities (in addition to their normal lifeguard duties).
12. It is a legal requirement to operate with a Duty Manager and at least one Lifeguard at all times. However, ALAC's specific layout, with its visual sight lines and high use areas, requires ALAC to operate with several lifeguards to provide adequate supervision of the pools during busy times.
13. It appears whole-of-life asset planning (including costings) was not appropriately considered with recent infrastructure upgrades. A substantial number of break downs and problems occur with the new plant and equipment, and there is difficulty in locating required parts and labour expertise locally to undertake maintenance. Replacement parts are expensive and specialist service agents from Perth or the Eastern States are required to fit those.
14. The lap pool plant equipment (almost 20 years old) will soon need replacing - consideration needs to be given to its replacement scheduling and costs.

15. Despite the increased availability of pool areas, user complaints regarding inadequate lane availability during peak times are common.

INDOOR COURTS

16. The indoor stadium at ALAC consists of two areas, containing a total of seven multi-purpose courts. The Jim Macaulay Sports Hall has four indoor multi-purpose courts completed in 1985. An additional three court stadium was completed in 2011.
17. A variety of sports Clubs and Associations use these courts for their season's activities, booking the courts usage through ALAC.
18. The courts cater for:
- Netball
 - Volleyball
 - Basketball;
 - Indoor Hockey
 - Tennis
 - Badminton.
19. The courts also cater for ALAC-run social sporting activities, including:
- School holiday programs
 - Social netball
 - Mixed netball
 - Ripper-ball
 - Indoor soccer
 - Adventure climbing.
20. ALAC has also utilised the Jim Macaulay Hall to host state and national basketball games, City of Albany Seniors Expo, high profile sport training workshops and high profile music concerts, such as Jimmy Barnes.
21. The new stadium is designed to cater for local, regional, state and national sporting fixtures and events.
22. Challenges
- Multiple users all seeking court space at the same peak times.
 - Considerable under utilisation of courts during non-peak times.
 - The Jim Macaulay Sports Hall (the four older courts) requires upgrade including:
 - Electrical and lighting upgrade
 - Providing insertion points for eight netball posts to address OHS issues
 - Drum sanding, reline-marking and resealing the courts
 - Implementation of energy efficient systems such as natural lighting provision.
23. In future consideration should be given to structured, legally-binding service agreements between ALAC and Associations that use the playing courts, regarding their use.
- ### **ALAC PROGRAMS**
24. ALAC coordinates a range of programs for a variety of target markets, including inactive people, people with a disability, a range of age groups as well as people from culturally and linguistically diverse backgrounds. A variety of the ALAC infrastructure is utilised to run those programs.

25. ALAC coordinated programs include:
- Swim2Survive Swim School (infant – seniors)
 - KidZone - School holiday programs (for 7 – 12 year olds)
 - Mixed Netball
 - Social Netball
 - Disability Games
 - Ripper-ball (to be introduced May 2011 through external funding from the Department of Sport and Recreation)
 - Aboriginal learn to swim program (functions through external funding provision).
26. The Swim2Survive program is the Centre's biggest program both in participation levels and revenue-raising. ALAC operates these swim classes (as well as one-on-one lessons) for all age groups from infants through to seniors. Swim2Survive operates six days a week during school terms. School holiday programs are currently on trial.
27. Challenges
- All programs have the potential for growth and expansion but would require careful management of resources to implement, including:
 - marketing programs to the wider community
 - recruitment and retention of qualified staff to instruct programs
 - available pool space during peak times for competing programs.
 - Increase programs and participation during off peak usage times of infrastructure.

FITNESS AREA

28. The ALAC Fitness Area was established as part of the 2008 redevelopment of ALAC and consists of a gymnasium and group fitness room, and aqua aerobics programs in the pool.
29. The group fitness programs are currently:
- Fab 50's aqua aerobics
 - Deep Pump (aqua class)
 - Aqua Fit (aqua class)
 - Shallow H2O (aqua class)
 - KiMax (a licensed Radical Fitness Program)
 - Oxigeno (a licensed Radical Fitness Program)
 - Power (a licensed Radical Fitness Program)
 - UBound (a licensed Radical Fitness Program)
 - X-Fit
 - Fitball
 - Senior Circuit
 - Zumba
 - Bootcamp.

Note: for safety reasons, the age of performing weight bearing exercise is restricted to 16 years plus, which restricts the market audience for the fitness area.

30. In January 2007, Council resolved (Attachment 2: Council Item 16.1 16/01/2007):

That the operations of the gymnasium be undertaken as follows:

- i. Like manner to existing gymnasium facility
- ii. Same number and functionality of exercise stations
- iii. No specific memberships to gymnasium allowed – access only by general membership to ALAC for all facilities or casual usage fee.

That the operations of the general purpose gym area be undertaken as follows:

- i. Seniors/Wellness/rehabilitation service section programs
 - ii. Workshops/meeting space for sporting and community group meetings, coaching/accreditation training sessions, general community space and allied health service delivery.
31. At around the same time, enquiries were made by the City regarding the gym and fitness area's competitive neutrality (with FPM Consulting providing a legally confidential report to the City's legal advisers in that regard). The advice was that ALAC gym operations would not offend the criteria regarding such competitive neutrality.
32. Further to the Council restrictions above, the City also considered developing a Memorandum of Understanding with local private gym owners. A review of the City's documents shows that between the period of March 2007 to August 2009, the Executive Director Corporate and Community Services entered various communications with private market gym providers regarding interpretation of the Council decision, and possible implementation of such Memorandum(s). However no Memorandum was formally executed by all parties.
33. One of the discussed proposed restrictions within that Memorandum was a prohibition on the City of Albany to adopt the Les Mills Group Fitness Program. This Program has a similar scope to the Radical Fitness Programs, being a licensed agreement in return for which the company provides training, pre choreographed music and notes as well as a network of industry support. Les Mills programs are very well recognised around Australia which boosts attendance at licensed facilities, usually by word-of-mouth promotion for facilities that hold this licence.
34. The combination of restrictions placed on the ALAC Fitness Area has adversely impacted on revenue potential.
35. Challenges:
- Lack of marketing which has impacted on participation rates.
 - Lack of Les Mills programs impacts recruiting particular group fitness participants.
 - Determine appropriate type equipment, including usage hours, and appropriate range of fitness programs.

TIMEOUT CAFE

36. The Cafe has historically been a City operation, except for the period of 2001 - 2006 when it was leased to a private operator. There is insufficient corporate knowledge now available to determine if this outsourcing was "successful" for both the City and the private operator. When ALAC reopened in 2008 after the redevelopment, the Cafe was again operated by the City.
37. In the presentation to Council's Audit Committee, one recommendation was that the City operates the Cafe for a minimum of two years (to at least January 2013).
38. In making this recommendation, the benefits of supporting such a recommendation included:
- control of food quality
 - control of customer service standards
 - control of opening hours
 - secondary spend program (Note: in this regard no program has been introduced to provide identifiable increased revenue)
 - City of Albany catering needs met.

39. All these above issues should be capable of being addressed by an experienced private Cafe operator. Indeed, profitability should be highly dependent upon food quality and customer service standards.
40. On average the Cafe serves 300 patrons per day of operation and collects an average of \$970/day in sales – less than \$3.25 per customer served, which for a cafe in today's market is low.
41. In 2009-10 the Cafe experienced a deficit of \$57,232, is currently budgeted for a \$30,000 deficit in 2010-11 and will continue to be in deficit (of approximately \$37,000) in 2011-12 on current projections.
42. In October 2010, the City of Albany contracted Chartered Accountants RSM Bird Cameron to develop a financial business plan for the Time-out Cafe. This plan investigated three possible scenarios:
 1. Operate the Cafe "business as usual" - forecasts assume that the Cafe continues to trade under management of the City with no significant changes to operations;
 2. Operate the Cafe with a commercial focus - assesses the potential performance of the Cafe under more aggressive trading assumptions,
 3. Sub-Leased – to a private operator.
43. While the plan recommended option 2, with an apparent Net Present Value (NPV) advantage under that scenario, it was based on several assumptions:
 - ALAC enforcing a "no external food" policy – this will require considerably more staffing effort and could lead to consumer disputes which would also need to be managed by staff.
 - More aggressive visitor numbers patronising both ALAC generally and the Cafe in particular – there is no guarantee of this being realised.
 - Further increased gross margins – again, given the recent financial history of the Cafe, there is no guarantee that this will be realised.
44. In comparison, the NPV calculations for option 3 included amounts which perhaps should not have been costed into the calculations, such as any redundancy payment to the cafe staff – alternate employment could potentially be found for those staff members. The calculations do not appear to have fully accounted for the potential rent and other return that may be possible to the City in leasing.
45. The plan states that the Cafe's "gross margins are significantly lower than the industry average and staff costs are significantly higher. A significant reason for the under-performance is high staff costs due to the cafe primarily employing casual staff".
46. Discussions with many experienced cafe operators in the City of Albany show that it is common practice in the industry to employ staff on a casual basis for staffing flexibility.
47. In the presentation to Council's Audit Committee, in respect of the recommendation the City operates the Cafe for a minimum of two years, the ALAC Manager acknowledged that:
 - the Cafe operates at a deficit
 - the Cafe operation takes management resources "away from core business".
48. Challenges
 - Because of staffing costs, the Cafe hours are restricted, which impacts on revenue.
 - There has been an increase in Cafe staff turnover in the past six month due to job uncertainty.

49. It will be important to focus on opportunities for the Cafe, such as maximizing its opening hours (particularly at peak times), investigating the range of food customers want and what other factors would support a “customer service” focus.
50. The City should seek expressions of interest for outsourcing of the Cafe operations for a period of at least two years. Given the considerable other challenges to be addressed across the whole of ALAC, the City should divest itself of this part of the ALAC operations at least in the short term, so that attention can be focused on the City’s “core” business of ensuring a sustainable and efficient sport and recreation Centre.

ALAC INFRASTRUCTURE GENERALLY

51. An Energy Audit was conducted for the City by Andre Kriegler, Energy Consultant in October 2008. That audit identified the opportunities for a potential cost saving of more than \$193,000 per year. It is unclear which of the recommendations in the Report have been fully implemented, and what cost savings have been realised as a result. Energy costs for ALAC continue to increase.
52. In the presentation to Council’s Audit Committee, one recommendation by the ALAC Manager was that the City investigate capital works and possible funding opportunities to provide infrastructure that assists with sustainable energy savings. The Manager identified possible cost efficiencies through utilisation of such items as pool blankets, sky lights, solar energy usage and variable speed pump drives. However the Manager also acknowledged the considerable initial expense required to convert to energy efficient infrastructure, including retro-fitting much of the infrastructure. For example pool blankets could cost approximately \$60,000.
53. Additionally, some of the infrastructure is at the end of its useful life, or needs considerable refurbishment. For example, drum-sanding, line-marking and resealing the four older playing courts could cost in excess of \$135,000; and replacing the hockey synthetic turf could cost approximately \$450,000.
54. To ensure the City can afford to maintain and refurbish the Centre as required, strong asset management discipline needs to be introduced.
55. Future Considerations
- Include ALL of ALAC capital works and replacement items within the City of Albany’s Asset Plans.
 - Await the results of the energy audit currently underway to determine cost saving and energy sustainable models of operation.
 - The City’s Works and Services Department to undertake an equipment replacement audit, and develop a replacement program for equipment that is at the end of its useful life, with energy efficient technology solutions.

OPERATING HOURS

56. The ALAC opening times are:

Monday - Friday	6am – 9pm
Saturday	8am – 5pm
Sunday	9am – 5pm
Public Holiday*	9am – 5pm

**ALAC closes on Christmas Day and Easter Friday*

57. A benchmarking survey with seven similar Centres compared public holiday opening hours (Attachment 3). This survey indicates that ALAC opens on more public holidays (when staffing costs are highest) and in some instances ALAC operates for a longer period of time during the week and on those public holidays.
58. For example, ALAC usage patterns on a Sunday indicate that an average of 22.4 patrons per hour use the facility between 3pm and 5pm with an average total sales figure of \$111.69 for the time period (includes entry fees and all sales, including cafe sales). This revenue does not cover staffing costs, with Sunday employee penalty rates being 50% above normal hourly rates.

“CUSTOMER” PATRONAGE AND SERVICE

59. No recent rigorous market research has been done to ascertain ALAC’s “customers” needs, or preferred service provision.
60. ALAC caters for a range of users, including seniors, and concession card holders. While a social enterprise, there is no data collection that shows the extent of usage by low income earners. Nor has any market research been undertaken that considers accessibility for this group of customers, including cost accessibility. For example, the City understands that its main private market fitness/gym competitor does not offer any discount or subsidy to concession card holders. However, that does not necessarily mean that that customer group is able to better access ALAC services. There is simply inadequate data collection at present to ascertain ALAC’s importance as a social enterprise, supporting socially disadvantaged groups.
61. ALAC members statistical collection is at a very immature level, with current data being of little value for use in business analysis.
62. The current membership structure consists of an aquatics membership which allows access to the aquatics area including pools, spa, steam room and slide, as well as a general membership which currently allows access to the aquatics area, courts and fitness area.
63. As stated above, presently ALAC is restricted in its ability to provide a membership solely for accessing the fitness area and its programs (the gymnasium, group fitness and aqua aerobics).
64. While statistical detail for total visitation and usage exists for most areas of ALAC, the data analysis to date has been rudimentary and provides little useful information in the context of business analysis. Considerable business/economic analysis work needs to be undertaken in respect to those statistics.
65. Future Consideration:
- Introduce feedback surveys which are distributed annually to user groups to gauge service need, and where necessary, improve customer service and facility management.
 - Reassess the number and type of memberships offered, including a membership with the sole purpose of accessing the fitness area. Also ensuring an appropriate fee structure that is both financially sustainable and affordable for community access is essential.

WORKFORCE

66. The ALAC workforce is, on the whole, multi-skilled. The workforce requires high levels of certificate-qualifications to comply with relevant legislation governing the various ALAC programs and asset usage.
67. Duty Managers require:
- Senior First Aid
 - Pool Operators Certificate
 - Pool Lifeguard Certificate
 - SCBA training
 - LIWA accreditation
 - Working with children check.
68. Lifeguards require:
- Senior First Aid
 - Bronze Medallion
 - Pool Lifeguard Certificate
 - Working with children check.
69. Swim Instructors require:
- Austswim – teacher of swimming and water safety certificate
 - Current resuscitation certificate
 - Working with children check
 - Preferable to also have Bronze Medallion.
70. Fitness Instructors require:
- Minimum of Certificate 3 in Fitness
 - Preferably Certificate 4 in Fitness
 - Senior First Aid Certificate
 - Program certification (group fitness).
71. Program officers require:
- Working with children check
 - Senior First Aid Certificate
 - Upon a licence requirement for school holiday program a minimum of 2 staff will require appropriate childcare or relevant qualifications.

STAFFING

72. The staffing structure and mix of ALAC's HR resources needs to be more proactively managed. Consideration should be given to the employment status and number of hours of worked by employees.
73. The regular requirement for (up grading and) maintenance of skills and certificates - required training creates significant financial and HR planning imposts on ALAC. Again, the careful HR management of skills mix, staffing structure and hours of work is critical to ensuring a financially sustainable workforce with high morale.

BENCHMARKING

74. ALAC has benchmarked itself with other regional and similar leisure and aquatic facilities within Western Australia.

75. ALAC is a member of the Centre for Tourism and Leisure Management (CT&LM) which was formed in 2006 and is the leading national Centre for research in tourism, hospitality, events, sport and leisure. A major research program within the CT&LM is the Centre for Environmental and Recreational Management (CERM) Performance Indicators which provides performance indicators and national benchmarks for operational performance and customer service quality for aquatic, sport and leisure facilities (Attachment 4 – CERM 2010 Report).
76. In 2008/2009 and 2009/2010 ALAC fees and charges increased by CPI. However through the benchmarking survey, it was identified that a further increase of approximately 10% to most fees for the 2010/11 financial year would make it more comparable to other Centres' fee structures.
77. The average size of CERM Centres is 7,750m². ALAC in comparison is 11,000m² which equals 42% greater floor space than the average floor space of other Centres benchmarked.
78. The average catchment population for CERM Centres is 55,000 (Attachment 4 – CERM 2010 Report). According to ABS data, Albany's regional catchment population is 40,572 being 26% less catchment population than the average catchment population of other Centres.
79. The total annual visits to CERM Centres was 604,459 compared with ALAC visitations for the 2010 Calendar year of 449,125 (35% less than the average of other Centres).
80. During the 2010 calendar year, ALAC spent \$274,217 on presentation (maintenance) costs compared with the average of other centres being \$346,805 (21% less on ALAC maintenance during this period than the average of other Centres).
81. The presentation costs per m² for ALAC equates to \$24.93 compared with its counterparts' average of \$46 per m². ALAC spends 46% less on presentation than the average of other Centres.
82. In the 2010 Calendar year ALAC spent 16% more on energy compared with other Centres benchmarked - ALAC spent a total of \$418,076 on energy costs compared with other Centre averages of \$359,679. However, other Centres average energy costs per m² of \$39 which closely compares with ALAC's \$38.01 per m². Therefore the additional costs is most likely linked to the larger floor space generally, much of which is underutilised.
83. The average water costs indicated for other Centres equals \$38,606 per annum compared with ALAC's \$39,537 per annum.
84. There is a significant difference between ALAC's gross receipts being at \$1,770,484 for the 2010 Calendar year compared to other Centres averaging \$3,800,000 in income. ALAC receives 53% less in revenue compared with other benchmarked Centres.
85. In 2010 ALAC's gross expenditure was \$3,060,888 compared with \$3,970,000 averaged by other Centres.
86. Total average number of memberships sold by other benchmark Centres was 2469, compared with ALAC's 1982. A rethink of the membership type and structure is required along with a review of membership.

87. Gymnasium stations, including cardio and weight machines, averaged at 72 for other Centres compared with ALAC having 38 stations, this indicates that ALAC has 47% less stations than the average of other Centres. The average total station per m2 of gymnasium floor space for other Centres is 0.19 compared with ALAC which currently has 0.13 stations per m2. This is a difference of 32%.
88. In the presentation to Council's Audit Committee, one recommendation was that Council reduce the cost (subsidy) per visit. In making this recommendation, the ALAC Manager advised changes in operations would promote cost savings and revenue raising, and that the community perception is one of heading towards a more "user pay" model. This approach needs to be validated through detailed business analysis. Rigorous economic analysis to determine the cause of such significant revenue variances is needed.

GOVERNMENT CONSULTATION

89. No consultation with government departments has occurred in the development of this paper. All ALAC operations comply with Government regulations regarding activities conducted by ALAC.

STATUTORY IMPLICATIONS

90. The sports, leisure and recreation industry is in most respects a highly regulated industry, with regulations governing matters such as staffing ratios for poolside operations, hygiene requirements for sports equipment and facilities, child care (for the crèche), food handling and the fitness area.
91. The child care provision though the ALAC crèche is regulated through the Child Care Licensing and Standards Unit, which is responsible for administering the State Regulations for all licensed child care services.
92. The ALAC Cafe is required to comply with Western Australian Department of Health legislation including Food Act 2008 and Food Regulations 2009.
93. The Department of Consumer and Employment Protection regulates the fitness industry through the Fitness Industry Code of Practice.
94. Pool staff are required to comply with Royal Life Saving Society-WA Branch, *Pool Safety Guidelines*, which covers issues such as lifeguard to patron ratio, accreditation of lifeguards and parental supervision.
95. The Department of Health governs the operation, management and maintenance of the ALAC pool and spa under the Code of Practice for the Design, Construction, Operation, Management and Maintenance of Aquatic Facilities (May 2010).

PUBLIC AND OTHER CONSULTATION

96. It is recommended that community consultation regarding ALAC's operations occur before the finalisation of the ALAC Business Plan.
97. The outcomes of that community consultation will guide the City managers, and Council generally, on what ALAC's "customers" seek; what (if any) service gaps exist and what customers are prepared to pay for those services.

FINANCIAL IMPLICATIONS

98. The provision and support of accessible recreation and sports facilities is considered by many in the community as a service that should be funded (either in full or part) by the local Council.
99. While elements of ALAC operations could be considered 'commercial' it is unrealistic to provide a level of service that the community expects without significant subsidy by the City of Albany.
100. However, the balance between providing a community service that meets community expectations, and what is considered a reasonable subsidy in the longer term by the City, needs be further explored.

STRATEGIC IMPLICATIONS

101. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan...
1. Lifestyle and Environment
 - 1.3 Recreation facilities provide a diverse range of sporting and exercise opportunities*
 4. Governance
 - 4.2 Manage our municipal assets to ensure they are capable of supporting our growing community*
 - 4.3 Deliver excellent community services that meet the needs and interests of our diverse communities.*

POLICY IMPLICATIONS

102. Council adopted the Recreation Planning Strategy 2008-2013 at the Ordinary Council Meeting held on 21 October 2008. The purpose of the strategy is to set the framework, goals and action plan for Council and community involvement in review and development of Sporting and Recreation Facilities on Council owned land or vested reserves.
103. 3.0 of the Strategy- *The City's Role in Recreation and Sporting Facility Development and Construction* states "there is a need to identify which type of facility developments will be led by the City and which will be led by other organisations as well as confirm the process and level of support offered for external/community group developments by City Staff".

104. 6.0 of the Strategy- *Consultation* states “It is important for stakeholders to be meaningfully involved in decisions affecting them.”

RISK MANAGEMENT

105. ALAC management has insufficient appreciation of the liability (legal) risks that accrue to the City in operating a Centre of such variety and complexity. Further, that management team has not been adequately supported by the City’s Executive in identifying and mitigating risk.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

106. Council can continue to subsidise ALAC at its current rates. However, this is financially unsustainable over the longer term. A detailed business analysis needs to be undertaken and submitted in the form of a Business Plan.

SUMMARY CONCLUSION

107. Council is requested to continue the support of ALAC as a community service.
108. The cost to the City of Albany of providing ALAC is significant and steps to ensure that the operations of ALAC are run as efficiently and effectively as possible should be further investigated. A detailed three year business plan should be developed to guide ALAC operations and provide more surety regarding the required budget for this and future financial years.

Consulted References	<ul style="list-style-type: none"> Recreation Planning Strategy 2008-2013
File Number (Name of Ward)	CS.PLA.9
Previous Reference	OCM 20 July 2010, Item 14.6.1

3.1: ALBANY LEISURE AND AQUATIC CENTRE-RESPONSIBLE OFFICER COMMENTS**ALTERNATE MOTIONS BY COUNCILLOR LEAVESLEY**

Councillor Leavesley has requested that the Alternate Motions are not presented en bloc.

**ITEM 3.1: ALTERNATE MOTION 1 BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council directs the CEO that:

- (a) Whatever changes in operations may be deemed appropriate at ALAC in the future, the highest priority is always to be given to the safety/wellbeing of the public and members of staff; and**
- (b) No matter what financial savings can be achieved this priority cannot be compromised.**

Reason: I believe council's endorsement of this priority needs to be on the record.

Responsible Officer's Comment (F James)

The City has a legislative obligation to ensure the health and safety of all occupiers (staff and others) of its buildings. It also has a legislative and common law obligation in the operation of all its "business" enterprises to ensure fair, safe trading in accordance with representations made by the operator of those enterprises.

While Council could make a formal motion reaffirming the law, the City and the CEO are very aware of the City's obligations at law. Further, the City is assumed at law to be aware of its obligations and thus the Motion is unnecessary.

However, should Council determine to support the Motion, it is recommended that ALAC not be singled out, but the statement be applied to all Council operations.

**ITEM 3.1: ALTERNATE MOTION 2 BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council directs the CEO to undertake an immediate efficiency audit and cost benefit analysis of all the ALAC operations and report back to council by the June 2011 OCM with proposals that may impact on membership structure and fees, opening hours etc.

Reason: As elected members I believe it is our responsibility to set the membership/ opening hour's conditions etc. and we should not delegate this responsibility.

Responsible Officer's Comment (F James)

An energy efficiency audit is already underway (see page 2 of the report, point 7 of the Responsible Officer Recommendation).

17/05/2011

REFER DISCLAIMER

The CEO has recommended a full business analysis of ALAC be undertaken (points B and C of the Responsible Officer Recommendation).

The City does NOT have the internal HR capacity to complete that business analysis before at least September 2011. To expect staff to do so would require significant reprioritisation and delay of other work (work that has been promised to the Minister for Local Government for completion within certain timeframes), or be an occupational health risk in expecting staff to work excessive hours.

If Council wishes the analysis to be completed by 30 June 2011 then the City will need to engage consultants. Given the CEO's previous experience of similar situations, it would be prudent to allow an amount of at least \$250,000 (given the timelines that will be expected of the consultants for completion of this work, it is likely a premium will need to be paid by the City). There is no budget in 2010/11 for such consultancy.

The City has planned, within its existing resources, to undertake the analysis "in house", with a report provided to Council early in the fourth quarter of this calendar year.

**ITEM 3.1: ALTERNATE MOTION 3 BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council directs the CEO to undertake the development of a three year business plan for the ALAC fitness centre. This business plan should be prepared with the understanding that the centre will be run to its full potential without competitive restrictions but competing fairly in the market place. This business plan is to be completed before the July 2011 OCM.

Reason: It is my opinion that the fitness centre presents a real commercial opportunity to provide income to the ALAC centre and we need to be sure we operate it to its full potential. Operating without competitive restrictions will be a new undertaking for the fitness centre and we need an appropriate business plan to work to.

Responsible Officer's Comment (F James)

The CEO has recommended a full business analysis be undertaken (see page 2 of the Report, points B and D of the Responsible Officer Recommendation).

It is envisaged that the business analysis of ALAC would be holistic, considering all aspects of operations (including the fitness centre). To consider the fitness centre in isolation would not capture the potential operational efficiencies and cost synergies that could be realised across the whole of ALAC.

The City does NOT have the internal HR capacity to complete a separate business analysis of the ALAC fitness centre before at least September 2011 (as part of the ALAC business plan). To expect staff to do so would require significant reprioritisation and delay of other work (work that has been promised to the Minister for Local Government for completion within certain timeframes), or be an occupational health risk in expecting staff to work excessive hours.

If Council wishes the analysis to be completed before the July 2011 OCM, then the City will need to engage consultants. A separate analysis for the ALAC fitness centre would need to be undertaken (given the timelines that will be expected of the consultants for completion of this work, it is likely a premium will need to be paid by the City). There is no budget in 2010/11 for such consultancy.

17/05/2011

REFER DISCLAIMER

The City has planned, within its existing resources, to undertake the analysis “in house”, with a report provided to Council early in the fourth quarter of this calendar year.

**ITEM 3.1: ALTERNATE MOTION 4 BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council directs the CEO in line with the RSM Bird Cameron Financial Business Plan for ALAC Café October 2010 to adopt recommendation two of the Plan and for the City to continue (for a minimum of two years) the operation of the Timeout Café.

Reason: The rate payers have spent \$8,450.00 on the RSM Bird Cameron Report. The report clearly identifies that of the three options a sub-lease gives the lowest return to the City over 5 years. The projected deficit for the café this financial year is \$30,000 this represents 2.5% of the total deficit for ALAC of \$1.2m

Responsible Officer’s Comment (F James)

If Council wishes to continue to operate the Cafe at a potential deficit for the next two years then it should support the Alternate Motion and provide the CEO with guidance on what maximum amount of deficit should be allowed in the City’s budgets for 2011/12 and 2012/13 financial years.

As stated at page 7 of the Report, some of the assumptions stated in the RSM Bird Cameron Report are flawed. This is NOT criticism of the work of RSM Bird Cameron but goes to the (lack of) adequacy of the City’s instructions to RSM Bird Cameron.

The CEO recommends that the City seek Expressions of Interest for the operation of the ALAC Cafe, (as stated at point E of the Responsible Officer Recommendation) and those Expressions of Interest be considered as part of the holistic ALAC business analysis.

3.2: ALBANY AIRPORT SECURITY AND INFRASTRUCTURE UPGRADE

Proponent : City of Albany
Owner : City of Albany
Business Entity Name : Albany Regional Airport
Attachments :
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Significant infrastructure upgrades of Albany Regional Airport are required to commence passenger and cabin baggage security screening from 1 July 2012.

**ITEM 3.2: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council note that a commitment of up to \$1.75 million will be required in the 2011/12 Budget to ensure the City of Albany meets its legislative transport security requirements and the Albany Airport remains functional past 1 July 2012.

CEO:

RESPONSIBLE OFFICER:

BACKGROUND

1. The Aviation Transport Security Regulations 2005 (as amended) require that passenger and cabin baggage screening must apply to passengers departing on aircraft over 20,000kg maximum takeoff weight (MTOW) effective 1 July 2012.
2. Skywest will fly aircraft rated greater than 20,000kg MTOW into Albany post 1 July 2012.
3. Infrastructure upgrades are also required to accommodate anticipated future growth in passenger numbers over the longer term.

DISCUSSION

4. The airport plays a critical role in the economic development functions of the City and provides significant financial returns to the Council. Risk mitigation and the development of strategies that can facilitate and accommodate increased activity, in both a regular public transport and general aviation context are required.
5. There are a number of steps required to upgrade infrastructure and security at the Albany Regional Airport:
 - i) Masterplanning and detailed design of Airport site to:
 - a. accommodate legislated security upgrades
 - b. identify long term changes required to develop growth capacity
 - c. ensure short term infrastructure requirements for installation of security equipment is not “sacrificial”
 - d. develop cost estimates to inform grant applications.
 - ii) Installation of ancillary electrics and IT requirements for that security equipment.
 - iii) Installation of security screening equipment to comply with legislation.
 - iv) Granting of a Screening Authority Licence.
6. An updated Albany Regional Airport masterplan.....
7. Granting of the application for a Screening Authority Licence to the City of Albany gives the City the legal responsibility of ensuring that screening occurs in accordance with legislation, including the methods, techniques and equipment to be used for screening. The application for the license will be resource intensive to develop, will require a revision of the Airport's Transport Security Plan and application made in time for the license to be granted by 1 July 2012.
8. Installation of security equipment and associated infrastructure has a project timeline for completion of 1 July 2012 (an alternate timeline may be granted by the Department of Infrastructure and Transport in exceptional circumstances).

GOVERNMENT CONSULTATION

9. Liaison with State and Commonwealth Departments of Infrastructure and Transport is required and has been initiated to determine process and infrastructure requirements for the security upgrades.

STATUTORY IMPLICATIONS

10. The operation of the Albany Airport falls under the Aviation Transport Security Act 2004 and the regulatory framework of the Aviation Transport Security Regulations 2005 (as amended in July 2010).
11. In accordance with Section 35 of the *Aviation Transport Security Act 2004*, the regulations, for the purposes of safeguarding against unlawful interference with aviation, prescribe requirements in relation to the airside area of a security controlled airport. These requirements will need to be taken into consideration in the new Airport Masterplan.

PUBLIC AND OTHER CONSULTATION

12. Consultation with stakeholders including Government Departments and stakeholders and airport staff will be required. Consultation is also an element required in completing the application the Screening Authority License.

FINANCIAL IMPLICATIONS

13. A funding application for the cost of the Masterplan, architectural design and infrastructure for the security upgrade will be lodged with the Regional Airports Development Scheme (State) for the amount of \$1.25 million. The City of Albany will be required to match these funds (ie \$1.25 million).
14. Further funding of up to \$650,000 may be available from Regional Development Australia Fund (Commonwealth) for the provision of the screening equipment infrastructure upgrade.
15. The total funding required is anticipated to be \$3.65 million, based on similar regional airports, with the City estimated to provide \$1.75 million (\$1.25 million matched funds for the State grant and an estimated additional \$500,000).
16. Funding availability for security is triggered by the MTOW of aircraft landing at the Airport post 1 July 2012 i.e. funding is only available if the MTOW of aircraft landing post 1 July 2012 exceeds 20,000kg.
17. The operating costs of the security equipment will need to be recoverable from the carrier in the future.

STRATEGIC IMPLICATIONS

18. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan...
 2. Economic Development.
 - 2.3 *Our Airport is a regional, national and international tourism gateway.*

POLICY IMPLICATIONS

19. Albany Regional Airport Master and Business Plan 2007 requires significant amendment. This document outlined the strategic direction and operational functions of the Albany airport for a five-year period commencing in July 2007. These documents are now outdated.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

20. If the City does not comply with the legislative requirements, commercial flights with MTOW of greater than 20,000kg into and out of Albany will be unable to land.

SUMMARY CONCLUSION

21. The airport plays a critical role in the economic development functions of the City and provides significant financial returns to the Council. Risk mitigation and the development of strategies that can facilitate and accommodate increased activity, in both a regular public transport and general aviation context are required.

Consulted References	<i>Aviation Transport Security Regulations 2005</i>
File Number (Name of Ward)	CP.SEC.6
Previous Reference	Nil

4.1: LIST OF ACCOUNTS FOR PAYMENT

File Number (Name of Ward) : FM.FIR.2 - All Wards
Appendices : List of Accounts for Payment
Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

ITEM 4.1: RESPONSIBLE OFFICER RECOMMENDATION

The list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 21st April 2011 totalling \$ 5,220,058.49 be RECEIVED.

BACKGROUND

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

DISCUSSION

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

Municipal Fund

Trust	Totalling	\$12,237.04
Cheques	Totalling	\$124,498.66
Electronic Fund Transfer	Totalling	\$4,229,262.93
Credit Cards	Totalling	\$7,779.63
Payroll	Totalling	\$846,280.23
	TOTAL	<u>\$5,220,058.49</u>

- As at 21 April 2011, the total outstanding creditors, stands at \$ and made up follows:

Current	\$ 574,150.75
30 Days	\$219,665.66
60 Days	\$330.00
90 Days	\$0.00
TOTAL	\$794,146.41

CEO:

RESPONSIBLE OFFICER:

4. Cancelled cheques – 27241, 27260 & 27277 - cheque cancelled – incorrect amounts all reissued with correct amounts. Cheque 26554 cancelled as never presented – funds since paid directly into account.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 21 April 2011 has been incurred in accordance with the 2010/2011 budget parameters.

POLICY IMPLICATIONS

9. The City's 2010/2011 Annual Budget provides a set of parameters that guides the City's financial practices.

SUMMARY CONCLUSION

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

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.2: FINANCIAL ACTIVITY STATEMENT – 30 APRIL 2011 (VERSION 2)

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

IN BRIEF

- Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 30 April 2011

ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION

The Financial Activity Statement for the period ending 30 April 2011 be RECEIVED.

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 April 2011 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Performance, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

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

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

CEO:

RESPONSIBLE OFFICER:

6. STATEMENT OF FINANCIAL ACTIVITY – AS AT 30 APRIL 2011

	Actual Year to Date 30-Apr-11	Current Budget Year to Date 30-Apr-11	Current Budget vs Actual Variance	
REVENUE				*
Operating Grants, Subsidies and Cont	2,272,711	2,346,861	-74,150	X
Fees and Charges	6,163,266	6,199,550	-36,284	X
Service Charges	3,737,951	3,720,818	17,133	√
Interest Earnings	671,079	614,683	56,396	√
Other Revenue	789,343	525,056	264,287	√
	13,634,350	13,406,968	227,382	
EXPENDITURE				
Employee Costs	12,136,191	12,683,661	-547,470	√
Materials and Contracts	8,396,886	10,331,894	-1,935,008	√
Utility Charges	1,119,772	1,181,099	-61,327	√
Interest Expenses	536,473	562,649	-26,176	X
Insurance Expenses	543,200	523,074	20,126	X
Other Expenditure	817,325	-134,063	951,388	X
Depreciation	9,349,720	10,276,590	-926,870	√
	32,899,567	35,424,904	-2,525,337	
Adjustment for Non-cash Revenue and Expenditure:				
Depreciation	-9,349,720	-10,276,590	926,870	
CAPITAL REVENUE				
Non-Operating Grants, Subsidies and Cont	8,005,431	7,980,858	24,573	X
Proceeds from asset disposals	606,706	534,306	72,400	X
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	14,282	14,282	0	
Transfers from Reserves (Restricted Assets)	5,616,072	5,780,786	-164,714	√
	14,242,491	14,310,232	-67,741	
CAPITAL EXPENDITURE				
Capital Expenditure	13,175,233	17,538,504	-4,363,271	√
Repayment of Loans	586,626	607,755	-21,129	√
Transfers to Reserves (Restricted Assets)	3,750,733	3,537,452	213,281	√
	17,512,592	21,683,711	-4,171,119	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	1,578,986	1,578,986	n/a	
LESS Net Current Assets Year to Date	12,483,236	6,604,408	n/a	
Amount Raised from Rates	-24,089,849	-24,140,248	50,399	

* √ Is higher than expected revenue or lower than expected expenditure * X is lower than expected revenue and higher than expected Expenditure

7. CITY OF ALBANY – NET CURRENT ASSETS – AS AT 30 APRIL 2011

	Actual 30-Apr-11	Actual 30-Jun-10
NET CURRENT ASSETS		
Composition of Net Current Asset Position		
CURRENT ASSETS		
Cash - Unrestricted	7,961,691	2,445,735
Cash - Restricted	6,079,877	8,268,976
Receivables	4,018,171	3,428,043
Inventories	4,357,547	4,607,191
Total Current Assets	22,417,286	18,749,944
LESS: CURRENT LIABILITIES		
Payables and Provisions	3,854,174	8,901,982
	18,563,112	9,847,962
Less: Cash - Restricted - Trust	(1,164,927)	(1,488,688)
Less: Cash - Restricted - Reserves	(4,914,950)	(6,780,288)
NET CURRENT ASSET POSITION	12,483,235	1,578,986
NET CURRENT ASSETS PER BALANCE SHEET	15,489,567	5,898,549
Difference	3,006,332	4,319,563
Difference Represented by:		
Restricted Cash (Trust)	1,164,927	1,488,688
Reserve Funds - Financial Assets	1,054,480	1,054,480
Reserve Funds - Other	3,860,470	5,725,809
Self Supporting Loans (part of Receivables and Other)	(14,282)	
	6,065,595	8,268,976
Less:		
Borrowings	1,945,480	2,532,106
Trust Liabilities	1,113,786	1,417,307
Difference	3,006,329	4,319,563

8. CITY OF ALBANY - BALANCE SHEET – AS AT 30 APRIL 2011

	Actual 30-Apr-11	Budget 30-Jun-11	Actual 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS				
Cash - Municipal	7,961,691	1,800,755	2,445,735	477,330
Restricted cash (Trust)	1,164,927	1,483,498	1,488,688	1,987,438
Reserve Funds - Financial Assets	1,054,480	800,755	1,054,480	1,170,755
Reserve Funds - Other	3,860,470	7,197,963	5,725,809	7,360,046
Receivables & Other	4,003,890	1,600,000	3,428,043	2,912,825
Investment Land	3,523,483	0	3,523,483	0
Stock on hand	834,065	800,000	1,083,708	1,033,538
	22,403,006	13,682,971	18,749,944	14,941,932
CURRENT LIABILITIES				
Borrowings	1,945,480	5,638,175	2,532,106	5,887,897
Creditors prov - Annual leave & LSL	2,410,088	2,286,053	2,245,816	2,023,128
Trust Liabilities	1,113,786	1,546,383	1,417,307	1,930,516
Creditors prov & accruals	1,444,085	3,101,240	6,656,166	4,190,792
	6,913,439	12,571,851	12,851,395	14,032,333
NET CURRENT ASSETS	15,489,567	1,111,120	5,898,549	909,599
NON CURRENT ASSETS				
Receivables	77,272	150,000	77,272	106,322
Pensioners Deferred Rates	320,922	280,000	320,922	292,616
Investment Land	2,220,758	2,150,000	2,220,758	2,150,000
Property, Plant & Equip	78,059,076	72,666,174	68,034,400	67,901,036
Infrastructure Assets	182,271,959	196,047,672	188,881,619	186,048,239
Local Govt House Shares	19,501	19,501	19,501	19,501
	262,969,488	271,313,347	259,554,473	256,517,714
NON CURRENT LIABILITIES				
Borrowings	18,264,569	12,626,394	18,264,569	15,996,675
Creditors & Provisions	364,846	260,000	364,845	259,838
	18,629,415	12,886,394	18,629,414	16,256,513
NET ASSETS	259,829,640	259,538,073	246,823,608	241,170,800
EQUITY				
Accumulated Surplus	236,137,525	232,764,720	221,268,686	212,131,561
Reserves	4,917,481	7,998,719	6,780,289	10,264,605
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634	18,774,634
	259,829,640	259,538,073	246,823,608	241,170,800

9. INCOME STATEMENT FOR PERIOD ENDED – AS AT 30 APRIL 2011

Nature / Type	YTD Actual 2010/11	Budget-Total 2010/11	Actual 2009/10
INCOME			
Rates	24,089,849	25,574,053	21,575,584
Grants & Subsidies	1,938,554	3,196,680	3,424,202
Contributions. Reimb & Donations	334,157	349,738	395,475
Fees & Charges	6,163,266	7,280,601	7,091,836
Service Charges	3,737,951	3,735,000	3,011,136
Interest Earned	671,079	680,000	904,653
Other Revenue / Income	789,343	520,615	399,264
	37,724,199	41,336,687	36,802,149
EXPENDITURE			
Employee Costs	12,136,191	15,240,526	14,308,136
Utilities	1,119,772	1,362,613	1,335,373
Interest Expenses	536,473	1,101,799	1,180,372
Depreciation on non current assets	9,349,720	12,334,000	11,226,465
Contracts & materials	8,396,886	13,274,398	10,516,730
Insurance expenses	543,200	511,098	476,810
Other Expenses	837,565	(273,177)	1,251,142
	32,919,807	43,551,257	40,295,028
Change in net assets from operations	4,804,392	(2,214,570)	(3,492,878)
Grants and Subsidies - non-operating	7,521,051	9,156,877	5,876,907
Contributions Reimbursements and Donations - non-operating	484,380	2,689,416	3,408,787
Profit/Loss on Asset Disposals	196,209	1,541,004	(23,732)
Fair value - Investments adjustment	0	0	(116,275)
Cash Backing of Reserves	0	0	1,651,060
	13,006,032	11,172,727	7,303,869

10.

11. PORTFOLIO VALUATION – MARKET VALUE – AS AT 30 APRIL 2011

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Feb-11	Market Value Mar-11	Market Value Apr-11	Latest Monthly Variation
MUNICIPAL ACCOUNT							
ANZ	2/12/2010	1,500,000	5.85%				
Bankwest	23/12/2010	1,500,000	5.55%				
ANZ	24/12/2010	1,500,000	5.50%				
Bankwest	17/01/2011	1,000,000	5.85%				
Bankwest	27/01/2011	1,000,000	6.00%				
ANZ	28/01/2011	1,000,000	6.00%				
Bendigo	28/03/2011	1,000,000	6.05%	1,000,000			
NAB	4/03/2011	1,500,000	6.07%	1,500,000			
NAB	16/03/2011	1,000,000	6.07%	1,000,000			
CBA	16/02/2011	1,000,000	5.61%				
CBA	18/03/2011	1,000,000	5.70%	1,000,000			
CBA	28/03/2011	1,000,000	5.82%	1,000,000			
CBA	29/03/2011	1,000,000	5.82%	1,000,000			
Bankwest	7/04/2011	1,500,000	6.00%	1,500,000	1,500,000		
Bendigo	7/04/2011	1,000,000	6.00%	1,000,000	1,000,000		
ANZ	20/04/2011	1,000,000	6.20%	1,000,000	1,000,000		
NAB	11/05/2011	1,000,000	6.21%	1,000,000	1,000,000	1,000,000	
CBA	18/04/2011	1,000,000	5.71%		1,000,000		
CBA	26/04/2011	1,000,000	5.70%		1,000,000		
NAB	20/08/2011	1,000,000	6.07%		1,500,000	1,500,000	
Bankwest	7/05/2011	1,500,000	5.50%			1,500,000	

Security		Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Feb-11	Market Value Mar-11	Market Value Apr-11	Latest Monthly Variation
	CBA	18/05/2011	1,000,000	5.68%			1,000,000	
	CBA	27/05/2011	1,000,000	5.70%			1,000,000	
RESERVES ACCOUNT					11,000,000	8,000,000	6,000,000	n/a
Bankwest		24/06/2010	1,500,000	5.25%				
Bendigo		23/11/2010	1,500,000	5.85%				
Bendigo		16/12/2010	1,000,000	5.70%				
ANZ		12/05/2011	500,000	6.20%	500,000	500,000	500,000	
Bendigo		24/05/2011	1,500,000	6.30%	1,500,000	1,500,000	1,500,000	
ANZ		16/03/2011	1,000,000	6.10%	1,000,000	1,000,000	1,000,000	
COMMERCIAL SECURITIES - CDOs (New York Mellon)¹					3,000,000	3,000,000	3,000,000	n/a
Saphire (Endeavour) AAA		4/08/2011	413,160	9.10%	4	4	4	0
Zircon (Merimbula AA)		20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA) ²		20/09/2014	1,002,060	9.12%	307,100	307,100	10	-307,090
Beryl (AAAGlogal Bank Note)		20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
			2,118,046		622,234	622,234	315,144	0

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Feb-11	Market Value Mar-11	Market Value Apr-11	Latest Monthly Variation
COMMERCIAL SECURITIES - CDOs - Other							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	144,500	144,500	144,500	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	0	0	0	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,750	68,750	68,750	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	123,000	123,000	123,000	0
		1,324,656		336,250	336,250	336,250	0
PORTFOLIO TOTAL		3,442,702		14,958,484	11,958,484	9,651,394	0

Notes:

1. 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.
2. The City has been advised that there has been a change in the pricing process for securities in early termination. These securities no longer have a price source and therefore cannot be used using last known prices or bids. The City has asked for further explanation of the change in pricing process.

12. FINANCIAL RATIOS - AS AT 30 APRIL 2011

CITY OF ALBANY FINANCIAL RATIOS	30-Jun-09	30-Jun-10	30-Apr-11	Benchmark
Liquidity Ratios				
Current Ratio ¹	73.7%	117.2%	423.2%	>100%
Untied Cash to trade creditors Ratio ²	19.7%	51.2%	1560.8%	>100%
Financial Position Ratio				
Debt Ratio ³	11.2%	11.3%	9.0%	<100%
Debt Ratios				
Debt Service Ratio ⁴	11.1%	6.2%	5.7%	<10%
Gross Debt to Revenue Ratio ⁵	63.2%	56.9%	53.7%	<60%
Gross Debt to Economically Realisable Assets ⁶	26.2%	23.7%	19.8%	<30%
Coverage Ratio				
Rate Coverage Ratio ⁷	58.5%	110.4%	68.2%	>33%
Effectiveness Ratio				
Outstanding Rates Ratio ⁸	3.7%	3.1%	4.9%	<5%

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

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS Expenditure for the period ending 28 February 2011 has been incurred in accordance with the 2010/11 current budget parameters. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

13. VARIANCES TO BUDGET IN EXCESS OF \$100,000 - AS AT 30 APRIL 2011

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
Grand Total	3,140,773	2,359,545	3,159,537	(130,398)	3,549,198	112%		
106640. INFORMATION TECHNOLOGY	537,833	532,333	442,564	166,841	275,723	62%	✓	Generator purchase delayed due to QLD floods. Software audit, and subsequent purchase, still being undertaken. Purchase of some hardware to go to tender, unlikely to be completed in this year. Server upgrade to go ahead this year.
Total DIRECTOR CORPORATE & COMMUNITY	537,833	532,333	442,564	166,841	275,723	62%	✓	
DIRECTOR WORKS & SERVICES								
ROAD FUNDING	(876,167)	(2,995,670)	(2,482,167)	(2,352,534)	129,633	-1%	×	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
MAJOR PLANT PURCHASE	1,790,000	1,790,000	1,790,000	1,437,348	352,652	20%	✓	New roller on ordered, invoice received in May. This accounts for \$186 000 of the variance. Annual costs are expected to be in line with budget.
PLANT-ALLOCATE TO W/SERV.	(3,135,832)	(3,135,832)	(2,612,766)	(2,347,393)	(265,374)	-10%	×	Any under-recoveries in relation to Plant Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered. Plant

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
								cost recoveries for the year to date are lower than budgeted due to some Council plant being unavailable for use due to machine breakdowns.
WO-LESS ALLOC.W/SERVICES	(2,735,417)	(2,735,417)	(2,279,146)	(2,039,233)	(239,913)	-11%	×	Any under-recoveries in relation to Works Labour Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered.
ASSET UPGRADE-REGIONAL RD	1,936,497	2,195,502	1,984,575	1,562,986	421,589	21%	✓	Year to date expenditure is below budget. This is a timing difference, and annual costs are expected to be in line with budget. A number of large jobs are under way, with some invoices received, but the bulk of the job to be finished .
ASSET PRESERVATION	3,344,638	5,222,774	4,899,082	2,874,545	2,024,534	41%	✓	Year to date expenditure is below budget. This is a timing difference, and annual costs are expected to be in line with budget. A number of large jobs are under way, with some invoices received, but the bulk of the job to be finished .
DRAINAGE CONSTRUCTION	1,834,247	822,795	760,205	373,197	387,008	51%	✓	Delays on a particular project, by Western Power. Centennial Park Project is over 2 years, and some expenditure expected this year, however most will be carried into the next financial year.
WASTE/TIPS PROJECTS	444,974	663,060	657,190	193,844	463,346	71%	✓	Leachgate Management Project delayed awaiting DEC approval, and carried over to next year; South Stirling delayed awaiting SWALSC approval
Total DIRECTOR WORKS & SERVICES	2,602,940	1,827,212	2,716,973	(297,239)	3,273,475	111%	✓	

POLICY IMPLICATIONS

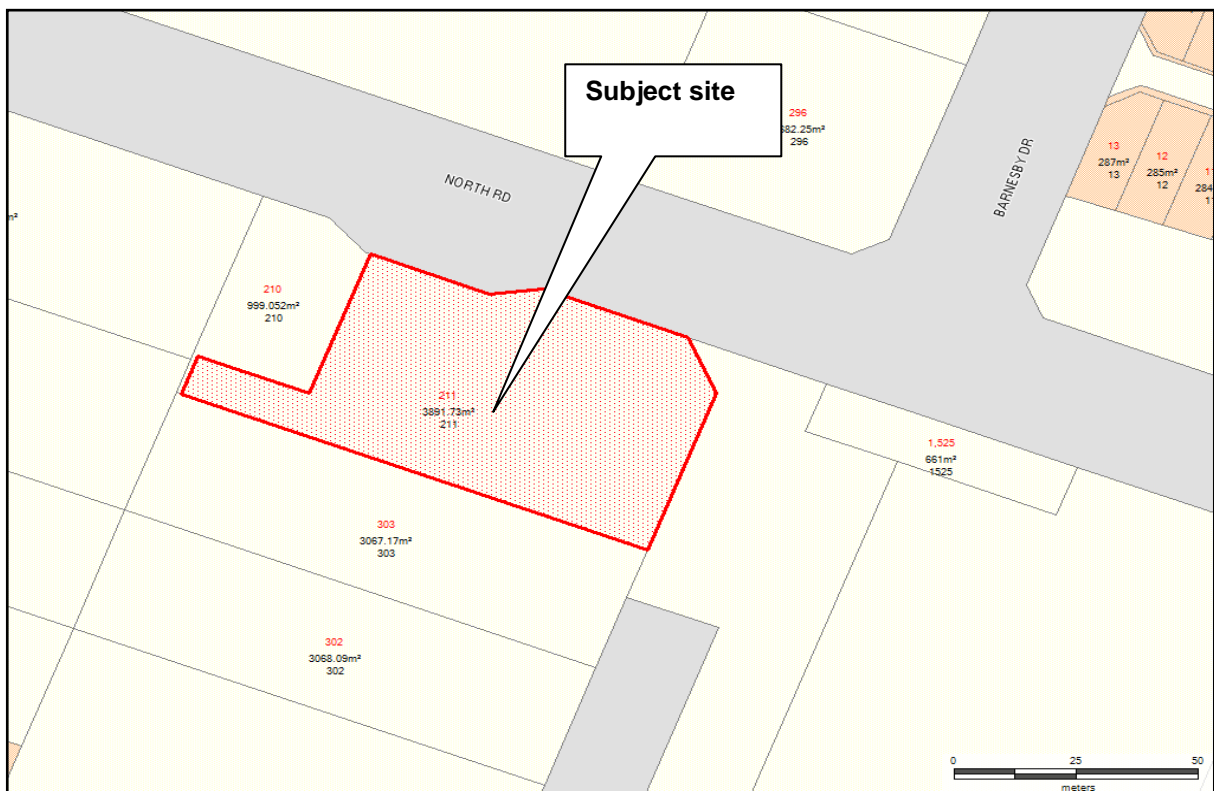
- 14. The City's 2010/11 Annual Budget provides a set of parameters that guides the City's financial practices.
- 15. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.3: NEW LEASE – THE MULTIPLE SCLEROSIS SOCIETY OF WESTERN AUSTRALIA (INC.) AT LOTTERIES HOUSE – 211-217 NORTH ROAD, ALBANY

Land Description	: Lot 211 on Diagram 94113 and being whole of land contained in Certificate of Title Volume 2172 Folio 740 – 211-217 North Road, Centennial Park
Proponent	: The Multiple Sclerosis Society of Western Australia (Inc.), a Not For Profit Organisation
Owner	: City of Albany
Responsible Officer	: Acting Executive Director Corporate Services (P Wignall)

Maps and Diagrams:



IN BRIEF

- Consider request for a new lease to The Multiple Sclerosis Society of Western Australia (Inc.) at Lotteries House.
- Lease term being one year commencing 1 June 2011 with an option for a further two year term.
- Lease area being 73 square metres.

CEO:

RESPONSIBLE OFFICER:

ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION

The request from Multiple Sclerosis Society of Western Australia Inc. for a new lease over portion of Lot 211 on Diagram 94113 at Lotteries House be APPROVED subject to:

- i. Lease term being one year commencing 01 June 2011, with an option for a further two years term.
- ii. Lease area being 73 square metres.
- iii. Lease purpose being office space.
- iv. Lease rental being \$8,282.53 plus GST per annum as determined by the Lotteries House Tenant Committee.
- v. Lease rent reviews being carried out annually on 01 July by the Lotteries House Tenant Committee.
- vi. All costs associated with the development, maintenance and operations of the leased area to be payable by the proponent.
- vii. All costs associated with the development, execution and completion of the new lease to be payable by the proponent.

BACKGROUND

1. In September 1996 a Deed of Trust was entered into between the former Town of Albany and the Lotteries Commission for the management of Lotteries House, located at 211 on Diagram 94113, with the street address being 211-217 North Road, Centennial Park.
2. The Deed required a Management Committee with Tenant representation to be formed to oversee the management of the premises.
3. The City of Albany as Trustee, through the administration of the Management/Tenant Committee is to make and keep available the property for eligible organisations defined in Section 19 of the *Lotteries Commission Act 1990* to use exclusively for accommodation for benevolent or charitable purposes.
4. In November 2010 Rainbow Coast Neighbourhood Centre Inc. relocated from the subject area of 73 square metres to smaller area within Lotteries House.
5. Consequently, the City advertised the lease vacancy seeking submissions from interested parties that are eligible organisations as defined in Section 19 of the *Lotteries Commission Act 1990* to lease the 73 square metres vacant office space at Lotteries House.
6. A written submission was received from The Multiple Sclerosis Society of Western Australia (Inc.) ("MS Society of WA") to occupy the vacant lease area available at Lotteries House for a term of one year with an option for a further two year term.
7. The lease submission has been considered and approved by the Lotteries House Management/Tenant Committee at its meeting on Wednesday 13 April 2011.
8. The 73 square metres lease area will return a rental of \$8,282.58 plus GST per annum. This is based on a rate of \$113.46 plus GST per square metre as determined by the Lotteries House Management Committee.
9. A new rate of \$116.86 plus GST per square metre will be applied from 1 July 2011, returning a rental of \$8,530.78 plus GST per annum.

10. The Lotteries House Management Committee determines the rental by projecting operating expenses for the financial year. These expenses are levied as rental to each tenant based on a rate of per square metre of leased area.
11. The City of Albany currently has ten other leases with benevolent or charitable organisations at Lotteries House.
12. Ownership of the Lotteries House building is on an undivided share basis between the Lotteries Commission and the City of Albany as Trustee.
13. The City of Albany is responsible for structural maintenance of the building and the Management/Tenant Committee is responsible for cleaning, gardening, and minor maintenance of the common areas. The Tenants are responsible for the cleaning and minor maintenance of their individual lease areas.
14. The City insures the buildings, plate glass and City owned fixtures and fittings at a cost of \$1,686.36 plus GST per annum. Additionally the City is also responsible for Public Liability insurance over the common areas. As the City's Public Liability insurance contribution is based on the whole of the City of Albany and the entire activities the individual cost for Lotteries House cannot be determined.
15. The Tenants are responsible for insuring their own individual fixtures, fittings and contents and are required to hold a minimum of not less than \$10 million Public Liability insurance.

DISCUSSION

16. In 1972 the MS Society of WA was formed by a group of people with multiple sclerosis who came together to support each other.
17. In 1973 the Constitution was accepted and The Multiple Sclerosis Society of Western Australia (Inc.) as a Not for Profit organisation was incorporated under the Associations Incorporations Act.
18. The MS Society of WA is an independent, state based organisation supporting people with multiple sclerosis, their families and carers through the supply of health care professionals.
19. Today the MS Society of WA employs over 180 healthcare professionals (69 full time equivalents) and assists more than 1,600 with multiple sclerosis.
20. In addition, the MS Society of WA plays a vital role in educating the community about the disease, liaising with government and other bodies on multiple sclerosis issues and advocating for the rights of all people with multiple sclerosis.
21. The MS Society of WA currently operates from several locations in the metropolitan area and provides regional Outreach services to the areas of Bunbury and Albany.
22. The MS Society of WA also manages its own fundraising program from its metropolitan office in Wilson. Funds raised through these initiatives, together with government grants, and other income generating programs, fund the supply of services to people with multiple sclerosis and contributes towards research to find a cure.

23. The multiple sclerosis members from the Albany Outreach Group and surrounding areas were meeting every Friday at the Albany Leisure and Aquatic Centre in Barker Road but have since been required to relocate temporarily to the Calvary Church on Serpentine Road pending the outcome of the MS Society of WA request to lease vacant space at Lotteries House.
24. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases for this community benefit category of lease.

GOVERNMENT CONSULTATION

25. No government consultation is required.

PUBLIC CONSULTATION / ENGAGEMENT

26. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
27. This Section requires there to be local public notice of the proposal for a period of two 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.
28. Section 30 of the *Local Government (Functions & General) Regulations 1996* deals with dispositions to which the advertising requirements of section 3.58 of the Act does not apply. Section 30 (2) (b) (i & ii) states that Section 3.58 of the Act is exempt if:
 - (b) *The land is disposed of to a body, whether incorporated or not –*
 - (i) *The object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) *The members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*
29. The Multiple Sclerosis Society of Western Australia Inc. is a Not for Profit benevolent organisation, therefore exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

30. Section 3.58 of the *Local Government Act 1995* deals with the disposal of property, including leased land and buildings.
31. Under the City's Town Planning Scheme 1, the land is zoned 'Clubs and Institutions'. The proposed use for Office Space is in accordance with the Scheme.

STRATEGIC IMPLICATIONS

32. 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

33. 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.
34. The recommendation is consistent with Council's Policy.

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Rating	Mitigation
New lease not approved - loss of operating income for Lotteries House	Possible	Medium	High	<p>Seek to negotiate terms to Council satisfaction</p> <p>Collaborate closely with Multiple Sclerosis Society of Western Australia to assure them that the City will work towards mutually agreeable outcomes</p> <p>Seek alternative Lessee as last resort</p>

FINANCIAL IMPLICATIONS

35. Any costs associated with the preparation and implementation of the new lease documentation will be borne by the proponent, the MS Society of WA.
36. The new lease rental income of \$8,282.53 plus GST per annum will be directed to COA 120930 – Lotteries House Income
37. All rental collected is used for Lotteries House operating expenses, including a \$5,000.00 annual service fee paid to Council to cover the City's Officers time for managing the property on behalf of the Lotteries House Management/Tenant Committee.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

38. Council has the following options in relation to this item, which are:
- a. Approve the request for a new lease; or
 - b. Decline the request.
39. Should Council decline the request, the City will be required to re advertise the vacancy and risks a further loss in rental during this process that may impact negatively on the operations of Lotteries House.

SUMMARY CONCLUSION

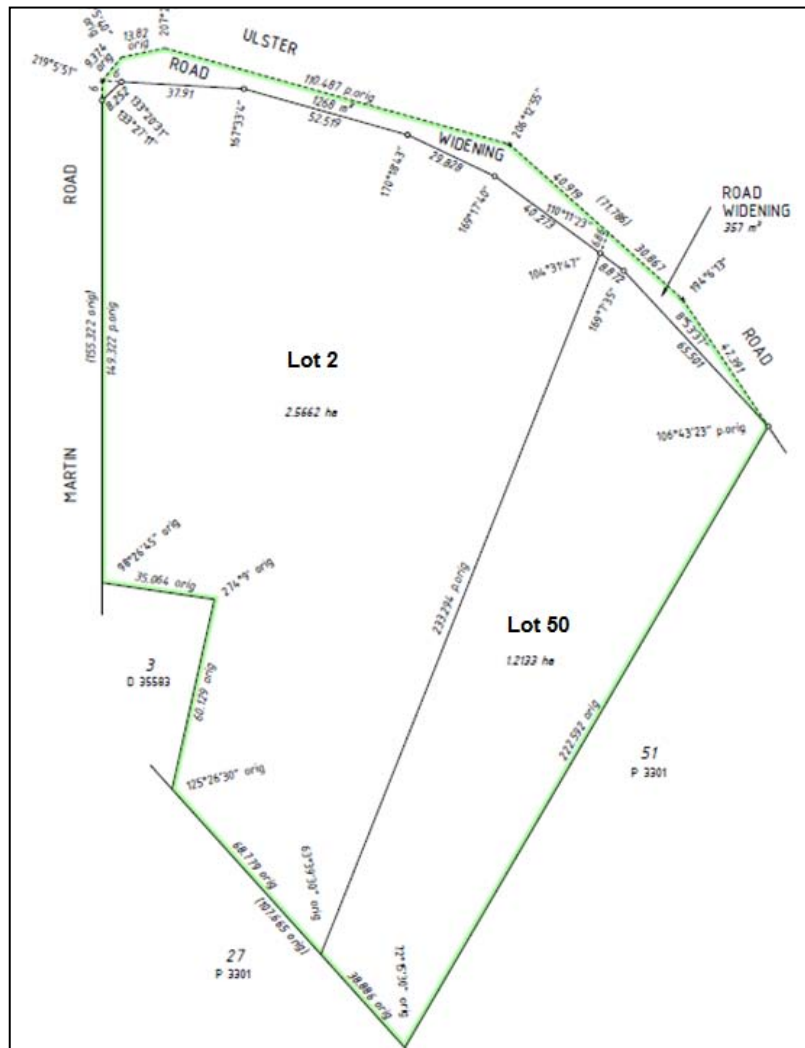
40. In view of the service provided by The Multiple Sclerosis Society of Western Australia (Inc.) to the Albany and wider community at no cost to Council, the request for a new lease for one year commencing 1 June 2011 with an option for a further two year term is recommended.

Consulted References	<ul style="list-style-type: none"> • Council's Policy – Property Management – Leases • <i>Local Government Act 1995</i> • Lotteries House Tenant Committee meeting minutes of 13 April 2011 • Deed of Trust – Albany Lotteries House
File Number (Name of Ward)	CP.USG.3 (Frederickstown Ward)
Previous Reference	Nil

5.1: PROPOSED ROAD WIDENING AFFECTING LOT 50 ULSTER ROAD

Land Description : Lot 50 No 240 Ulster Road, Spencer Park
Proponent : City of Albany
Owner : The Roman Catholic Bishop of Bunbury
Attachments : Map
Responsible Officer(s) : Executive Director Works and Services (K Ketterer)

Maps and Diagrams:



IN BRIEF

- Council’s resolution is required to take a 357m² portion of land from Lot 50 Ulster Road to allow the widening of the Ulster Road reserve to accommodate existing road infrastructure and a footpath.

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

THAT Council:

- i) **SUPPORTS** the Taking by Agreement, under section 168 of the *Land Administration Act 1997*, of a 357m² portion of land from Lot 50 No 240 Ulster Road, Spencer Park to allow the widening of the Ulster Road Reserve;
- ii) **SEEKS** approval under Section 168 of the *Planning & Development Act 2005* to dedicate the 357m² portion of land to be taken from Lot 50 No 240 Ulster Road, Spencer Park and the 1268m² portion of land to be taken from Lot 2 No 216 Ulster Road, Spencer Park as a public road, through the lodgement of a subdivision application; and
- iii) **INDEMNIFIES** the Minister for Lands from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*.

BACKGROUND

1. In 2004/05, the City was successful in obtaining funds under the Regional Road Group's Black Spot Program to address road safety issues at the intersection of Ulster and Martin Roads. The road work improvements necessitated the need to resume land from Lots 2 and 50 Ulster Road to allow the widening of the road reserve.
2. Council, at its meeting held in June 2008, considered an item to obtain road widening from Lots 2 and 50 Ulster Road. From this meeting, it was resolved to lay the matter on the table pending the outcome of negotiations on the final cost of the land to be taken. The City then entered into a lengthy negotiation process with the proponent.
3. Council considered a further report on this matter at its meeting held on 20 July 2010. Council was advised that an amount of \$82,000 had been agreed upon for the resumption of land from Lot 2 Ulster Road and it was then resolved:

"That Council in accordance with Section 56 of the Land Administration Act 1997 –

1. *Complete the administrative processes relating to the road widening of portion of Lot 2 Ulster Road;*
2. *Indemnify the Minister from any claims for compensation; and*
3. *Approve \$82,000 funds the compensation required for the road dedication from the current budget, Roads – Land Acquisition account."*

4. It would appear that Lot 2 and Lot 50 Ulster Road were dealt with separately, as at the time of commencing negotiations, the land was owned by two individual entities. Lot 2 was formerly owned by the Community in WA of St Joseph of the Apparition and Lot 50 was owned by The Roman Catholic Bishop of Bunbury. Since the commencement of this matter, Lot 2 has now been sold to The Roman Catholic Bishop of Bunbury and they own all of the subject land.
5. The payment of \$82,000 for the land to be resumed from Lot 2 Ulster Road was made to the Community in WA of St Joseph of the Apparition on 23 September 2010.

DISCUSSION

6. It is proposed that the subdivision application required to obtain the road widening from Lots 2 and 50 be lodged simultaneously. The survey of the land and the preparation of the deposited plan have been undertaken together to save costs.
7. A valuation for the 357m² portion of land to be taken from Lot 50 Ulster Road has been obtained. The land has been valued at \$21,500 and the owner of the land, The Roman Catholic Bishop of Bunbury, has accepted this valuation. The City has obtained a signed Consent to Taking by Agreement from the landowner on this basis.
8. The negotiation on the compensation for the Taking by Agreement of this portion of land from Lot 50 Ulster Road has been dealt with under the Road Widening Delegation (OCM 14/12/10 Item 4.3.21). However, the provisions of the *Land Administration Act 1997* require Council's resolution to indemnify the Minister for Lands from any claims from compensation.

GOVERNMENT CONSULTATION

9. No consultation with government agencies has occurred on this matter as yet. As part of the subdivision application process, the Western Australian Planning Commission will refer the proposal to all the relevant servicing and government agencies for comment.
10. Once Council has resolved on this matter, notification will be sent to the Department for Regional Development and Lands at the same time as lodging the subdivision application to advise of the Minister's indemnification and compliance with the *Land Administration Act 1997*.

PUBLIC CONSULTATION / ENGAGEMENT

11. No public consultation on this proposal is required under the statutory provisions, other than with the affected landowners. The written consent of the affected owners to the resumption of the land for road widening purposes has been obtained.

STATUTORY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

- 15. 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.”

POLICY IMPLICATIONS

- 16. There are no policy implications relevant to this item.

RISK IDENTIFICATION & MITIGATION

- 17. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
If road widening not obtained, Council assets would be contained in freehold title and land usage is inappropriate	Possible	Moderate – Council assets contained within land title not controlled by the City. Payment of \$82,000 for portion of the land has already been made and would be a loss for the Council.	Medium	To support the Taking by Agreement of land providing for the widening of Ulster Road

FINANCIAL IMPLICATIONS

- 18. The payment of \$21,500 for the land to be resumed from Lot 50 Ulster Road can be sourced from the 2010/11 land acquisition budget and can be accommodated in the current budget line item.

19. The lodgement of a subdivision application for road widening purposes does not require the payment of fees to the Western Australian Planning Commission.
20. There will be fees associated with the creation of the final deposited plan, the lodgement of the plan with Landgate and settlement fees. This is expected to be in the order of \$3,000 and can be accommodated in the current budget line item for land acquisition.

LEGAL IMPLICATIONS

21. The widening of the Ulster Road reserve will legitimise the road infrastructure and footpath currently situated in freehold title.

ALTERNATE OPTIONS

22. While Council can defer this item, money has already been paid for the land to be resumed from Lot 2 Ulster Road. Further, landowner agreement has been easily reached for the land to be resumed from Lot 50 Ulster Road. As such, it is recommended that this matter be expedited as soon as possible.

SUMMARY CONCLUSION

23. The proposed widening of Ulster Road will be effected so that Council's road and footpath assets are contained in a dedicated road reserve. The affected landowner of Lot 50 Ulster Road has provided their written consent to a Taking by Agreement for the figure recommended by the valuation of the land. The owner of Lot 2 Ulster Road has already been compensated for the land to be taken and the matter needs to be finalised, in line with Council's previous resolution made in July 2010. Council's resolution to enact the road dedication process is sought to meet the requirements of the *Land Administration Act 1997* and the *Planning & Development Act 2005*.

Consulted References	Land Administration Act 1997 Planning and Development Act 2005
File Number (Name of Ward)	RD.DEC.2
Previous Reference	OCM 20/07/2010 Item 15.2.6 OCM 17/06/2008 Item 13.6.1

5.2: PROPOSED RELEASE OF UNALLOCATED CROWNLAND AND CLOSURE OF A RIGHT OF WAY IN YOUNG SIDING (VERSION 2)

- Land Description** : Lots 11 – 24, 35, 36 and 38 Knapp Street, Youngs Siding
- Proponent** : Department of Regional Development and Lands
- Owner** : Crown
- Attachments** : Map 1 – Cadastral Information Only
Map 2 – Extract from Town Planning scheme No 3 showing Land Zoning
Map 3 – Map Indicating Nature of Land Tenure, Produced by Department of Regional Development and Lands
- Responsible Officer(s)** : Executive Director Works and Services (K Ketterer)

IN BRIEF

- The Department of Regional Development has sought Council’s support to release unallocated Crown land and to close a right of way in Youngs Siding, allowing the resultant land to be amalgamated with the adjoining residential lots. In addition, two separate 1.5 hectare lots are also proposed to be released for sale as individual land titles.

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

THAT Council advise the Department of Regional Development and Lands of the following:

- i) Council **SUPPORTS** the closure of the public right of way between Knapp Street and Station Road, Youngs Siding, under section 58 of the *Land Administration Act 1997*, conditional upon the Department being responsible for observing all procedures required and any costs incurred by this action;
- ii) Council **SUPPORTS** the release of the unallocated Crown land contained in Lots 11 to 24 and 38 Knapp Street, Youngs Siding, subject to the following conditions:
 - a. The resultant land be amalgamated with the adjoining freehold titles fronting Station Road, Youngs Siding;
 - b. A notification be placed on title advising that the re-subdivision of the land will not be supported by the City of Albany;

CONTINUED

CEO:	RESPONSIBLE OFFICER:
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- c. A notification be placed on the title advising that the subject land has the potential for inundation and risks associated with the disturbance of acid sulphate soils. Any development on the created lots would require the landowner to demonstrate that these risks can be satisfactorily managed, to the City of Albany's satisfaction, prior to any development occurring;
 - d. A notification be placed on title to establish a minimum finished floor level of 0.3 metres above ground level for any building development that might occur to minimise flood risk;
 - e. The area of the existing right of way shall be included in an easement in favour of the City of Albany for drainage purposes; and
 - f. As the development of this land will alter water movement in the area, drainage works are recommended to define current drainage watercourses and assist the movement of ponded water into drainage reserves. The City objects to being responsible for the costs associated with these works.
- iii) Council **DOES NOT SUPPORT** the lease or sale of Lots 35 and 36 Knapp Street, Youngs Siding, until such time as a geotechnical report by the Department of Regional Development and Lands has been prepared to determine whether the land can support a dwelling and any associated effluent disposal systems and outbuildings.
- iv) **THAT** Lots 35 and 36 Knapp Street, Youngs Siding do not currently have constructed road access and that portion of Knapp Street that is constructed does not meet the City's standards or specifications. The City does not have any plans to upgrade or construct the remainder of Knapp Street. If this land was to be released for sale, the upgrading and extension of this road by the current owner is recommended.

BACKGROUND

1. The Department of Regional Development and Lands has been approached by four adjoining landholders in the Youngs Siding townsite to purchase the unallocated Crown land adjoining their properties. In response to this request, the Department has considered all of the unallocated Crown land in the townsite. The subject land involves Lots 11 to 24 and Lots 35, 36 and 38 Knapp Street and will impact on a total of 13 private landowners.
2. It is understood that the four residents who have approached the Department of Regional Development and Lands would like to use this land to extend garden areas, secure rear access and possibly construct additional outbuildings.

3. This process would involve the alienation of the subject land from the Crown to create freehold title, so that they may then be offered for sale and/or amalgamation with adjoining titles. It is envisaged that Lots 35 and 36 Knapp Street would be sold as separate land titles.
4. The Department of Regional Development and Lands has requested comment from Council on the following matters:
 - a. Whether the subject Lots 35 and 36 could be considered for sale or leasing, given their Rural zoning under Town Planning Scheme No 3;
 - b. Whether the residential lots, being Lots 11 to 24 and 38, could be considered for sale on the proviso that composting toilets only are required to address effluent disposal concerns; and
 - c. Whether the right of way on the eastern side of Lots 11 to 24 and 38 can be closed to accommodate the amalgamation of the crown reserves with existing freehold lots.
5. Staff had previously considered this initial request from the Department of Regional Development and Lands. On that occasion, based on concerns regarding the low lying nature of the land and effluent disposal issues, the City requested a geotechnical report to determine the land's capability. It was recommended that such reporting should be undertaken prior to any release of the land to ensure future purchasers had a realistic expectation of the land's potential.
6. In response to this request, the Department of Regional Development and Lands advised that even if these land parcels were amalgamated with adjacent lots they would only marginally be above 2000m² and therefore could not support any additional dwellings and subsequent effluent disposal systems under the Country Sewerage Policy, which permits a density of one dwelling per 2000m².
7. The Department also acknowledged that, if the amalgamation was permitted, any prospective purchasers would need to be advised that the future re-subdivision of the resultant lots would not be considered. This position was supported by the Department of Planning, who suggested that an additional notification could be placed on the title which advises landowners that there is a potential for inundation and risk from the disturbance of acid sulphate soils and that any development on the amalgamated portions of the land would require the landowner to demonstrate that these risks can be satisfactorily managed.
8. The proposed right of way closure will facilitate the amalgamation of the unallocated Crown land with the existing freehold titles fronting Station Road. It is likely this public right of way was created as part of the original townsite as a potential access or servicing lane to the adjoining lots.

DISCUSSION

9. Staff have investigated the Department for Regional Development and Lands' request and found that the land in question is subject to inundation. The Department for Planning has also noted risks associated with the disturbance of acid sulphate soils.

10. The amalgamated lots will only be marginally larger than 2000m², bringing the lots into compliance with the Country Sewerage Policy. Further subdivision and/or a second dwelling could not be supported under this Policy as it specifies a minimum area of 2000m² per dwelling for land not serviced by a reticulated sewerage system. Interested residents have expressed a desire to use the adjoining land parcels in conjunction with their current residence for gardens, rear access and outbuildings.
11. The vacant Lots 35 and 36 Knapp Street are currently zoned Rural under Town Planning Scheme No 3 and have an approximate area of 1.5 hectares each. It is recommended that the Department for Regional Development and Lands undertakes a geotechnical survey of these lots prior to their release to determine whether the land is capable of accommodating a dwelling, an associated effluent disposal system and large outbuildings which are typically found on such lots.
12. It is further noted that Lots 35 and 36 Knapp Street do not currently have constructed road access and the portion of Knapp Street that is constructed does not meet the City's standards or specifications. If the land was to be sold as individual freehold titles, which is possible given their size of 1.5 hectares each, the question of who would be responsible for the construction of this road would arise. There are no plans at this time to upgrade or construct the remainder of Knapp Street.
13. The Lots 11 to 24 and 38 Knapp Street displays a low relief and is a poorly draining landscape. The land is subject to high water tables and is seasonally waterlogged. This will impact on the future development of the land and it is recommended that a minimum finished floor level of 0.3 metres above ground level be established for any development in order to reduce building flood risk.
14. The public right of way is not currently constructed. There is limited drainage constructed within the right of way and this drainage provides a reduced drainage function to move water away from lots fronting Station Street. If the right of way was to be closed and amalgamated with adjoining land, the City would want to maintain access to the area within the right of way for drainage purposes. As such, it is recommended that the land encompassed within the right of way be accommodated in an easement in favour of the City for drainage purposes.
15. The further development of the subject lots is likely to impact on water movement in this locality and onto the adjoining road. Excavated drainage would be required to intercept ponding water and provide a hydraulic gradient to move water to drainage channels that should be constructed in the road reserve. It is recommended that the Department for Regional Development and Lands be advised that the development of this land will alter water movement in the area and drainage works are recommended to define current drainage watercourses and assist the movement of ponded water into drainage reserves. As the Department will financially benefit from the sale of this land, it is further recommended that this Department pays for these necessary works.

16. Staff would be supportive of the request to close the right of way and release the unallocated Crown land, currently zoned Residential, to allow amalgamation with the adjoining freehold titles, subject to the conditions noted above and the following notifications being placed on title:
 - a. The re-subdivision of the lots will not be supported by the City of Albany; and
 - b. There is a potential for inundation and risks associated with the disturbance of acid sulphate soils. Prior to any development of the resultant lots occurring or being approved, the landowner must demonstrate that these risks can be satisfactorily managed to the satisfaction of the City of Albany.

GOVERNMENT CONSULTATION

17. Whilst the Department for Regional Development and Lands is the government agency responsible for the request, all other public utilities would be consulted and their comments included in any assessment of the proposal. This is specifically relevant to the proposed right of way closure.

PUBLIC CONSULTATION/ENGAGEMENT

18. The request has been initiated by the Department of Regional Development and Lands, on behalf of four adjoining landowners. Should Council support the request, the Department will be required to consult with the remaining nine landowners as is required by the provisions contained in Part 6 of the *Land Administration Act 1997*.
19. Section 58 of the *Land Administration Act 1997* sets the procedure for closing roads, the definition of which includes a public right of way. It is a requirement of the Act that the proposed right of way closure be advertised in a local newspaper for a period not less than 35 days. Notification will also be sent to neighbouring landowners and to relevant public utility service providers. As the Department of Regional Development and Lands is initiating this request, it would be that Department's responsibility to observe the advertising requirements of the Act.

STATUTORY IMPLICATIONS

20. The *Land Administration Act 1997* defines a road as “*land dedicated at common law or reserved, declared or otherwise dedicated under an Act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both.*” This definition includes public rights of way.
21. Section 58 of the *Land Administration Act 1997* allows the local government to request the Minister for Lands to close a road. This section specifies the public consultation processes that must be observed prior to submitting the request to the Minister, including a minimum notification period of 35 days from the date of advertising in a newspaper circulating in the district.

22. Section 87 of the *Land Administration Act 1997* provides the Minister for Lands the power to convey in fee simple or lease Crown land for subsequent amalgamation with adjoining land, wherever that Crown land is considered unsuitable for retention as a separate location or lot because of its geographical location, potential use, size, shape or any other reason based on good land use planning principles.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

23. 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.”

24. Table 5 contained within the Albany Local Planning Strategy recommends a no growth scenario for the Youngs Siding townsite. The proposal is in line with this strategy.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

26. The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Sale of the land is supported without conditions for infrastructure improvement	Possible	Moderate	Medium	Advise Department of Regional Development and Lands of conditions of Council’s support

FINANCIAL IMPLICATIONS

27. There would be no financial implications for Council, as any proceeds from the sale of the closed right of way and the unallocated Crown land would go to the State Government and not Council. As the subject land is currently unallocated Crown land, the land management costs are met by the Crown

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

28. Council has the following options in relation to this proposal:

- a. The proposed release of the unallocated Crown land and the closure of the right of way to allow amalgamation of the resultant land into the adjacent freehold titles can be supported. In this scenario, the Department of Regional Development and Lands would then progress the advertising and notification procedures required under the Land Administration Act 1997; or
- b. The request may be declined.

SUMMARY CONCLUSION

29. As the subject Lots 11 to 24 and 38 are less than 2000m², they are not considered suitable for development under the Country Sewerage Policy. The right of way does contain a drainage function which must be retained in an easement on any future amalgamated titles. Further, drainage and road upgrading works would be appropriate prior to the release of the land for sale. The amalgamation of this land into the adjoining lots for use by the adjacent titleholders appears to be a reasonable use of the subject land. As such, the proposal is supported, subject to the conditions mentioned in the discussion section of the report.
30. With regard to Lots 35 and 36 Knapp Street, there are sufficient concerns about the capability of this land to sustain development that further investigation is considered necessary prior to any decision being made on their release for sale as individual land parcels. It is noted that these lots do not currently have constructed road access and Council does not have any plans to construct the remainder of this road.

Consulted References	Land Administration Act 1997 Planning and Development Act 2005
File Number (Name of Ward)	RD.RDC.2 & GR.STL.39 (All Wards)

**5.3: RESERVE 23579 HAY RIVER AND MORLEY BEACH UNALLOCATED
CROWN LAND - DRAFT MEMORANDUM OF UNDERSTANDING
(VERSION 2)**

- Land Description** : Reserve 23579 Hay River and Morley Beach unallocated Crown land (UCL) area on eastern foreshore of Wilson Inlet.
- Proponent** : Department of Environment and Conservation (DEC)
- Owner** : Crown
- Attachment** :
 - Crown Reserve 23579 and portion of Morley Beach UCL
 - Map of subject site
 - Letter from DEC dated 29 March 2011, including Draft Memorandum of Understanding
- Councillor Workstation** : Letter from DEC dated 14 November 2007
Letter from City dated 3 August 2009
Letter from DEC dated 11 May 2010
Letter from Albany Bird Group dated 19 May 2010
City of Albany resolution 17 February 2009
City of Albany resolution 21 July 2009
Shire of Denmark resolution 24 March 2009
Shire of Denmark resolution 22 September 2009
[N:\WORKS.SERVICE\EDWS\PA_EDWS\Belinda's_Documents\COUNCIL MEETINGS AGENDA ITEMS\2011\May 2011\Councillors Workstation](N:\WORKS.SERVICE\EDWS\PA_EDWS\Belinda's_Documents\COUNCIL_MEETINGS_AGENDA_ITEMS\2011\May_2011\Councillors_Workstation)
- Responsible Officer(s)** : Executive Director Works and Services (K Ketterer)

MAP

- See Attachment.

IN BRIEF

- The Department of Environment and Conservation is seeking the City's support in vesting Reserve 23579 Hay River, and the unallocated Crown land area on the eastern foreshore of Wilson Inlet with the Conservation Commission of WA as a 'conservation park'.
- Council previously resolved that the City was prepared to take the management order for the portion of R23579 east of the Hay River, and to prepare a management plan for the reserve in consultation with DEC.
- DEC is again seeking the City's support for the proposal, and has presented a draft Memorandum of Understanding for the City's consideration for signing.

CEO:	RESPONSIBLE OFFICER:
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**ITEM 5.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT:

- i) Council ADVISE the Department of Environment and Conservation that it is prepared to sign the Memorandum of Understanding between the Department of Environment and Conservation, the City of Albany and the Shire of Denmark in relation to the management of Crown Reserve 23579, Hay River.**
- ii) The Draft Memorandum of Understanding is AMENDED to state that Keith Rd is to be gazetted as a public road, for management by the City of Albany.**

BACKGROUND

1. The City received a letter (dated 14 November 2007) from the DEC, asking whether Council agrees to Reserve 23579 being vested with the Conservation Commission of WA as a conservation park. The Shire of Denmark also received a similar letter, as this reserve is located on both sides of the Hay River, which is the boundary between the two local government areas.
2. Reserve 23579 is currently unvested (i.e. no agency holds the Management Order).
3. Due to an administrative oversight by a previous member of staff, this issue was not immediately addressed by the City.
4. An item (Item 11.4.1) went before Council at the OCM held 17 February 2009. Council resolved:

“THAT Council notifies landowners adjacent to Reserve 23579 of the proposal by the Department of Environment and Conservation to have the management order for Reserve 23579 transferred to the Conservation Commission of WA with the purpose of the reserve being changed to “Conservation Park”, and considers any submissions at a subsequent meeting of Council prior to providing its response to the DEC.”
5. Council was also informed that the Shire of Denmark Council resolved at their OCM held 24 March 2009:

“That Council advise the Department of Environment and Conservation that:
 - i) It is prepared to have the Management Order for that portion of the Reserve A23579 west of the Hay River transferred to the Denmark Shire and that the portion of the reserve west of the Hay River to remain as “Recreation and Camping”.
 - ii) In the event of the Management Order reverting to Council, Council will actively pursue funding for a Management Plan over that portion of the reserve west of the Hay River to better manage the said reserve. “

6. Another item (Item 15.3.3) went before Council at the OCM held 21 July 2009. This item reported that letters were sent to 23 landholders adjacent to and near Reserve 23579 to notify them of the proposal and to ask for submissions. One submission was received (see below):

SCHEDULE OF SUBMISSIONS		
No.	Name and Address of Submitter	Summary of Submission
1	Peter Buxton PO Box 802 Denmark WA 6333	<ul style="list-style-type: none"> • Keith Road has been the major access for the five locations along the Hay River since 1898. • The reserve is a very popular area for recreation. • Tourists regularly camp on the River free of charge. • The Reserve is the gateway to the City of Albany on Highway 1 from the west. A major information bay should be established at that point. • The 3 or 4 camp sites along the river could be developed with composting toilets, fee collection, revegetation and track closures. • Reserve 23579 should be vested with the City of Albany.

7. An item (Item 15.3.3) went before Council at the OCM held 21 July 2009. Council resolved:

“THAT Council ADVISE the Department of Environment and Conservation (DEC) that:

- i) It is prepared to have the management order for that portion of the reserve 23579 east of the Hay River transferred to the City of Albany for the purposes of ‘Public Recreation’; and
 - ii) In the event of receiving the management order for the Reserve Council will actively pursue the preparation of a Management Plan in consultation with the DEC for the Reserve.”
8. The City sent a letter to DEC (dated 3 August 2009) advising it of the Council's resolution.
9. The City received an email from DEC on 30 August 2009 indicating that DEC is awaiting comments from DEC's Albany office in response to the Council resolution before considering a response to the matters raised in the letter.

10. The Shire of Denmark Council resolved at their Ordinary Council Meeting held 24 March 2009:

“That Council advise the Department of Environment and Conservation that it supports the vesting of R23579 in the Conservation Commission of WA for the purpose of a Conservation Park and subject to the department entering into a Memorandum of Understanding with the Shire of Denmark addressing but not limited to the following:

- i) Development of a public consultation process to refine usage of the reserve for recreational use.
- ii) In consultation with the Shire of Denmark develop a management plan which incorporates
 - a) Appropriate public recreational use which recognises current and future usage and provides facilities for such uses as vehicle access, bank fishing, boat launching, wildlife and fauna observation;
 - b) A reserve access plan that upgrades and consolidates current access to the foreshore and river bank and includes fire access routes;
 - c) Rehabilitate and protect important biodiversity assets of the reserve including rare and endangered flora, migratory shorebird habitat and endemic shorebird nesting sites and maintain current corridor linkages;
 - d) Provides for adequate educational signage in relation to reserve recreational usage as well as biodiversity assets and threats such as *Phytophthora dieback*; and
 - e) Prioritise recommendations to enable urgent on-ground works to be implemented in the short-term.
- iii) That the draft memorandum of understanding be reported back to Council for its adoption.
- iv) The Shire of Denmark to participate in an advisory capacity in relation to ongoing management of the reserve.”

11. State Land Services advised the City in October 2009, that “The land occupied by ‘Keith Road’ remains part of Class A Reserve 234579 and will need to be excised prior to dedication as a road. Once the City of Albany, Shire of Denmark and the Department of Environment and Conservation have resolved the management issue, then matters can be discussed as to what changes need to be implemented to Class A Reserve 24579, including excisions for roads.”

12. A letter was received from DEC (dated 11 May 2010) in response to the Council's resolution, indicating that DEC seeks further discussions with the City about this proposal, and the possible development of a Memorandum of Understanding with the City of Albany.
13. The City requested a response to the Council's resolution from DEC in February 2010, and was advised that DEC was liaising with the Shire of Denmark, and would provide a response to the City once negotiations with Denmark were completed.
14. DEC received a letter from the Albany Bird Group (dated 19 May 2010) in support of Morley Beach unallocated Crown land area on the eastern foreshore of Wilson Inlet, also being managed by State Government for the purpose of nature conservation (migratory shorebirds). DEC commenced assessing whether Morley Beach unallocated Crown land should be included in their previous proposal to manage R23579.
15. Various phone calls and emails were initiated by the City seeking further negotiations with DEC to resolve the issue, during August 2010 (EF1019268) and November 2010 (LT1040157). The City was aware that DEC was still undertaking further investigations, particularly in relation to including the Morley Beach unallocated Crown land area in the proposal.
16. DEC sent a letter to the City (dated 29 March 2011) to indicate that they are still seeking to have the vesting of Reserve 23579, including the Morley Beach unallocated Crown land along the eastern foreshore of the Wilson Inlet, transferred to the Conservation Commission of Western Australia as a conservation park. A Draft Memorandum of Understanding that sets out the terms of a cooperative and complementary management framework between DEC, the Shire of Denmark and the City of Albany for the future management of Reserve 235790 and the area of UCL (see Attachment).

DISCUSSION

17. Reserve 23579 was set aside in 1952 as an "A" class reserve for the purpose of "Camping and Recreation". The reserve comprises an area of 304.8 hectares and it straddles the Hay River for a distance of approximately 6.6km within the City of Albany and 8.7km within the Shire of Denmark. It also borders the northern shores of Wilson Inlet within the Shire of Denmark for a length of approximately 4km.
18. R23579 has the following characteristics:
 - i) valuable conservation corridor linking Wilson Inlet to Mt Lindesay National Park;
 - ii) protects lower Hay River and Wilson Inlet;
 - iii) majority of vegetation is in excellent condition;
 - iv) contains areas of the Jarrah, Mt Lindesay vegetation complex which has been identified in the Regional Forest Agreement as being under-represented in conservation reserves; and

- v) management issues due to high degree of use long boundary and large number of abutting properties.
19. R23579 is a popular location for local residents wishing to undertake passive recreational activities and for fishing. Sections of the river reserve are inaccessible due to the extensive vegetation or having private property adjoining the reserve boundary. Those sections of the reserve where Keith Road runs parallel and adjacent to the foreshore are heavily degraded due to human pressure.
 20. R23579 is at the eastern extremity of the Walpole Wilderness Area and it provides an important conservation link between that area and the local reserve network.
 21. R23579 is currently not actively managed as it is unvested. However, the City of Albany does maintain the gravel road (i.e. Keith Rd; 3 km) that passes through Reserve 23579 (connecting South Coast Highway with Hunwick Rd), having spent \$3,300 in 2009/10 and \$1,800 in 2010/11.
 22. The parcel of unallocated Crown land known as Morley Beach is an area of 106 Ha on the eastern foreshore of the Wilson Inlet.
 23. Wilson Inlet has been acknowledged as one of the top 118 wetlands of significance for migratory birds in Australia (Bamford *et al* 2008). Data of bird use of Morley Beach (Albany Bird Group) has been collated over many years and indicates that the area qualifies as a wetland of international significance because at least three wader bird species, more than 1% of the population of that species has been observed to utilise the wetland at one time.
 24. Threats to Morley Beach include disturbance and physical damage to shore birds and their habitat from off road vehicles. Additional threats include predators such as dogs, foxes and cats.
 25. The Draft Memorandum of Understanding states that “DEC will consult the City of Albany, the Shire of Denmark and the community to canvas the views of the community in respect to the management of the Reserve and the development of the management plan.” It also states that “Appropriate recreational uses will be permitted subject to the management plan. Permission will take into consideration customary recreational uses of the reserves. Camping will not be permitted in the Reserve.”
 26. The Draft Memorandum of Understanding does not specifically mention the gravel road that passes through the reserve (i.e. Keith Rd). However, given Keith Rd is currently used by the local community as access between South Coast Highway and Hunwick Rd, the City’s preference is for the gravel road to be gazetted as a public road, for management by the City.

GOVERNMENT CONSULTATION

27. Government agency consultation undertaken on this request is coordinated by the Department of Regional Development and Lands.
28. The process of changing the reserve purpose from “Camping and Recreation” to “Conservation Park” will require parliamentary scrutiny and it will be subjected to Native Title review.

PUBLIC CONSULTATION / ENGAGEMENT

29. Apart from the letters the City sent to adjacent and nearby landholders, no other public consultation has been undertaken by the City.
30. The Albany Bird Group and Wilson Inlet Management Advisory Group have both documented their support for Morley Beach to be managed by State Government for the purpose of nature conservation.
31. DEC informed the City on 20 April (EF1135924) that no formal public consultation has been undertaken. However, DEC has consulted with the Shire of Denmark and has had discussions with the Albany Bird Group.

STATUTORY IMPLICATIONS

32. The process of altering the reserve purpose and issuing the management order for an “A” class reserve is covered under the Land Administration Act 1997. More particularly, the following sections apply:
 41. *Minister may reserve Crown land*
Subject to section 45(6), the Minister may by order reserve Crown land to the Crown for one or more purposes in the public interest.
 - 42(2) *A Class A reserve retains a purpose specified in the relevant order made under section 41 until that purpose is changed under this section.*
 - 42(4c) *Subject to subsection (5) and section 45, if the Minister proposes - to cancel, or change the purpose or classification of, a class A reserve, the Minister must cause that proposal to be laid before each House of Parliament and section 43(1) then applies.*
 46. *Placing of care, control and management of reserves*
 - (1) *The Minister may by order place with any one person or jointly with any 2 or more persons the care, control and management of a reserve for the same purpose as that for which the relevant Crown land is reserved under section 41 and for the purposes ancillary or beneficial to that purpose and may in that order subject that care, control and management to such conditions as the Minister specifies.*

- (2) *The Minister may, with the consent of the management body of a reserve and of the holders of any interests within the reserve, by order vary any condition to which the care, control and management of the reserve is subject.*
- (5) *An order made under subsection (1), (2), (3) or (3a) does not create any interest in Crown land in the relevant reserve in favour of the management body of that reserve.*
- (6) *If Crown land reserved under section 41 for purposes of recreation is leased or subleased under a power conferred under subsection (3), the lessee or sublessee may unless the terms of the management order or the lease or sublease otherwise provide, restrict public access to the area leased.*
- (7) *A person with whom the care, control and management of a reserve is placed by order under subsection (1) has, by virtue of this subsection, the capacity, functions and powers to hold and deal with the reserve in a manner consistent with the order, any order conferring power on that person under subsection (3)(a) and this Act to the extent that the person does not already have that capacity or those functions and powers*

STRATEGIC IMPLICATIONS

33. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan, this item directly relates to:

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 reflect our environment.

POLICY IMPLICATIONS

34. Council has formally considered this matter on two previous occasions, being at its Ordinary Council Meetings on 17 February 2009 (Item 11.4.1) and 21 July 2009 (Item 15.3.3).
35. If this reserve was to come under City management, it would be managed under the Reserves Asset Management Plan (Natural) – Synergy Reference NS 1013699. Under this management plan, all natural reserves (480 plus reserves) will be assessed and prioritised by the end of the 2011/12 financial year. Only those reserves of highest priority, and those reserves, into which the City has already invested substantial time and money, will be actively managed in the first instance. Although this reserve is likely to rank quite high against other City natural reserves, there is no guarantee that this reserve would receive the high level of management it requires in the immediate future.

RISK IDENTIFICATION & MITIGATION

36. The risk identification and categorisation relies on the City's Risk management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Uncoordinated management of reserve, where the nature conservation values could be compromised.	Possible	Minor	Medium	DEC to manage both sides of the Hay River, and Morley Beach.
Less unrestricted access within reserve, if managed by DEC.	Possible	Minor	Medium	Agreed Memorandum of Understanding between DEC and the City and the Shire of Denmark, which indicates that a management plan will be developed by DEC in consultation with the two local Governments.
If managed by the City, the reserve may not immediately receive the management it requires, as it needs to fit under the Reserves Asset Management Plan (Natural).	Possible	Minor	Medium	The City's Natural Reserve budget and relevant service budgets (bins, toilets and rangers) would need to be adjusted accordingly to ensure that the reserve is adequately managed and serviced.

FINANCIAL IMPLICATIONS

37. Given the City already maintains Keith Rd, this proposal has no additional financial implications upon the City of Albany.
38. Should Council decide that it wishes to pursue the management order for the reserve, costs will be incurred in the provision of services and infrastructure on the reserve.
39. It is not possible to predict the initial and on-going costs to manage this area, until the management requirements for Reserve have been determined. However, works required could include, but are not restricted to:
- weed control (e.g. Watsonia);
 - track maintenance and rehabilitation of unnecessary tracks;
 - erosion control along the banks of the River;
 - signage (including interpretive signage, regulations and visitor risk);
 - City ranger patrols;
 - installation and on-going servicing of toilets and bins;
 - picking up of dumped rubbish; and
 - maintenance of boat ramps.

LEGAL IMPLICATIONS

40. Not applicable.

ALTERNATE OPTIONS

41. The Council must be aware of the short or long term ramifications of any alternate decisions.
- i) Council has the option of denying the request in which case, the land will remain as unallocated Crown land without an effective manager of the land. This action may produce a reduction in environmental values on the river foreshore, but allow unrestricted access to this area for the general public.
 - ii) Council could agree to the proposal and gain a commitment from the Conservation Commission of WA that the City and the community will be actively involved in the preparation of the management plan for the reserve through the Memorandum of Understanding (this approach was adopted when Council agreed to transfer the Mt. Martin reserve to the Conservation Commission of WA).
 - iii) Council could pursue the Management Order for the portion of Reserve 23579 east of the Hay River. The City of Albany would then be responsible for the management of the subject reserve.

SUMMARY CONCLUSION

42. The nature conservation value of the subject portions of land cannot be overstated. The Hay River Reserve 23579 is a valuable conservation corridor linking Wilson Inlet to Mt Lindesay National Park, and Morley Beach is a nationally and internationally significant site for migratory shore birds. Given the conservation values of these areas, the changing of their purpose to 'conservation park' is appropriate, as is the Conservation Commission being the appropriate Department to manage these areas.
43. It is recognised that the subject areas are also important recreational areas for the community and visitors to the South Coast of WA. The Draft Memorandum of Understanding will allow for the use and enjoyment of Reserve 23579 by providing appropriate recreational opportunities whilst protecting the significant and important biological values of the land, water and inlet. In addition, the Management Plan to be developed for the new reserve will be developed in consultation with the City and the community, and the City's endorsement of the Plan will be sought before it is finalised.
44. With Keith Rd gazetted as a public road, the community will have continued access through and into the reserve along the Hay River, between South Coast Highway and Hunwick Rd.

45. The City already has over 480 (continuously increasing in number) natural reserves being prioritised and managed, under the Council adopted Asset Management Plan Reserves (Natural). The addition of another large, high maintenance reserve to the list will put significant pressure on the resources available for the management of natural reserves under City management.
46. The process of changing the reserve purpose from “Camping and Recreation” to “Conservation Park” will require parliamentary scrutiny and it will be subjected to Native Title review. Some concern may be expressed within the community over the perceived loss of this reserve for passive recreational use, but the long term lack of management of the reserve will ultimately reduce its value for that purpose.

Consulted References	Bamford M, Watkins D, Bancroft W, Tischle G and Wahl J. 2008. Migratory Shorebirds of the East Asian-Australasian Flyway: Population Estimates and Internationally Important Sites. Wetlands International.
File Number (Name of Ward)	GR.STL.24 (West Ward)
Previous Reference	OCM 17/02/09 – Item 11.4.1 OCM 21/07/09 – Item 15.3.3

XIV. MOTIONS WITH NOTICE

14.1 Constitutional Recognition of Local Government-Motion by Mayor Evans

14.1: CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

IN BRIEF

- The Western Australian Local Government Association (WALGA) has requested Council to support a resolution to recognise local government in the Australian Constitution.

ITEM 14.1: MOTION BY MAYOR EVANS VOTING REQUIREMENT: SIMPLE MAJORITY

- 1. The City of Albany declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve recognition.**
- 2. The Council requests the Mayor to communicate its support to relevant entities.**

BACKGROUND

During 2008 Australian Local Government Association (ALGA) took steps to secure a referendum which involved:

- Production of initial resource materials to assist Local Governments to conduct a conversation at the local level on the need for Constitutional recognition
- Zone or region level discussions, where appropriate, based on WALGA agenda items
- Statewide forum to determine a State Local Government position (resolved at Local Government Convention)
- A national experts forum a National Constitution Summit (Melbourne December 2008)

In 2009/10 ALGA focused advocacy around national political forums, political parties and key influential academics, while State Associations built up state profiling campaigns to improve the image and perception of their local government jurisdictions.

The ALGA Board further refined the national position in 2010 to focus specifically on financial recognition and the WALGA position was also aligned to this focus.

ALGA's position is that:

- The Federal Government has committed to a referendum on Constitutional recognition for Local Government, likely to be held in conjunction with the 2013 election.
- A national position was developed at the Local Government Constitutional Summit to be held in Melbourne in December 2008, and has been refined by the Australian Local Government Association (ALGA) Board to focus the referendum on financial recognition.
- ALGA has requested that all Local Governments formally resolve to support the conduct of the referendum.

Item 14.1 continued.

DISCUSSION:

On 24 March 2011, WALGA President, Mayor Troy Pickard, wrote to Council and requested Council:

- Support the ALGA campaign for the Constitutional recognition of local government;
- Call on the Federal Government to conduct a referendum to achieve the Constitutional recognition of local government at the 2013 federal election;
- Develop a local level campaign, in support of the national campaign, to inform the local community and garner its support;
- Acknowledge that funding implications need to be considered as part of the ongoing financial planning process.

A copy of the correspondence is attached.

GOVERNMENT CONSULTATION

No state government consultation has been conducted in response to this request.

PUBLIC CONSULTATION / ENGAGEMENT

No public consultation has been conducted in response to this request.

STATUTORY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

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

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

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

POLICY IMPLICATIONS

WALGA's position is that the national policy position is consistent with the WALGA position and adoption of the recommendations will formalise Council's policy position and align it with the national campaign.

Item 14.1 continued.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Activity not costed in current Budget.	Unlikely	Minor	Low	A budget line is allocated so Council clearly defines the City’s costed involvement in this activity, which could include the items listed under Financial Implications.
Lack of community engagement	Unlikely	Minor	Low	Community consultation is conducted by the Federal Government as part of any referendum.

FINANCIAL IMPLICATIONS

The costs associated with any local level campaign will be contingent on its extent and complexity. Expenditures could involve expenses such as forum consultant, catering and administrative charges (i.e. telephone calls, printing) if the Council thinks necessary.

LEGAL IMPLICATIONS

There are no immediate legal implications related to this item; however, if the referendum was successful there would be a change to the Australian Constitution.

ALTERNATE OPTIONS

Council can either support, or not, the WALGA request.

SUMMARY CONCLUSION

The City of Albany is a member of the WA Local Government Association (WALGA).

Consulted References	Nil
File Number (Name of Ward)	GR.LRL.1 (All Wards)
Previous Reference	OCM 19/04/2011 Item 4.2

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

15.1 NOTICE OF MOTION BY CR LEAVESLEY – REVOCATION OF ALAC GYMNASIUM RESTRICTIONS

NOTICE OF MOTIONS TO REVOKE A PREVIOUS DECISION OF COUNCIL BY COUNCILLOR LEAVESLEY

In accordance with Regulation 10(1a) of the *Local Government (Administration) Regulations 1996*, we the undersigned hereby move to have the restrictions imposed on the Albany Leisure & Aquatic Centre (ALAC) Gymnasium Operations detailed at Report Item 16.1 which was moved at an ordinary meeting of council held on the 16 January 2007.

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Reason: The current restrictions impinge upon the commercial viability of the gymnasium and if left in place increase the commercial risk (business unit failure).

**ITEM 15.1: REVOCATION MOTION BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT the restriction imposed by the resolution of Council on 16 January 2007, detailed at item 16.1, Points 2 & 3, being:

“2. That the operations of the gymnasium be undertaken as follows:

- i) Like manner to existing gymnasium facility,***
- ii) Same number and functionality of exercise stations,***
- iii) No specific memberships to gymnasium allowed – access only by general membership to ALAC for all facilities or casual usage fee.***

3. That the operations of the general purpose area be undertaken as follows:

- i) Seniors/Wellness/rehabilitation service section programs,***
- ii) Workshops/meeting space for sporting and community group meetings, coaching/accreditation training sessions, general community space and allied health service delivery.”***

be REVOKED.

[Section 5.25 (1)(e) of the Local Government Act 1995 refers]

Reason:

The restrictions imposed by Council on the operation of the ALAC gymnasium are unrealistic and unfair.

The restrictions impinge upon the commercial viability of the gymnasium and if left in place increase the commercial risk (business unit failure).

The City gymnasium can operate without these mandated restrictions and comply with national competition policy.

XVI. URGENT BUSINESS APPROVED BY DECISION OF THE MEETING

16.1: NOTICE OF MOTIONS FROM COUNCILLOR LEAVESLEY

**ITEM 16.1: PROCEDURAL MOTION BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT the Notice of Motion by Councillor Leavesley, in regards to the adoption of a Mandatory Training Policy for Elected Member be accepted as an urgent item.

Reason:

The Notice of Motion has budgetary implications therefore, it is prudent to have this item accepted as a late item, under 3.11(4), being:

*“(4) The Council may, by absolute majority, dispense with the notice requirements of clause 3.11(1) where the Council is satisfied that the motion—
(a) relates to a matter of urgency that complies with clause 3.6(2); and
(b) could not reasonably be dealt with at the next ordinary meeting of Council.”*

This item does not breach clause 3.6(2), being:

“(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, prior to the budget finalisation.”

**ITEM 16.1: NOTICE OF MOTION 1 BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

In light of the recommendations and observations of the Best Practice Review 2010, Council adopts a mandatory training policy with regard to both all incoming Councillors and all existing Councillors after the October 2011 elections.

That the Mayor and Councillors training to include the following WALGA Elected Member training units:

- **Councillor Roles and Responsibilities;**
- **Ethics and Conduct of an Elected Member;**
- **Financial Report and Budgets;**
- **Strategic Planning;**
- **Change Management;**
- **Policy Development;**
- **Land Use Planning;**
- **Sustainable Asset Management;**
- **CEO Performance Appraisals and Manage Conflict;**

And;

That the City allocates appropriate financial resources in the 2011/12 Budget to enable this to take place.

Item 16.1 continued.

Reason:

The Best Practice Review clearly identified the lack of Councillor training as a contributor to the challenges the city of Albany faces. By adopting this policy now all prospective Councillors will understand this training is required. Other Councils have conducted this training as a group in their Council Offices, greatly reducing the cost. We could also invite neighbouring councils to take part in training here in Albany and all benefit from the economies of scale.

Officer's Comment:

The Notice of Motion has budgetary implications therefore it is prudent for Council to be provided with that information prior to consideration of the motion. As the Council will not decide the budget until its June OCM, there is no urgency at this time to act on the motion. At the June OCM Council will be asked to make decisions on various competing budgetary priorities, and this is one of those priorities that should be considered in the context of the FULL budget. I recommend the motion be considered as part of the June OCM budget debate. In the meantime, the Councillor could make submissions to the Council Workshop and the Audit Committee meeting that will be organised to consider the budget recommendations by the City's Executive.

16.2: NOTICE OF MOTION FROM COUNCILLOR D BOSTOCK

**ITEM 16.2 NOTICE OF MOTION BY COUNCILLOR D BOSTOCK – ALAC
VOTING REQUIREMENT: SIMPLE MAJORITY**

That part two of the Responsible Officer’s Recommendation detailed at Report Item 3.1 - Albany Leisure and Aquatic Centre is amended:

From: *“That Council DIRECTS the Chief Executive Officer”*

To: *“That Council DIRECTS the Chief Executive Officer, in collaboration with any Councillor who wish to be involved, to:...”*

Reason:

There is a considerable amount of knowledge residing within the elected body which, in total, as accumulated close to 1000 years of experience. Councillors who have relevant skills may be prepared to assist without charge and, as representatives of the electorate, will be seen as providing valuable community input.

As for Rules of Conduct 9.1, I accept that without permission of Council it would not be permissible, which is why I am seeking such permission in this amended motion.

Officer’s Comment:

In accordance with The *Local Government (Rules of Conduct) Regulations 2007*, regulation 9 which states:

“ 9. Prohibition against involvement in administration

(1) A person who is a council member must not undertake a task that contributes to the administration of the local government

unless authorised by the council or by the CEO to undertake that task.

(2) Sub regulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.”

Restricting the CEO’s administrative decision-making conditional upon “collaboration with any Councillor who wishes to be involved” may be seen to amount to a contravention of the above Regulation.

XVII. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.

Nil.

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

18.1: NOTICE OF MOTION FROM COUNCILLOR D BOSTOCK – RECYCLING STRATEGY

**ITEM 18.1: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the waste recycling strategy which will be presented at a future Councillor Workshop be prepared in collaboration with any Elected Member who wishes to become involved.

Reason:

Recycling of waste involves the City in annual costs of several hundred thousand dollars. Councillors may have experience in managing such costs and should be encouraged to participate in staff deliberations at an early stage.

Officer's Comment:

Councillor Bostock gave notice at the Ordinary Meeting of Council held on 19 April 2011, which read as follows:

“That Council institute a Committee, consisting of any member who wishes to be involved, to review the waste recycling operations in the city of Albany”

Notice of Motion submitted in accordance with:

- a. Clause 5.4 of the *Standing Orders Local Law 2009*, being:
“5.4 Motions
 - (1) *A member proposing a primary motion or amendment must state its substance before addressing the meeting.*
 - (2) *The presiding person or the meeting by resolution may require a complicated motion to be divided into two or more motions.”*

- b. The *Local Government (Rules of Conduct) Regulations 2007*, regulation 9 which states:
“ 9. Prohibition against involvement in administration
 - (1) *A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task.*
 - (2) *Sub regulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.”*

18.2: NOTICE OF MOTION BY COUNCILLOR LEAVESLEY – AGENDA BRIEFING

NOTICE OF MOTION TO REVOKE A PREVIOUS DECISION OF COUNCIL

In accordance with Regulation 10(1a) of the *Local Government (Administration) Regulations 1996*, we the undersigned hereby move to have Report Item 4.1(i) – Local Public Notice – Council Meeting Calendar, which was moved at the Ordinary Council Meeting held on 15 February 2011, be reconsidered.

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

ITEM 18.2: REVOCATION MOTION BY COUNCILLOR LEAVESLEY

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT the Motion resolved at Report Item 4.1(i) – Local Public Notice – Council Meeting Calendar dated 15 May 2011 as follows:

“THAT Agenda Briefing session be held two weeks (14 days) prior to Ordinary meetings of Council. “

Be revoked.

[Section 5.25 (1)(e) of the Local Government Act 1995 refers]

Reason:

It is my understanding that council has never operated before on a draft agenda basis. The ‘final agenda’ not being available until after the Agenda Briefing could lead to staff recommendations being amended to meet political pressures rather than the recommendations being the best professional advice. Compliance with our standing orders as I have understood them (and have been operated since their inception) is not possible under this draft agenda process. The whole purpose of the Agenda Briefing is to show open and accountable governance and allow the ratepayers/councillors the opportunity to have timely accurate information with the decision making process being equitable and transparent.

ITEM 18.2: MOTION BY COUNCILLOR LEAVESLEY – BRIEFING AGENDA

VOTING REQUIREMENT: SIMPLE MAJORITY

Council resolve that the Agenda Briefing for the Ordinary Council Meeting be the 2nd Tuesday (7 days prior to the OCM) in the Month. That this Agenda is the final Agenda and the information provided by staff continues to be their unbiased professional opinion. This Agenda should be provided to Councillors and the public no later than 12 noon on the Thursday prior to the Agenda Briefing.

Reason: Refer to revocation motion.

18.3: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK – GOVERNANCE MATTERS

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

That the agenda for Councillor Workshops be set by councillors, to informally discuss governance matters.

Reason:

There is at present no forum for councillors to meet, where they can consider the future long term development of our City, without being distracted by short term issues.

Officer's Comment:

The CEO has sought advice from Council Members regarding future Council Workshop briefing topics. Strong response was received to that request, and a list of proposed topics was provided recently to Council Members in that regard. All of those topics are strategic or of a high level operational nature. As no further feedback was received from Members in respect of that list of topics, the CEO is now preparing a forward timetable of items for consideration at future Council Workshops, based on that list. That timetable will be provided to Council Members in the near future.

Should Council wish to hold another meeting / forum (in addition to the Council Committee meeting, the Council Workshop, the Agenda Briefing session and Council meetings) to allow Councillors more time to meet to consider future long term development of the City and or governance matters, the CEO will facilitate organisation of that additional meeting.

18.4: NOTICE OF MOTION BY COUNCILLOR LEAVESLEY – CODE OF CONDUCT

**ITEM 18.4: NOTICE OF MOTION BY COUNCILLOR LEAVESLEY
VOTING REQUIREMENT: SIMPLE MAJORITY**

In light of the recommendations and observations of the Best Practice Review July 2010, Council instructs the CEO to undertake research and prepare recommendations for a Councillor Workshop with regard to the City's Code of Conduct. In particular in relation to provisions when dealing with lobbyists, elected member dealings with developers/proponents, and employee liaisons with proponents. This work to be completed and the new code of conduct adopted prior to the October 2011 Local Government Elections.

That the City allocates appropriate financial resources in the 2011/12 budget to enable this to take place.

Reason:

Extract from Best Practice Review: *"Including these provisions in the Code of Conduct will enhance transparency and bolster public confidence in the Council."*

Officer's Comment:

The Council has requested the CEO to:

1. Undertake a review of the Standing Orders, given the identified inadequacies and ambiguities within those local laws. Those reviewed Standing Orders will be considered by Council in the near future.
2. Support Council in undertaking a review of its Governance processes (including reviewing its Code of Conduct and governance policies). Further to the *Better Practice Review*, (Council has made a commitment to the Minister for Local Government that such Governance Review will be completed in the near future. (OCM 20 April 2010, Item 16.4.1.)

The CEO has commenced work on both those activities.

Completion of the review of the Code of Conduct should be possible for completion within the anticipated 2011/2012 budget.

18.5: NOTICE OF MOTION BY COUNCILLOR J BOSTOCK – SCHEME AMENDMENT REQUESTS (SARs)

**ITEM 18.5: NOTICE OF MOTION 1 BY COUNCILLOR J BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

In line with the Better Practice Review and with immediate effect, Council discontinue the use of Scheme Amendment Requests (SARs) and only consider formal Scheme Amendments in accordance with legislation. Relevant City Policy and guidelines are to be amended accordingly.

Reason:

Whilst the intent of an exploratory request might sound practical and save proponents time and money in preparing an application, Council are disadvantaged in attempting to make judgement without all the necessary facts. Since the process is not provided for in law, provisional “acceptance of permission” can increase expectation causing considerable potential for ambiguity and confusion with additional risk to litigation.

Officer’s Comment:

The Notice of Motion has minor budgetary implications. It would be prudent for Council to be advised of cost information prior to consideration of the motion, given the “tight” budget position - a potential revenue loss may be unacceptable.

At the June OCM Council will be asked to make decisions on various competing budgetary priorities, and this is one of matters that could be considered in the context of the FULL budget. I recommend the motion be considered as part of the June OCM debate. In the meantime, the Councillor could make submissions to the Council Workshop and the Audit Committee meeting that will be organised to consider the budget recommendations by the City’s Executive.

18.6: NOTICE OF MOTION BY COUNCILLOR J BOSTOCK – COUNCIL CHAMBER CONFIGURATION

**NOTICE OF MOTION 2 BY COUNCILLOR J BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

In line with the Better Practice Review , the configuration of the Council Chamber is altered to better reflect the purpose and roles of those in attendance. No Councillors should have their backs to the public gallery and officer should be formally separated and sit apart from the decision making Council. The detailed plan to be formulated at the next Councillor Workshop and the changed implemented as soon as practicable.

Reason:

The Ordinary Council Meeting is the instrument through which Council makes decisions and governs, thus the Chamber and its layout are significant in signalling the formality and importance of the occasion. The current seating arrangements do not allow the public to observe the decision making process and Councillors back to the public is disrespectful. Whilst the City Executive Directors are seated at the “head” of the Chamber there is the possibility of confusion as to their role in the proceedings. A simple seating rearrangement could open up the Chamber making the proceedings more accessible to the public and better reflect the governance role of the Mayor and Councillors.

Officer’s Comment:

While the CEO agrees with the Councillor that no Councillor should have their back to the public gallery, to configure the room with separate seating arrangements for Executives may cost more than \$10,000 (informal cost estimate previously sourced when Better Practice Review was released).

The CEO has considered rearranging the seating at the current table configuration, such that the four Executives sit with their back to the public gallery (with the CEO and minute secretary remaining seated near the Mayor). This change may only incur minimal expense. However, the CEO had decided to defer such rearrangement until after the October Council election.

At the June OCM Council will be asked to make decisions on various competing budgetary priorities, and this is one of matters that could be considered in the context of the FULL budget. I recommend the motion be considered as part of the June OCM debate. In the meantime, the Councillor could make submissions to the Council Workshop and the Audit Committee meeting that will be organised to consider the budget recommendations by the City’s Executive.

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

XX. NEXT ORDINARY MEETING DATE

Tuesday 21 June 2011 at 7pm.

XXI. CLOSURE OF MEETING

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

Meeting Date	Item Number	Details/Status
15/06/2010	15.2.3	Lot 5 Rufus Street - Compensation for Subdivision Design Changes. WAITING ON ADVICE FROM LGIS.
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. REQUIRES FURTHER CONSIDERATION BY COUNCIL.
15/02/2011	4.11	Padre White Lookout Project. CEO TO UNDERTAKE FURTHER INVESTIGATION OF THIS PROJECT, INCLUDING DETAILED BUDGET ANALYSIS FOR PROJECT SCOPE AND PROVIDE FURTHER ADVICE TO COUNCIL.
19/04/2011	1.1	Adoption of Draft Local Planning Policy Manual. RESPONSIBLE OFFICER RECOMMENDATION 2 WAS LAYED ON THE TABLE FOR FURTHER CONSIDERATION BY COUNCIL.