



MINUTES

ORDINARY MEETING OF COUNCIL

Held on
Tuesday, 18th May 2010
7.00pm
City of Albany Council Chambers

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TABLE OF CONTENTS

	Details	Pg#	Rec Pg#
1.0	Declaration of Opening and Announcement of Visitors	3	
2.0	Opening Prayer	3	
3.0	Announcements by Mayor and Councillors without Discussion	3	
4.0	Response to Previous unanswered questions from public question time	7	
5.0	Public Question and Statement Time	9	
6.0	Record of Attendance/Apologies/Leave of Absence (Previously Approved)	17	
7.0	Applications For Leave Of Absence	17	
8.0	Confirmation Of Minutes of Previous Meeting	18	
9.0	Declaration of Interest	20	
11.0	Petitions/Deputations/Presentations	22	
12.0	Adoption of Recommendations en bloc	22	
13.0	REPORTS DEVELOPMENT SERVICES		
13.1	Development		
13.1.1	Development Application-Holiday Accommodation-49A McLeod St, Albany	24	28
13.1.2	Development Application – Home Business – 155 Ulster Road, Yakamia	29	32
13.1.3	Development Application – Reconsideration of Temporary Conversion of Portion of Shed to Residential Use-Lot 150 Henty Road, Kalgan	33	41
13.1.4	Classification of Land Use-101-103 Albany Highway, Mount Melville	42	46
13.1.5	Development Application-Extractive Industry (Sand/Lime) – Lot 50 Attwell Road, Cuthbert	47	58
13.1.6	Development Application – Single House – Additions – 144-146 Grey Street, Albany	59	66
13.2	Development Policy		
13.2.1	Initiation of Scheme Amendment – Rezoning of Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39,40 and 46 Gladville Road, McKail	67	74
13.2.2	Modifications to the Draft Albany Local Planning Strategy	75	100
13.3	Health, Building and Rangers		
13.3.1	Imposing New Fee-Verge Signs under Local Law	101	103
13.4	Emergency Management: Nil		
13.5	Development Service Committees:		
13.5.1	City of Albany Local Emergency Management Committee (LEMC) – 10 th March 2010	105	105
14.0	REPORTS-CORPORATE AND COMMUNITY SERVICES		
14.1.1	List of Accounts for Payment	107	109
14.1.2	Financial Activity Statement – 30 April 2010	110	121
14.2	Administration: Nil		
14.3	Library Services: Nil		
14.4	Day Care Centre: Nil		
14.5	Town Hall: Nil		
14.6	Recreation Services: Nil (Note: 22.2 – Replacement of Boiler at ALAC)		
14.7	Economic Development: Nil		
14.8	Tourism & Visitors Centre: Nil		
14.9	Airport Management: Nil		
14.10	Contract Management: Nil		
14.11	Property Management Nil		
14.12	Corporate & Community Services Committee		
14.12.1	Seniors Advisory Committee Meeting Minutes – 15 April 2010	123	123
14.12.2	2014/15 Anzac Centenary Strategy Committee Meeting Minutes - 9 April 2010	124	128

ORDINARY COUNCIL MEETING MINUTES – 18/05/2010

** REFER DISCLAIMER **

14.12.3	Albany Tourism Marketing Advisory Committee Meeting Minutes - 8 April 2010	129	130
15.0	REPORTS – WORKS & SERVICES		
15.1	Regional Funding Allocations-Progress Report	132	134
15.1	Waste Management:		
15.2	Capital Works		
15.2.1	Contingent Liability-Development of Lot 260 Argyll Street-Extension Contribution	136	139
15.2.2	Request for Reallocation of 2009/10 Road Funding for Capital Works Program	140	146
15.2.3	Proposal to Excise Portion of Telecommunications Reserve into City of Albany Managed Reserve	147	150
15.2.4	Dedication of Privately Owned Land known as Lot 150 Abercorn Street, Orana As Public Road Reserve	151	153
15.2.5	Contract CO90230-Tender for Construction of Emu Point Ablution Block	154	158
15.3	Reserves, Planning & Management:	160	161
15.3.1	Adoption of The Draft Asset Management Plan – Reserves (Natural)		
15.3.2	Adoption of The Draft Asset Management Plan – Reserves (Developed)	162	164
15.3.3	Naming of Cunningham Street Reserve	165	167
15.3.4	Dedication of Unallocated Crown Land as a Reserve-Portion of Princess Royal Drive, Foreshore	168	171
15.4	Works & Services Committees		
15.4.1	Bushcarers Advisory Committee	172	172
15.4.2	Bushcarers Advisory Committee	173	175
16.0	REPORTS-GENERAL MANAGEMENT SERVICES		
16.1	Strategic Development: Nil		
16.2	Organisation Development: Nil		
16.2.1	Appointment of additional councillor to the Audit Committee, CEO Appraisal Committee, Receive the Draft Audit Committee Charter and Review Vacancies on other Committees.	178	193
16.2.2	Briefing Sessions – Amendment to the Governance and Meeting Framework Policy	194	200
16.3	Corporate Development: Nil		
16.4	Corporate Governance:		
16.4.1	Amendment to Purchasing Policy for Tenders and Quotations	202	204
16.5	General Management Services Committees		
17.0	Adoption of the Information Bulletin	205	205
18.0	Motions of which notice was given at the previous meeting		
18.1	Notice of Motion by Councillor Paver-That Council Request WALGA to Provide To All Councillors a Written Report on Adequate Recompense for Councillors	206	206
19.0	Urgent Business Approved By Decision Of The Meeting		
19.1	City of Albany Parking and Parking Facilities Local Law 2009-Joint Standing Committee on Delegated Legislation	207	210
19.2	Proposal to Formally Name a Heritage Precinct-Albany Heritage Park	211	215
19.3	Special Meeting of Electors Meeting	216	223
20.0	Request For Reports For Future Consideration: Nil	224	224
21.0	Announcement Of Notices Of Motion To Be Dealt With At The Next Meeting		
21.1	Notice of Motion by Councillor Paver-Review of Licensed Premises Guidelines	225	225
21.2	Notice of Motion by Councillor Paver-Review Standing Orders Local Law 2009	226	226
21.3	Notice of Motion by Councillor D Bostock-Establishment of a Councillor Committee	227	227
21.4	Notice of Motion by Councillor Dufty-Rescission Motion	228	228
22.0	Items to be Dealt with while the Meeting is Closed to Members of the Public		
22.1	Lease of Septage Waste Facility	230	230
22.2	Authorisation of Expenditure for Replacement Boiler at ALAC	230	230

ORDINARY COUNCIL MEETING MINUTES – 18/05/2010
** REFER DISCLAIMER **

23.0	Next Ordinary Meeting Date – 15th June 2010	231	231
24.0	Closure Of Meeting	231	231
APPENDICES			
A.	STATUS REPORT ON DEFERRED ITEMS FROM PREVIOUS MEETINGS	232	232
B.	NOTICES OF DISCLOSURE Nil.	233	234
C.	RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME: Nil	235	235
D.	TABLED DOCUMENTS (PUBLIC, ELECTED GROUP, STAFF) Nil	235	235

1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 7.03PM

ITEM 1.0 - MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR MATLA

SECONDED: COUNCILLOR SUTTON

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

**CARRIED 12-0
ABSOLUTE MAJORITY**

2.0 OPENING PRAYER

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

3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

Mayors Report

May has been an exceptionally demanding month, particularly in light of the number of meetings conducted between Councillors, including Special Council Meetings. I appreciate this has placed an extra load on an already busy role and appreciate the efforts of Councillors who have contributed and made themselves available.

The most significant event during April was without doubt the Opening and Dedication of ANZAC Peace Park on the 24th April, followed by a Civic Reception and the next day the very special traditional ANZAC Day Dawn and Memorial Services on the 25th April. This was our most significant event for many years.

The occasion attracted not only a large audience from the local community but many visiting dignitaries including the Premier, State and Federal Ministers, politicians, high ranking military representatives, RSL members, diplomatic representatives, local dignitaries and Sister City guests from Gallipoli. It was most unfortunate that our French Sister City guests from Peronne were unable to attend due to flight disruptions as a result of the volcano eruptions. The accolades have been many, not just for the event but for the Park itself.

Significantly this event has served to showcase Albany leading up to ANZAC Centenary Celebrations in 2014/15 and beyond to 2018 and will auger well as we plan and seek funding for events to come.

Item 3.0 continued

My involvement in activities additional to the usual Council commitments, including committee and council meetings, since the April Council Meeting have included:

- Funeral service for the Late Harold Smith, former Mayor of the Town of Albany.
- A demanding hosting schedule for our visiting dignitaries between 23rd and 25th April.
- As Chair I attended the Regional Development Australia – Great Southern meeting in Katanning on 30th April.
- Opening of the new North Road Soccer Pitch which was named in honour of the Late Kees Glorie – a former employee of the City – keen sportsman and supporter of soccer in Albany.
- Life Care and Suicide Prevention Seminar run by Chaplaincy Australia.
- TAFE or as they are now known Great Southern Institute of Technology Annual Awards;
- 13th Brigade Australian Army Defence Appreciation Dinner held at Irwin Barracks;
- A presentation and meeting with Christian Courtin-Clarins at Mount Romance's Sandalwood Factory - outlining the connection and working relationship this local company has with one of the world's leading cosmetics companies, Clarins; and finally
- Cr Holden and I attended the Lower King Progress Association Meeting on Monday evening, 17th May. I feel this was a very pro-active and productive evening which facilitated information exchange across a broad range of topics affecting the Lower King ratepayers. It provided an excellent forum to update attendees on current and topical items.

Thank you ladies and gentlemen.

The Mayor said that he had an interesting and fruitful discussion with Minister Castrilli earlier this afternoon, and he explained his letter. The Mayor said that today's positive response from the Minister confirms a satisfactory result for the council in delivering information to the Minister. The Minister said that council demonstrated their commitment to meeting his expectations in addressing the issues, and as a growing regional centre we have many new challenges ahead of us.

The council will continue to participate and engage with the Minister, to strive to communicate our progress each month until such time that the Minister has determined that he has confidence in the council.

ITEM 3.0 - MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR WOLFE

THAT the Mayor's report be received.

MOTION CARRIED 12-0

Item 3.0 continued

7:11:07 PM Councillor J Bostock

Councillor Bostock tabled an address which is detailed at Appendix D.

Cr Bostock spoke of the difficulty in making routine decisions regarding the agenda, when there were much greater and more fundamental issues outstanding and unresolved.

Cr Bostock said that the foundation and integrity of the council were in question, and that honest, open and accountable governance was the legal responsibility of council.

7:13:19 PM Councillor Hammond

Councillor Hammond said that he was elected to council six months ago, and one the reasons for doing so was that he had a naïve expectation that he might be able to make a difference. Instead of which he had been besieged by issues. Councillor Hammond said that his file notes currently stood 1.5 metres tall.

Councillor Hammond said that he really wanted to contribute to the vision and way forward and there are a lot of exciting things that we should be doing. Councillor Hammond said that he thought that council had an opportunity to demonstrate strong leadership and vision, and steal the march on a lot of municipalities.

When our forefathers arrived here 100 years ago, Councillor Hammond said that he did not think any of them envisaged that this municipality would have ended up with 30,000 people, and in far less time this municipality will grow to 100,000 people. Whatever the number or increase in the population, increase is inevitable, and Councillor Hammond said that with it we are going to be seeing high density living. Councillor Hammond said that high density living will become a reality, that it is far more affordable and the carbon footprint is far less than the urban sprawl. Councillor Hammond said that like it or not, high density living is already starting to impact on this community, which is fundamentally built from working class people. Councillor Hammond said that a current problem facing the city with this increase in high rise development was the risk of eroding the core values of homes in some areas by the blocking of views by these high rise developments.

Councillor Hammond said that council had an opportunity to demonstrate some flair in developing policies encouraging community sharing. So if there is a view to be had, it is there for the community to share not, for the use of any one particular individual. Councillor Hammond said that he felt quite strongly about this because it is an emerging trend, and unless we do something about it would affect each and every one of us.

7:16:17 PM Councillor Wellington

Councillor Wellington said that the Special Meeting of Electors was interesting, it brought some different views to council and it was now up to council to take a look at those views.

Item 3.0 continued

Councillor Wellington said that council had already been talking about inquiries as far back as December 2009, a planning consultant and a mediator. Councillor Wellington said that he did not think that council were on that different a plane from the sentiments expressed at the Special Electors Meeting. The unfortunate thing about council is that it seems to take a long time to get anywhere.

Councillor Wellington said that council knew where it wanted to go, and knew what it wanted to achieve and thought that council were heading in the right direction to achieve that.

7:17:31 PM Councillor Holden

Councillor Holden's tabled address is detailed at Appendix D.

Councillor Holden spoke of the need for planned high density development, to avoid the suburban sprawl which was bland and boring in visual impact and greedy in land usage.

Councillor Holden said that we should be encouraging developers to think in terms of multi storied houses, terrace housing, town houses and apartment buildings.

7:20:41 PM Councillor Wolfe

Councillor Wolfe commented on the fact that tonight council would vote on a new ablution block for Emu Point. This ablution block would contain four toilets, including two disabled toilets.

Councillor Wolfe said that there was an article in the Sunday Times this week and quoted from it. 'Bunbury residents said that they were fascinated that the space age dunny said "welcome" to clients and played a piano version of Burt Bacharach's "What the World needs now is Love", but wondered whether it was the best use of \$250,000.'

Councillor Wolfe said that he hoped the Emu Point Ablution Block would be a lot better value for money than this single toilet.

7:21:41 PM Councillor Dufty

Councillor Dufty said that following his comments about the AEC at the last meeting he had rethought his opinion on the South Australian method of management.

Councillor Dufty said that he had spoken with the Manager of the Town Hall, who he respected greatly, and he was no longer convinced that the SA method of management was best suited to WA due to the distances involved.

Councillor Dufty said that South Australia was a very concise state, with a huge area of unoccupied land, but with the five centres all within a short distance of each other. In WA, if you were to send a show to the north west of the state, it would be a five day event; 2 days to get there, a day to put the show on and two days to come home.

Item 3.0 continued

Councillor Dufty said he was now looking at trying to initiate a system whereby the state government picks up the cost of maintaining and refurbishing the AEC, and the city pays for the running costs. Councillor Dufty said that would alleviate a large proportion of the expected loss. Councillor Dufty said that he would recommend to councillors that they have a briefing session with staff from the Town Hall to address problems involved in this matter.

7:23:44 PM Councillor Sutton

Councillor Sutton said that since the last meeting he had attended the biennial State Masters Games in Albany, and that participants in the games had asked him to convey their thanks to the City for their support, and the great work that city staff had put into preparing playing fields and other facilities for the games.

Councillor Sutton said that all competitors he had spoken to were very impressed, and would return in two years time. Councillor Sutton said that he had received many phone calls supporting him and council, and thanked those people for their support.

4.0 RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME

Nil

5.0 PUBLIC QUESTION AND STATEMENT TIME

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

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

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

[7:24:57 PM](#) The Mayor reminded all those present that they were all subject to Standing Orders of the City of Albany. The Mayor said that Councillors were here to debate issues. He said that members of the public should not be offended if Councillors did not respond to questions. The Mayor said that the Executive Directors could answer questions through the Chair when possible, or take questions on notice for a later response.

[7:27:10 PM](#) **Richard Vogwill, Goode Beach**
Mr Vogwill's tabled address is detailed at Appendix D.

Mr Vogwill said that he had been impressed with the work of Crs Paver, D Bostock, J Bostock and Leavesley.

Mr Vogwill said that the Frenchman Bay Association was interested in sustainable development for Albany's future, and that they needed to be satisfied that all environment, social and financial aspects of a project before it was approved.

Mr Vogwill said that development must take into account the long term needs of the community and the environment.

[7:29:34 PM](#) **Mr David Caddy, Town Planning Consultant, Centro Properties**
Mr Caddy addressed council regarding Item 13.2.2. Mr Caddy said that as part of Centro Properties written submission on ALPS, they enclosed an economic impact assessment, which was prepared by Urbis in response to the planning strategy, and in support of a discount department store at the Albany Centro site.

Item 5.0 continued.

Mr Caddy said that the planning strategy had been developed to provide objectives and a centres hierarchy, and guidelines for commercial development throughout Albany, and identifies as the Centro Albany centre as an existing large neighbourhood centre, up to 5000m². Mr Caddy said that specifically with regard to the Albany Centro centre the planning strategy at section 5.2 states the following;

“One of the key recommendations of this strategy is on the one hand to acknowledge the possible future longer term potential of Centro Albany as a larger centre, but on the other hand to prohibit further expansion beyond current approvals for the useful life of this strategy.”

Mr Caddy said that the strategy concludes with a recommendation that no further expansion of the centre is recommended within the useful life of the strategy, and at the time of the next strategy review, consideration could be given to further increasing the size of the centre.

Mr Caddy said that this statement is seemingly at odds with strategic objectives of the local planning strategy which states; *“retain existing and develop new stage neighbourhood and local centres incorporating retailing as a primary focus.”* The further development of the Albany Centro centre achieves the above objective in that it represents the development of a neighbourhood centre for a retail purpose, primarily the discount department store. Mr Caddy said as part of the further development of the Centro Albany site, Centro is seeking to develop a discount department store, and additional specialty retail to the north of the existing Woolworths supermarket. Mr Caddy said a staged development approach would allow for the gradual take up of the proposed floor space by the market, in line with forecast population growth. However, Mr Caddy said that it is possible that this development could be carried out in one stage, subject to market demand. In either development scenario Mr Caddy said it was not envisaged that the development would open or start trading until Christmas 2012.

Mr Caddy said the economic impact statement prepared in support of the development concluded that the staged development can be supported by the market and is not expected to adversely impact the role and function of other activity centres in the hierarchy. Mr Caddy said that a significant share of the business sourced by the expansion to Brooks Garden would be the result of a redirection of spending currently escaping to centres outside Albany and particularly Perth.

Mr Caddy said that the proposed expansion of the centre will provide a positive impact to the community in the creation of an additional 344 jobs at the centre. Mr Caddy said that he also noted that the centre is zoned mixed business and he understood that a Town Planning Scheme Amendment would need to be undertaken because clause 5.25 of the scheme states; *“development of a discount department store is not permissible.”* Mr Caddy said that again, there is a move forward that would need to be undertaken with that particular scheme.

Mr Caddy said that as the economic impact statement concludes, the further development of the centre, including a discount department store, can be undertaken without adversely impacting on the viability of the existing regional centre, and he respectfully requested that the ALPS and APCS be amended to recognise that this development can proceed within the normal planning parameters, and no waiting for a review of that particular strategy.

Item 5.0 continued.

[7:33:56 PM](#) **David Hughes, Torbay**

Mr Hughes said that he was a volunteer ambassador for International Children's Care, and was seeking City of Albany support for a variety concert to be held in August to raise funds for the charity. Mr Hughes asked if it was possible to use the Town Hall for this concert.

Mr Hughes said that all funds raised on the night would go to ICC. Mr Hughes said that ICC provided services to destitute and abandoned children throughout the world. Mr Hughes said that the Australian chapter worked in the Asian region, and the services that were delivered are orphanages, education and health care. One of the main focus areas is to work with the family to support them through vocational and agricultural training, life skill programmes, micro enterprise and finance and other projects within the villages throughout the area.

Item 5.0 continued.

Mr Hughes said that he was hoping that the City would consider the request favourably.

[7:35:33 PM](#) **Neil Smithson, Smithson Planning**

Mr Smithson said that he hoped his address at the Special Electors Meeting had encouraged councillors to visit his web page regarding Albany and Corruption Crime Commission WA. Mr Smithson said that he looked forward to councillors answering his questions from that meeting in due course.

Mr Smithson said that he wished to address council regarding Item 15.3.4. Mr Smithson said that it was an exceptional redevelopment location. Mr Smithson suggested that the proposed location of the Grange pipeline would significantly reduce the development options and property value of this site.

Mr Smithson said he wondered if WA Water Corporation had prefunded part of the slurry pipeline for the Grange Resources project, in the expectation that it would proceed with the Port to remain in its current location.

Mr Smithson wanted to know, how long is the anticipated construction program for the new Grange port facility, and would that coincide with or follow the first year or two of AEC operations?

[7:39:32 PM](#) **Trish Cleeve, Stirling Terrace**

Ms Cleeve's tabled address is detailed at Appendix D.

Mayor Evans and Councillors

Many ratepayers are concerned about the possibility of unexpected future rate rises in Albany.

We have already had a 9% increase in 2009/10 and we know that two further 9% increases are locked in as they were voted on last year which should take us through to June 2012.

Item 5.0 continued.

Can you assure the ratepayers that we are not going to have levies and further “emergency” rate rises to cover the numerous financial debacles of the last few months? It would appear that already monies are moving around in numerous directions and many residents are concerned and not convinced that all necessary work to repair storm damage has been covered and completed but it was stated that the \$250 000 required for Mr Paul Richards payout was left over as all works had been completed.

I would appreciate if some definitive answers can be given on both these issues as they are clearly linked.

7:40:52 PM Henry Djykstra, Djykstra Planning

Mr Djykstra said he was representing the owners of Lot 422 Swan Point Road Kalgan. Mr Djykstra said that this parcel of land was 40ha in area and fronts the Kalgan River just south of Nanarup Road, and is surrounded by special rural subdivision.

Mr Djykstra said that he understood council planners were proposing under ALPS the idea of special residential on the north side of Nanarup Road, and rural residential 1ha minimum lots on the south side. Mr Djykstra said that he considered the direction council planners were taking was strategically correct and sensible, however, he requested that council make a marginal change by allowing Lot 422 and the three small lots immediately to its north fronting Nanarup Road to be developed with a composite of both special residential and rural residential.

Mr Djykstra said that his clients vision for this land is to develop an estate with scheme water, underground power, piped drainage, kerbed roads, footpaths, landscaped open space, post and rail fencing, tree lined road reserves and other features. Mr Djykstra said that to achieve such a high standard of development it is necessary to achieve a viable lot yield and a good lot size range. If Mr Djykstra could design with a lot size range of 3000m² through to a hectare it would be possible to have large lots in the vegetated more constrained areas of the site and smaller lots on the more capable, flatter areas.

Mr Djykstra said that outcome would be a design that responds to its environment and a lot yield that allows for a higher standard of development as mentioned. Mr Djykstra said in contrast to this, if the land was left purely as rural residential 1 ha minimum, it would not be possible to achieve these high standards of development. It would be another ordinary rural residential subdivision.

In summary, Mr Djykstra said that his proposal was that council follows the recommendations of its planning staff, but adds that Lot 422 Swan Point Road and the three lots immediately to its north fronting Nanarup Road, be included in a composite special residential and rural residential policy area.

Item 5.0 continued.

Mr Djykstra said that the following grounds could be included in a recommendation for change:

- a) Promoting a higher standard of development and servicing;
- b) Providing a flexible design approach that is responsive to the environment;
- c) Providing a transition of lot sizes; and
- d) Facilitating the much needed second access road into Swan Point special rural area from Nanarup Road.

Mr Djykstra urged Council to consider the improved standard of subdivision that the owners were seeking for this land.

7:43:55 PM Gary Knewstubb, 12 Cliff Street

Mr Knewstubb asked what was the financial position of council given that \$310,000 had to be found to pay out Mr Richards? Can council explain where these funds are coming from, given that ratepayers have been told there is no money. Mr Knewstubb asked if the money was coming from this financial year's budget, or next year's budget, and partially relying upon further increasing rates.

Mr Knewstubb also asked who was responsible for the follow up on questions raised during the open forum by members of the public, and what does the council consider is a fair and reasonable period of time ratepayers could wait before a response was made.

Mr Knewstubb also asked if the Mayor explain or expand upon his comment at the Special Electors Meeting that council meetings have the same old people asking the same old questions, and the same old people writing to the newspapers.

Mr Knewstubb said he considered himself one of those same old people the Mayor referred to and he challenged the Mayor to prove him wrong on any statements he had made to council meetings or in the newspaper. Mr Knewstubb said that he would like to thank Councillor Wellington for taking the time to involve himself in some concerns that Mr Knewstubb had raised.

7:45:26 PM Mayor Evans

The Mayor responded to Mr Knewstubb, saying that he had worked with Councillor Wellington on the issues Mr Knewstubb had referred to, and the Mayor apologised and said he now had a clearer understanding of his concerns.

7:46:12 PM Dominic Cuscuna, Cuscuna Nominees

Mr Cuscuna said that Cuscuna Nominees were the proponents of the Bayonet Head Shopping Centre project on Lower King Road, Bayonet Head, which they had been working towards for the last several years.

Mr Cuscuna said that they were finally getting to a stage where they have Woolworths as a major tenant. Mr Cuscuna said that he was therefore very surprised to read the ALPS modifications, which stated that he had been unable to secure a major tenant. Mr Cuscuna said that the City was well aware that Woolworths were the major tenant of the shopping centre last November.

Item 5.0 continued.

Mr Cuscuna said that he believed that this had affected staff recommendations with regard to this site. He hoped that councillors would support the development. Mr Cuscuna felt that neither ALPS or ACPS had recognised his site, and it was not given due status on the maps of proposed medium and large neighbourhood centres.

Mr Cuscuna said that he felt that their project was subject to significant administrative omissions and errors, and the site would receive due recognition.

[7:48:56 PM](#)

ITEM 5.0 MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR DUFTY

THAT Council extend the Public Question and Statement Time.

MOTION CARRIED 12-0

[7:49:19 PM](#) **Carmen Hallett, Katchy Kostumes**

Ms Hallett addressed Council regarding her application for Home Business at 155 Ulster Road.

Ms Hallett said she wanted to answer some of the questions raised at the last meeting regarding the application. Ms Hallett said that there were two objections to her application, one of which was anonymous. Ms Hallett asked if the anonymous objection should be considered, as the same person could very well have written both letters of objection.

Ms Hallett said her business had been in existence for over 30 years, and was a part time business operating for approximately 12 hours per week. Ms Hallett said that her business provided a service to Albany and the surrounding areas, utilised by schools, community groups and private hirers. Ms Hallett said that a normal commercial rental was unable to be supported by her part time business, and she would be unable to continue to operate.

Ms Hallett said that in relation to peace and quiet in the area, her customers came in one or two at a time. Off street parking was available, with an entrance and exit driveway, so that vehicles would not be reversing onto Ulster Road.

Katchy Kostumes has been situated in a shed in Prior Street for over twenty years, and have been asked to relocate as the owner of the shed is redeveloping the site. Ms Hallett said that she had spent many months seeking reasonable premises at an affordable rent, and had found no other option than to operate as a home based business.

Ms Hallett said that to her knowledge, in the area there are at least eight businesses operating. Ms Hallett said that in her opinion, these other businesses would have far more traffic and some heavy haulage on a more frequent basis than the nine to twelve cars per week coming into Katchy Kostumes.

Item 5.0 continued.

Ms Hallett said that the anonymous letter of objection made reference to the appearance to the property. Ms Hallett said that to her knowledge the house had been in the same condition for several years, and it is now evident that there is a facelift happening, with a new pitched roof, painting and plastering to the interior. Ms Hallett said that given a little time the exterior would be plastered and whitewashed.

Ms Hallett requested that council approve the application for a home based business.

7:53:33 PM Gertrude Brown Sussex Street

Ms Brown questioned the payment of accounts to Amity Painting and Decorating for work carried out at the Albany Visitors Centre. The Mayor asked Ms Brown if it was actually Ms Vera Torr, and Ms Brown responded “oh sorry, it is Vera Torr”. Ms Torr said that the amount paid to Amity Painting and Decorating was over the budget allocation for the AVC and Brig Amity. Ms Torr asked what was painted and how was the over spend accommodated?

Ms Torr said that the Brig Amity was listed under the AVC, and asked why was this?

Through the Mayor, Mr Madigan replied that the business unit and AVC were costed under the one area, although they do have separate headings.

Ms Torr queried that the Visitors Centre was not just the building, it was the whole complex?

Through the Mayor, Mr Madigan replied that it is a business unit which comprises of two elements; one being the Albany Visitors Centre and the other being the Brig Amity.

Ms Torr said that with regard to Councillor Hammonds philosophy, she totally and thoroughly agreed with it. Ms Torr said that to keep allowing scheme amendment requests would not achieve the infill policy and the future sustainability of development and contain sprawl and destruction of our most precious commodity.

Ms Torr said that there appeared to be no submissions in ALPS from the general public. Ms Torr asked how was this advertised to the public, was it is a case of only those who made previous submissions being notified?

Through the Mayor, Mr Bride replied that the requirement for advertising ALPS centred around the five specific modifications. Mr Bride said that the modifications were advertised in the Albany Advertiser and those that were affected by the modifications were consulted with.

Ms Torr said that ALPS had not reduced the footprint of development on the landscape, instead it had encouraged urban sprawl, with land opened up for eighty years of ad hoc development, against the infill policy of the City. Ms Torr said that we had not committed to sustainability, our environment or even changing trends. Ms Torr said that we had placed a stranglehold on future initiatives and any hope of innovative development for eighty years. Ms Torr asked if people of the outside world even had a comprehension of the future changes for their neighbourhood.

Item 5.0 continued.

Ms Torr said that the way that ALPS has been presented, in laying out eighty years of planning, it is not going to support strategically positioned high density housing.

7:58:10 PM Paul Lionetti, Albany

Mr Lionetti addressed Council regarding Item 13.2.2.

Mr Lionetti said that Alannah McTiernan, when in government, had clearly stated that the Brooks Garden development was a neighbourhood centre. Mr Lionetti said that council should support the proposed discount department store for this site.

Mr Lionetti also spoke regarding Item 15.3.4. He said that had the owner of the Woolstores, Mr Mark Dyson, rang him and asked him to make a presentation to council on his behalf.

Mr Lionetti said that the first the owner had heard of the proposed motion was that someone in the community had emailed him the agenda item. Mr Lionetti said that the owner had stated he had no communication from staff on this matter. Mr Lionetti said the owner was given 24 hours to remove the gate to the Woolstores some months ago, and when staff were asked to produce the correspondence confirming this they were unable to do so.

Mr Lionetti said that he thought Grange Resources were steamrolling their way through. Mr Lionetti said Mr Dyson had a huge investment in this property. Mr Lionetti tabled the email he received from Mr Dyson, detailed at Appendix D.

8:03:55 PM Gerard Attwell

Mr Attwell addressed Council regarding Item 13.1.5, in relation to the extraction of agricultural lime.

Mr Attwell said he had left messages with the city's development team over the last fortnight, but no one had returned his calls. Mr Attwell said that he would like to point out that an Alternative Motion had been put forward in relation to this item. Mr Attwell said that on the back page it notes that the proponent has put up a submission to allow 10 trucks per day, when in fact it should be a maximum of four to six trucks per day, with the expected maximum to be between two and three trucks per day.

Mr Attwell said that he had a draft environmental management plan, and he had asked if the planning department if they wished to see the plan, and they had declined. Mr Attwell said that in relation to staffs assertion that extraction had already started on the site was totally incorrect. Mr Attwell said that an access road had been put in to the back of the property across swamp land, necessitating excavation of some material from the back of the property to form the road. In terms of the cleared area, this area was cleared as a strategic firebreak some time ago by the City of Albany.

Item 5.0 continued.

8:06:26 PM

The Mayor closed Public Question and Statement Time.

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

Mayor M J Evans JP

Councillors:

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

Staff:

Acting Chief Executive Officer	WP Madigan
Executive Director Works & Services	K Ketterer
Acting Executive Director Development Services	G Bride
Executive Manager Community Services	D Schober
Assistant Business Governance Officer	J Williamson

Public Gallery and Media:

Approximately 45 members of the public and 3 members of the media were present.

Apologies/Leave of Absence:

Frederickstown Ward	Vacant
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7.0 APPLICATIONS FOR LEAVE OF ABSENCE

ITEM 7.0 MOTION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: MAYOR EVANS

THAT Council APPROVE the following applications for leave of absence:

- 1. Councillor Sutton requested leave of absence for a period of one month.**
- 2. Councillor Holden requested leave of absence for a period of two months.**

MOTION CARRIED 12-0

8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8.1 Ordinary Council Meeting minutes as previously distributed.

8.1 MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Motions 1,2 & 3 be carried EN BLOC

**MOTION CARRIED 10-2
ABSOLUTE MAJORITY**

Record of Vote

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

Against the Motion: Councillors M Leavesley and J Bostock

ITEM 8.1 – MOTION 1

THAT the minutes of the Ordinary Council Meeting held on 20 April 2010, as previously distributed be confirmed as a true and accurate record of proceedings pending the following amendment:

On page 10, paragraph 8, A/CEO WP Madigan’s reply should read in its entirety:

“Through the Mayor, Mr Madigan replied regarding the late disclosure of interest by Councillor Wellington. Mr Madigan said that Councillor Wellington’s declaration of impartiality was received after the meeting, and yes, appropriate steps have been taken”.

ITEM 8.1 – MOTION 2

THAT the minutes of the Special Council Meeting held on 9 April 2010, as previously distributed be confirmed as a true and accurate record of proceedings.

ITEM 8.2 – MOTION 3

THAT the minutes of the Ordinary Council Meeting held on 16 March 2010, as previously CONFIRMED, be amended to include Councillor J Bostock as attending the meeting at Item 6.0 – Record of Attendance.

Item 8.1 continued.

Officer's Reason (S Jamieson):

Councillor J Bostock is confirmed throughout the minutes as being at the meeting and validated by the record of vote, being: 12 (All in attendance, with one vacancy which resulted from Cr Price's resignation).

9.0 DECLARATIONS OF INTEREST

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

Name	Item Number	Nature of Interest
Cr D Wellington	13.2.2	Impartiality. The nature of Cr Wellington's interest is that the owner of the land included contributed to Cr Wellington's 2007 mayoral campaign. Cr Wellington remained in the chamber and participated in the debate and vote.
Cr D Wellington	13.2.2	Impartiality. The nature of Cr Wellington's interest is that he is a retailer in the city. Cr Wellington remained in the chamber and participated in the debate and vote.
Cr R Hammond	13.1.1	Impartiality. The nature of Cr Hammond's interest is that he is an owner of property and has expressed an interest in registering the property with the Albany Visitor Centre. Expression of interest only. Cr Hammond remained in the chamber and participated in the debate and vote.
Cr D Dufty	13.3.1	Financial. The nature of the Cr Dufty's interest is that he has a sign which he uses at market days. Cr Dufty left the chamber and did not participate in the debate or vote.
Cr M Leavesley	14.12.3	Impartiality. The nature of Cr Leavesley's interest being that he derives an income from tourism. Cr Leavesley remained in the chamber and participated in the debate and vote.
Cr R Paver	14.12.3	Financial. The nature of Cr Paver's interest being that he supplies marketing services to the City of Albany. Cr Paver left the chamber and did not participate in the debate or vote.
Cr R Hammond	14.12.3	Impartiality. The nature of Cr Hammond's interest is that he is a business proprietor within the tourism sector. Cr Hammond remained in the chamber and participated in the debate and vote. <i>Nb: Cr Hammond lodged his disclosure of interest after Mr Madigan had read the disclosures to the meeting.</i>

NOTICES OF DISCLOSURE cont.

Name	Item Number	Nature of Interest
Cr J Matla	22.2	Financial. The nature of Cr Matla's interest being that her business supplies electrical services to the Albany Leisure and Aquatic Centre. Cr Matla left the chamber and did not participate in the debate or vote.

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

In accordance with Section 5.23 (2) (c)-a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

22.1 Lease of Septage Waste Facility

22.2 Authorisation of Expenditure for replacement boiler at ALAC

11.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

12.0 ADOPTION OF RECOMMENDATIONS EN BLOC

DEVELOPMENT SERVICES

Reports

DEVELOPMENT SERVICES REPORTS

13.0 REPORTS – DEVELOPMENT SERVICES

13.1 DEVELOPMENT

ITEM NUMBER: 13.1.1

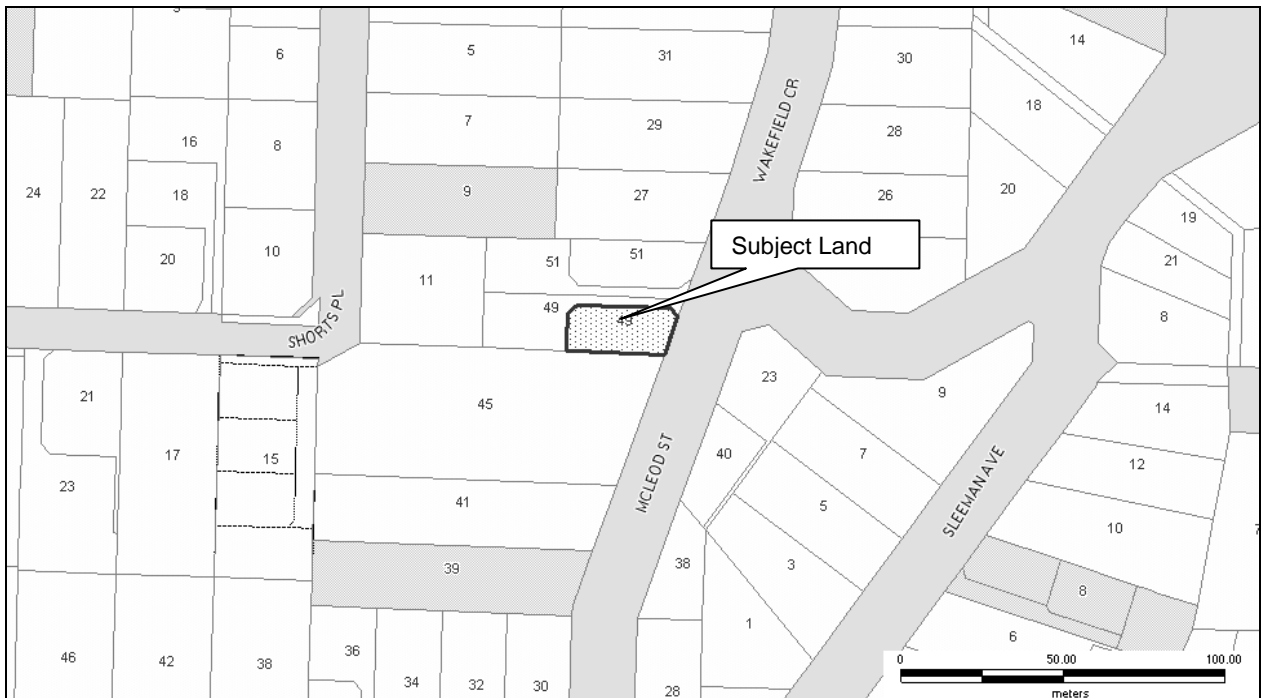
ITEM TITLE: DEVELOPMENT APPLICATION – HOLIDAY ACCOMMODATION – 49A MCLEOD STREET, ALBANY

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : A201973 (Breaksea Ward)
- Summary of Key Issues** : Consider an application for Holiday Accommodation
- Land Description** : Lot 403 (49A) McLeod Street, Mira Mar
- Proponent** : T English
- Owner** : T English
- Reporting Officer(s)** : Assistant Planning Officer (T Gunn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Application for Planning Scheme Consent
Letters of objections
- Consulted References** : Town Planning Scheme No.1A
- Councillor’s Lounge** : WAPC Planning Bulletin No. 99

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

BACKGROUND

1. An application has been received to utilise a recently constructed dwelling at 49A McLeod Street, Mira Mar for short stay holiday accommodation.
2. The site is 456m² in area and is zoned “Residential” under Town Planning Scheme No. 1A (TPS 1A).
3. In accordance with the requirements of TPS 1A the use “Holiday Accommodation” was advertised for public comment. A total of four (4) public submissions were received during the advertising period, all being opposed to the application; these submissions are discussed in further detail under Paragraphs 6 and 7 of this report.

DISCUSSION

4. As the application is to change the use of an existing dwelling, it does not involve any structural changes to the building, and therefore there will be no increase in the number of occupants capable of residing in the dwelling..
5. The dwelling is of contemporary design and has views over Middleton Beach. The dwelling consists of three bedrooms and two bathrooms. The dwelling also has a double garage attached to the rear of the dwelling which will be made available for the use of the patrons attending the site. Vehicle access to and from the site is via a shared private access way which services four lots in total.

PUBLIC CONSULTATION / ENGAGEMENT

6. As previously stated a total of four (4) public submissions were received during the advertising period, all were opposed to the application. A full copy of the submissions are included in the Information Bulletin, however the following summarises the areas of concern:
 - The proposal is inappropriately located and zoned; Mira Mar should be retained as permanent residential, holiday accommodation should be within tourist areas such as the CBD or Middleton Beach etc.
 - Problems associated with tenants of the units anti social behaviour (i.e. noise and behavioural issues), other Councils such as Busselton and Dunsborough have experienced these issues.
 - A similar application for holiday accommodation at 20 Wakefield Crescent was refused.
 - The design and location of the residence is unsuitable for use as holiday accommodation.
 - If the application is approved it will set a precedent for future applications of this nature within the area.
7. The main consensus of the submissions appears to be the problems that may arise with unruly tenants and antisocial behaviour, however from a planning perspective the change of use is unlikely to affect the amenity of the area, given the existing dwelling is not being modified and there is unlikely to be an obvious increase in traffic movements coming to and from the site. Any short stay occupants would be subject to the same regulations as permanent residents (ie. noise), and should noise levels become excessive after 10pm the police could be contacted by surrounding landowners.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

The proponent has also provided an afterhours contact number and has advised that it can be distributed to adjacent neighbours should issues arise.

8. In relation to the holiday accommodation application at 20 Wakefield Crescent, the proposal was considered by Council at its 18 January 2005 meeting, and although objections were lodged (particularly in relation to traffic safety concerns given the driveway was on a blind corner) Council resolved to issue a notice of Planning Scheme Consent.

GOVERNMENT CONSULTATION

9. No government consultation was required.

STATUTORY IMPLICATIONS

10. "Holiday Accommodation" is defined in TPS 1A as;

"...means accommodation which by way of trade or business or for the purpose of any trade or business is held out as being available or is being made available for holiday purposes for occupation by a person for not more than three (3) months in a twelve (12) month period".

11. Under TPS 1A "Holiday Accommodation" is classified as an "SA" use under the zoning table, within the "residential" zone and is a;

"...use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 7.5 (i.e. public advertising)".

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

14. Council does not have a policy position on holiday accommodation, as it has generally been accepted that the use is low impact and positively contributes to the pool of tourism accommodation within the City.
15. The Western Australian Planning Commission (WAPC) has recently released a Planning Bulletin (No. 99) recommending that this land use be more closely regulated by local governments in Western Australia. This Bulletin was released due to growing concerns by permanent residents in tourist hot spots such as Busselton on the cumulative impact of high concentrations of holiday homes within residential areas. A copy of the Bulletin is located in the Councillor's Lounge.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. Council could refuse the application and the applicant would then be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.
17. Council also has the ability to restrict the length of time that any approval will be valid for and as suggested in the WAPC Planning Bulletin could restrict the approval for a period of 12 months to review the operation of the use, before considering renewal of the application.

SUMMARY CONCLUSION

18. The application proposes to utilise an existing dwelling at 49A McLeod Street, Mira Mar for holiday accommodation.
19. Staff consider that the development will not adversely affect the amenity of the area any greater than that of a normal residential dwelling. Any occupants will be confined to the same regulations as surrounding residents, in particular the same noise regulations.
20. Some concern has been raised that holiday accommodation proposals should be restricted to inner residential areas within close proximity to the Albany CBD, or areas of high tourism value such as Middleton Beach. Whilst this application is centrally located between the CBD and Middleton Beach, holiday accommodation in outer residential areas such as McKail or Bayonet Head may not be appropriate. It is recommended that a policy position based on the guidance provided in WAPC Planning Bulletin No. 99 be prepared for Council's consideration.

DEVELOPMENT SERVICES REPORTS

Item 13.1.1 continued.

**ITEM 13.1.1 - OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR SUTTON**

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for 'Holiday Accommodation' at 49A McLeod Street, Mira Mar, subject to the following conditions:

- A. All parking spaces being marked out and maintained in good repair.**
- B. No signs are to be erected on the lot without Council's approval, in accordance with the City of Albany's Sign Bylaws.**
- C. The holiday accommodation is to be used for short stay accommodation only, with a maximum stay of three months occupancy per annum by any single tenant.**
- D. The holiday accommodation is not to prejudicially affect the amenity of the neighbourhood including but not limited to the emission of noise, violation, smell, smoke or dust any greater than that of what is expected within the residential zone.**
- E. The consent is valid for a period of 12 months only, after which an application for renewal will need to be lodged with Council. In making its decision to grant renewal Council will take into account the operation of the business and any complaints received.**

MOTION CARRIED 9-3

Record of Vote

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

Against the Motion: Crs D Bostock, R Paver and M Leavesley

**ITEM 13.1.1 - OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR WOLFE**

THAT Council resolves to PREPARE a policy position for holiday accommodation proposals using the WAPC Planning Bulletin 99 as a guide.

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.2
ITEM TITLE: DEVELOPMENT APPLICATION - HOME BUSINESS – 155 ULSTER ROAD, YAKAMIA

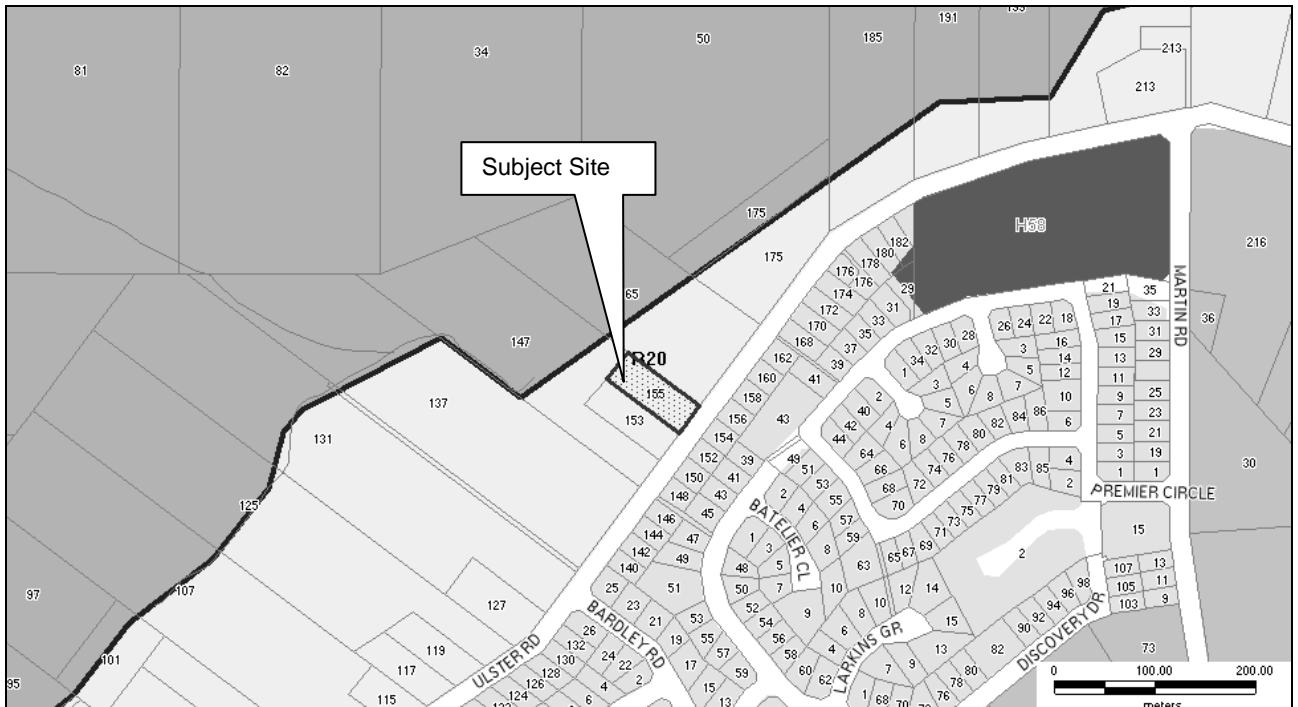
MOTION 13.1.2 LAPSED DUE TO NO MOVER.

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : A152320 (Yakamia Ward)
- Summary of Key Points** : Provide for the hire of costumes from the residential property
- Land Description** : Lot 202 (155) Ulster Road, Yakamia
- Proponent** : Mrs C Hallett
- Owner** : Ms A Campbell
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Katchy Costumes
- Previous Reference** : OCM 16/03/10 Item 13.1.4
- Bulletin Attachment(s)** : Letters of objection
- Consulted References** : Nil
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

BACKGROUND

1. This matter was referred to Council at its March meeting where by consent was delegated to the Chief Executive Officer to issue planning scheme consent subject to no substantive issues being raised during the public consultation.
2. Two letters of objection were received during the consultation period. These letters raise various concerns and the matter is accordingly referred back to Council for consideration in light of these objections.

DISCUSSION

3. One of the letters of objection is anonymous and one is from local residents who live in close proximity to the application site and claim to represent the views of a number of residents in the vicinity.
4. The objections raised are:
 - Concerns with regard to such a business being permitted in the residential/rural-residential area.
 - The impact such a business will have on traffic flow, especially as there are already times during the day when egress from the properties on Ulster Road is difficult.
 - The uninhabited appearance of the property.
 - The nature of hiring of goods being a shop, which should be located in the CBD and not in a residential area.
5. Whilst the appearance of the property is not a material planning consideration, such an issue is superficial and can be easily rectified. It is noted that since the item was reported to Council, the property has been tidied up a little and may possibly be being lived in.
6. The objections make the point regarding the potential detrimental impact of the business on the residential amenity of the locality and that such a business should be more appropriately located in a commercial area with like uses, where commercial rates are payable.
7. This specific operation is unlikely to generate a significant and noticeable rise in traffic movement in the area, but it raises the question, if this activity is permitted from a domestic property, a precedent could be set. Other operators wishing to hire out goods such as clothing (suits/formal wear), electrical appliances, tools and equipment etc may wish to utilise their residential property in a similar fashion (this relates back to paragraph 7 in the original report to Council).
8. If this business is permitted to re-locate from commercial premises to a residential property, there is an argument that the proponent would have an unfair financial and operational advantage over its competitors, who would normally operate from a dedicated commercial zone.

PUBLIC CONSULTATION / ENGAGEMENT

9. The development proposal was advertised with responses due by 31st March 2010. The objections received have raised issues and concerns requiring the proposal to be re-considered by Council. Where the objectors are known they have been advised this matter is being put back to Council.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

GOVERNMENT CONSULTATION

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

STATUTORY IMPLICATIONS

11. A “Home Business” is defined as:

- “a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -*
- a) does not employ more than 2 people not members of the occupier's household;*
 - b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
 - c) does not occupy an area greater than 50 square metres;*
 - d) does not involve the retail sale, display or hire of goods of any nature;*
 - e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
 - f) does not involve the use of an essential service of greater capacity than normally required in the zone”.*

FINANCIAL IMPLICATIONS

12. The current premises from which this business operates are to be demolished to make way for a redevelopment of the site. At every stage since initial contact from the proponent, Staff have advised the proponent that she should seek alternate commercial premises for her business rather than the proposed residential property. Failure to find suitable replacement premises may impact upon the viability and retention of the business. There are no direct financial impacts of this development on the City of Albany’s operations.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

14. There is no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. The application is made under the category ‘Home Business’, which is listed as a discretionary land use activity within this zone. In this regard Council has been requested to provide a special exemption to allow the hiring of the costumes that will be stored on the premises. Council previously determined it would consider supporting such a relaxation, subject to the outcome of public consultation.

16. The consultation has raised concerns over the appropriateness of such an activity and business being operated from a residential property in a residential area. Council can grant its approval with or without conditions, or it can refuse the application.

DEVELOPMENT SERVICES REPORTS

Item 13.1.2 continued

17. If approval is granted it may set an undesirable precedent for other hiring operations to be applied for in residential areas, where these uses should be located in commercial areas.
18. If a refusal is granted, Council's decision can be the subject of a Review before the State Administrative Tribunal.

SUMMARY CONCLUSION

19. The transfer of the costume hire business to a residential property has been the subject of public consultation with objections received.
20. These objections raise specific concerns regarding the appropriateness of locating such a business within a residential area and the resulting detrimental impact on residential amenity.
21. Although for this specific business, the anticipated traffic movements at the Ulster Road property are unlikely to have any significant impact on Ulster Road or adjoining properties and the activities carried out on site are also unlikely to impact upon the residential amenity of neighbouring lots; the decision has wider reaching implications for such business uses in residential areas.
22. The business would normally be located within commercial premises where the operator would be paying appropriate commercial lease rates etc. This proposal potentially sets an undesirable precedent for re-locating commercial activities to residential areas.

ITEM 13.1.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme REFUSAL for the development of a 'Home Business (Costume Hire)' at 155 Ulster Road, Yakamia for the following reasons:

- A. The development does not satisfy Town Planning Scheme 1A section 7.8A (matters to be considered by Council) Part(a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;
- B. The development does not satisfy Town Planning Scheme 1A section 7.8A (matters to be considered by Council) Part(b) the requirements of orderly and proper planning;
- C. The development does not satisfy Town Planning Scheme 1A section 7.8A (matters to be considered by Council) Part(i) the compatibility of a use or development with its setting;
- D. The development does not satisfy Town Planning Scheme 1A section 7.8A (matters to be considered by Council) Part(zb) any other planning consideration the Council considers relevant.

[8:19:58 PM](#) **MOTION LAPSED DUE TO NO MOVER.**

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.1.3
ITEM TITLE: DEVELOPMENT APPLICATION – RE-CONSIDERATION OF TEMPORARY CONVERSION OF PORTION OF SHED TO RESIDENTIAL USE - LOT 150 HENTY ROAD, KALGAN

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number or Name of Ward	: A204181 and A208963 (Kalgan Ward)
Summary of Key Issues	: Application to retain an unapproved shed and to convert portion of the shed to habitable accommodation for a temporary period during construction of a dwelling.
Land Description	: Lot 150 Henty Road, Kalgan
Proponent	: TPG Town Planning and Urban Design
Owner	: K Wignall & E Woodhams
Reporting Officer(s)	: Senior Planning Officer (T Wenbourne)
Disclosure of Interest	: Nil
Previous Reference	: OCM 19/01/10 Item 13.1.8 OCM 15/12/09 Item 13.1.6 OCM 21/07/09 Item 13.1.1 OCM 18/11/08 Item 11.1.2
Bulletin Attachment(s)	: SAT S.31 Orders
Consulted References	: Nil
Councillor Lounge	: Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

BACKGROUND

1. A Notice of Planning Scheme Consent Refusal was issued to Ms. K Wignall in January 2008 to place an oversized shed (300m²) on lot 150 Henty Road, Kalgan. The City's "Outbuilding Policy" has been reviewed on a biennial basis and that policy limited sheds and outbuildings on Special Rural lots to a maximum size of 180m². A 300m² colorbond surfaced, steel shed was then constructed by the proponent in May 2008, contrary to the Notice of Planning Scheme Refusal and with no building licence application being lodged with the City.
2. Notices were issued in July 2008 on the landowner, one for the contravention of the City's Town Planning Scheme and one under the Local Government (Miscellaneous Provisions) Act for the unauthorised construction. The proponent sought a review of those Notices with the State Administrative Tribunal (SAT). At paragraph 50 of the SAT determination it states:

"In looking at the evidence presented and the submissions made in respect of the tests set out above, the Tribunal has concluded that the appropriate course is to affirm the s214 direction. In saying this, the Tribunal also considers that it would be reasonable for the applicant to have sufficient time to, should she wish to do so, apply for development approval for, and erect, a smaller shed. The 60 days for compliance with the s214 direction running from the date of this decision (23rd April 2009) should be sufficient for a fresh application for planning approval to be assessed by the respondent and determined."

3. An Application for Planning Scheme Consent was lodged by the landowners and considered by Council at the July 2009 meeting for portion of the current shed (225m²) to be retained on lot 150 Henty Road. Council resolved:

"THAT Council ISSUE a Notice of Planning Scheme Consent Refusal for an "Oversize Shed" to be constructed at Lot 150 Henty Road, Kalgan for the following reasons:

- i) the shed does not comply with the floor space restrictions contained within the City of Albany's Outbuildings Policy and no exceptional circumstances have been progressed to warrant consideration of the application;*
- ii) the shed is inconsistent with the objective of Special Rural Zone – Area 6, will be incompatible with the setting and will have a detrimental impact on the amenity of that zone;*
- iii) the uses conducted within the shed are inconsistent with the land use provisions of Special Rural Zone – Area 6; and*
- iv) the application is inconsistent with proper and orderly planning.*

and

That Council advise the applicant that it would be willing to support a revised application that reduces the size of the existing shed to 180m² or less to comply with Council's outbuilding policy and that the application be lodged and assessed within a 30 day period."

4. A second incomplete application was lodged, to reduce the shed in accordance with Council's decision in August 2009, and that application was unable to be processed due to the additional information sought by City staff not being received; no approvals had been put in place by September 2009 and the requirements of the SAT and the Council had not been met to avert the actioning of the Notices.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

5. A Notice was issued upon the landowners on the 12th October 2009 advising that demolition contractors would be entering upon the property on or after the 19th October 2009 to commence the process of demolishing the shed. City staff entered upon the property on the 19th October and noted that the shed had been modified and that it appeared that it was being used for habitable purposes.
6. An application for a building licence for a 547m² house (342m² living, 124m² outdoor and 80m² garaging) was received on the 23rd September 2009 and a licence for that dwelling was issued on 11th March 2010.
7. On the 8th October 2009, an “Application for the Grant of Planning Scheme Consent” was also received to develop “secondary living” on the lot by “*converting 120m² of what is now a 300m² class 10 Building into a class 1 Building*” it was also acknowledged that “*retrospective planning approval to the existing shed will be required prior to Council processing the Building Licence application*”. Following debate at both the December 2009 and January 2010 Council meetings this application was refused.
8. The refusal has been appealed to the SAT for review. As part of the review a mediation process has been undertaken. The proposal has been amended during negotiations between the parties and is referred to Council for reconsideration of the previous decision.

DISCUSSION

9. This site and the unauthorised development thereon has been discussed at length and reported to Council in great detail on many occasions. As such, this report focuses on the latest mediation process through SAT and a possible solution as follows.
10. The Council is reviewing its ‘Outbuilding Policy’ with the document currently on advertising for public comment. In the draft amended policy it is proposed to increase the outbuilding area allowance for certain lots, including the rural residential lifestyle lots such as the subject site. If adopted as proposed, the outbuilding policy would permit an outbuilding allowance up to 240m² in area on the subject site.
11. The amended development now proposed is for the four bay 300m² shed to be reduced by one bay, to be 225m² in area. The request is that in light of the anticipated amendment to the outbuilding policy, the reduced area shed be considered favourably and the proponents be permitted to live temporarily in one bay (75m²) whilst they build their principle residence for which they were recently granted a building licence. Once the principle residence becomes habitable, the temporary accommodation within the shed will be removed or an application could be submitted to Council for its continued use as ancillary accommodation tied to the occupation of the principle residence. A condition limiting the length of time for the temporary habitation of the shed can be imposed to safeguard against the temporary habitation becoming more long term.
12. With regard to temporary accommodation there has been debate regarding the level of investment people put in to bringing such a structure up to a habitable standard for a short period of time, however this is a conscious choice of the individual.
13. Concern has also been raised previously regarding the approval of temporary accommodation in outbuildings in addition to the construction of a principle residence. The concern is whether Council would in effect be approving two dwellings (grouped dwellings) on an inappropriately zoned lot.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

Such an issue has already been considered at the SAT (Pearson & Anor and City of Gosnells [2006] WASAT 228), where it was determined that while under construction, the building is not a dwelling, so the proposal if accepted would not permit a grouped dwelling development. Any decision could be conditioned requiring the temporary accommodation within the shed to be removed within a short period of time following occupation of the principle dwelling.

14. Within the Orders from the SAT, the applicants are directed to remove the eastern most bay (closest to Henty Road) prior to the Council Meeting on 18th May 2010. This is intended as a sign of good faith and commitment to resolving this longstanding issue. Staff will advise Council of progress in this regard at the Agenda Briefing on 11th May 2010.
15. One other matter, which is not really of Council concern, is the practicality of completing the various elements of the building projects. The Building Licence for construction of the house has been granted to the applicants as owner builders. People can register as an Owner Builder only for the construction of a dwelling and each person is limited to one Owner Builder registration every 7 years. Accordingly, if the proposal is supported, the applicants should be advised that they would have to get a registered builder to undertake the alterations of the shed and fit out for habitable purposes or for construction of their intended principle residence.

PUBLIC CONSULTATION / ENGAGEMENT

16. No public consultation has been undertaken on the application.

GOVERNMENT CONSULTATION

17. No government consultation is required.

STATUTORY IMPLICATIONS

18. The Land is zoned “Special Rural (No 6)” in the City's Town Planning Scheme No. 3, which sets out the following objective: *“to provide a combined hobby farm and rural retreat area with an emphasis on the merging of development with the landscape and the minimisation of nutrient export.”*
19. Section 5.4 of Town Planning Scheme 3 states:

“The Council in considering an application for planning consent is to have regard to such of the following matters as are in the opinion of Council relevant to the use or development the subject of the application;
 - (a) The aims and provisions of the Scheme.....;*
 - (b) The requirement of orderly and proper planning.....;*
 - (f) Any town planning policy adopted by the Council under clause 6.9 and any other plan or guidelines adopted by the Council under the scheme;*
 - (i) The compatibility of a use or development with its setting;*
 - (n) The preservation of the amenity of the locality;*
 - (o) The relationship of the proposal to development on adjoining land or on other land in the locality including, but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
 - (zb) Any other planning consideration the Council considers relevant.”*

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

20. Definitions for “Single Dwelling”, “Group Dwelling” and “Ancillary Accommodation” are included in the Residential Design Codes. No definition is provided in Scheme 3 for a Rural-Residential Dwelling.
21. A person is required to apply under the Builders Registration Act for permission to build a dwelling on their land and the Act would prevent a landowner from building two dwellings concurrently or one within 7 years of another. The landowners have nominated that they will be owner builders for both dwellings.

FINANCIAL IMPLICATIONS

22. The financial implications would be limited to staff time as the decision will be referred back to the SAT.
23. Quotes were obtained to have the shed professionally dismantled, in the event that the s214 Notice is required to be actioned by the City; all costs incurred can be recouped from the landowner as a charge against the land. Within the Development Services budget for 2009/10 an allocation has been provided for Legal Enforcement (job 2402) and that budget will be exceeded if City staff are required to remove the owner’s possessions and action the Notices without the owner’s cooperation. Recovering those costs will also be time consuming.
24. Council has expended over \$20,000 in legal fees relating to the enforcement of this matter. Section 87 of the SAT Act does allow for the reimbursement of costs, however, this is only where a party has acted unreasonably in relation to the SAT proceedings and does not take into account previous conduct prior to those proceedings. Therefore, even if Council were to seek an order from SAT in relation to costs, the prospects of obtaining a favourable ruling are virtually nil.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

26. The City of Albany has an information pamphlet for persons wishing to reside in a shed during the period when they are constructing their primary residence as an owner/builder.
27. This application seeks to retain the dwelling within the shed as a “temporary” structure. The guidelines are not a formal policy adopted by Council under the provisions of the Scheme and therefore any restrictions placed upon the use of the land or the building must be accommodated within a Notice of Planning Scheme Consent and be an enforceable condition. Policing non-compliance then remains a separate matter and the efflux of time will make any enforcement action more difficult.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

28. In November 2008, Council resolved to affirm the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure. That decision relating to the notices will need to be revoked before the application could be considered on its merits.
29. Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 states:

“If a decision has been made at a Council meeting then any motion to revoke or change the decision must be supportedin any case by at least 1/3 of the number of offices (whether vacant or not) of members of the Council or committee inclusive of the mover.”
30. No request has been submitted for the previous decision to be rescinded and there will need to be the support of five (5) Councillors at the meeting to agree to the rescission of this motion before the application could proceed.

SUMMARY CONCLUSION

31. The reconsideration of this development application involves legitimising a land use that has been commenced without approval and within a building that Council has previously determined should be pulled down.
32. The building is to be reduced in size by 25% prior to the Council meeting as a sign of good faith and to demonstrate the applicant's commitment to resolving this longstanding issue. This reduction will be confirmed by staff at the agenda briefing.
33. The reduced size shed is below the maximum area for outbuildings for this lot as proposed in the review of the Council's Outbuildings Policy and as such is requested to be considered favourably.
34. The applicant's wish to be permitted to use 1/3 of the reduced shed for habitable purposes on a temporary basis, whilst they build their principle dwelling. As soon as the principle dwelling is capable of habitation, they intend to move into it and at that stage the habitable element of the shed will be removed or they may apply to Council for its continued use as ancillary accommodation. The retention of this as ancillary accommodation would be subject of a separate application at that time.
35. If Council re-affirms its decision to refuse Planning Scheme Consent, the decision will be referred back to the SAT Mediation session and the matter will progress to a directions hearing. If the Refusal is upheld at the SAT review, the Council could act on enforcing the two Notices; the outcome would be the removal of the unauthorised structure. This action would also force the landowners to find alternate accommodation during the construction of their primary residence. They would also be confronted with the costs that Council has already incurred in trying to resolve this matter.
36. Should Council support the application, the following motion would need to be passed with five (5) Elected Members needed to progress it:

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

Draft Motion:

Pursuant to Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 Councillors _____, _____, _____, _____, and _____ have requested that the following motion be submitted for consideration

THAT the motion of the Council meeting of the 18th November 2008, item 11.1.2, which states:

“THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure”.

be rescinded.

[8:20:30 PM](#) Five signatures were received on the Revoking or Changing Decisions Motion-Form-Crs D Duffy, R Sutton, D Bostock, M Leavesley and C Holden.

[8:20:56 PM](#) Councillor J Bostock questioned the period of notice required to rescind a motion.

[8:22:08 PM](#) Through the Mayor Mr Madigan replied that Standing Orders 6.1 dealing with revocation motions stated that:

1. *The requirements of a support of a motion for revocation or change of a council decision are dealt with in the Act, and Administrative Regulations.*
2. *A member wishing to move a revocation notice at a meeting must give the CEO notice of revocation motion in accordance with clause 3.11.(2) but in addition that notice must*
 - a. *Specify the decision proposed to be revoked or changed, include a reason or reasons for the revocation motion, be signed by at least one third of the sitting members of council*
3. *Where a notice of revocation motion is given in accordance with this clause the CEO must not implement or continue to implement the decision subject to the revocation motion unless a member moves a revocation motion, a revocation motion is moved but not seconded or the revocation motion is moved and seconded but not supported by the kind of majority required by law at the meeting prescribed by clause 3.11.(1), and the motion of revocation motion be deferred shall only be carried by the decision of absolute majority.*

Clause 3.11.(2) the notice of motion is to be in written form and signed by the member giving notice prior to the commencement of the meeting of which the notice is given.

Mr Madigan said that notice was given prior to the meeting, but did not include a reason for revocation. The notice of revocation had been signed by the required number of councillors.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued.

[8:26:11 PM](#) Councillor Dufty questioned whether council would need to give notice of raising this motion again for it to come before the next council meeting.

[8:26:37 PM](#) Mr Madigan replied that a reason in writing was needed to bring the revocation motion back to council.

[8:27:01 PM](#) Councillor Wellington said that Notices of Motion were dealt with later in the meeting, and asked if Mr Bride could prepare the Notice of Motion to be presented at that time.

ITEM: 13.1.3 – OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: ABSOLUTE MAJORITY

Pursuant to Regulation 10(1)(b) of the Local Government (Administration) Regulations 1996 Councillors _____, _____, _____, _____, and _____ have requested that the following motion be submitted for consideration

THAT the motion of the Council meeting of the 18th November 2008, item 11.1.2, which states:

“THAT Council resolves to advise the State Administrative Tribunal that Council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214 (2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure”.

be RESCINDED.

DEVELOPMENT SERVICES REPORTS

Item 13.1.3 continued

ITEM: 13.1.3 – OFFICER RECOMMENDATION 2

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council advises the State Administrative Tribunal it has reconsidered the proposal and resolves to ISSUE a Notice of Planning Scheme Consent for an oversize outbuilding (225m²) and the use of a maximum 75m² of the outbuilding for temporary accommodation at Lot 150 Henty Road, Kalgan subject to, but not limited to, the following conditions:

- A. All runoff from the development hereby approved shall be contained within the property and disposed of to Council's satisfaction.
- B. The development hereby approved shall be used for ancillary domestic purposes only and not for any commercial use, unless otherwise agreed in writing by or on behalf of the Council.
- C. The temporary accommodation hereby approved shall be limited to a period of two (2) years of the date of this decision, or within one month of the occupation of the principle dwelling, whichever is lesser, with all domestic fixtures and fittings removed to the satisfaction of the Council, unless otherwise agreed in writing by or on behalf of the Council.
- D. Within one month of the date of this decision a structural engineers report shall be submitted and all retrospective building works in accordance with the Building Code of Australia are to be completed.

ITEM: 13.1.3 - OFFICER RECOMMENDATION 3

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council DELEGATES its authority to the Acting Executive Director Development Services (G Bride) pursuant to Clause 6.10.1 of the City of Albany Town Planning Scheme 3, to issue a Notice of Planning Scheme Consent for an oversize outbuilding (225m²) and the use of a maximum 75m² of the outbuilding for temporary accommodation at Lot 150 Henty Road, Kalgan and empowers the Senior Planning Officer to incorporate any further conditions that he considers necessary.

ITEM 13.1.3 – ALTERNATE MOTION BY COUNCILLOR DUFTY

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR DUFTY

SECONDED: COUNCILLOR PAVER

THAT Council lay this item on the table.

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

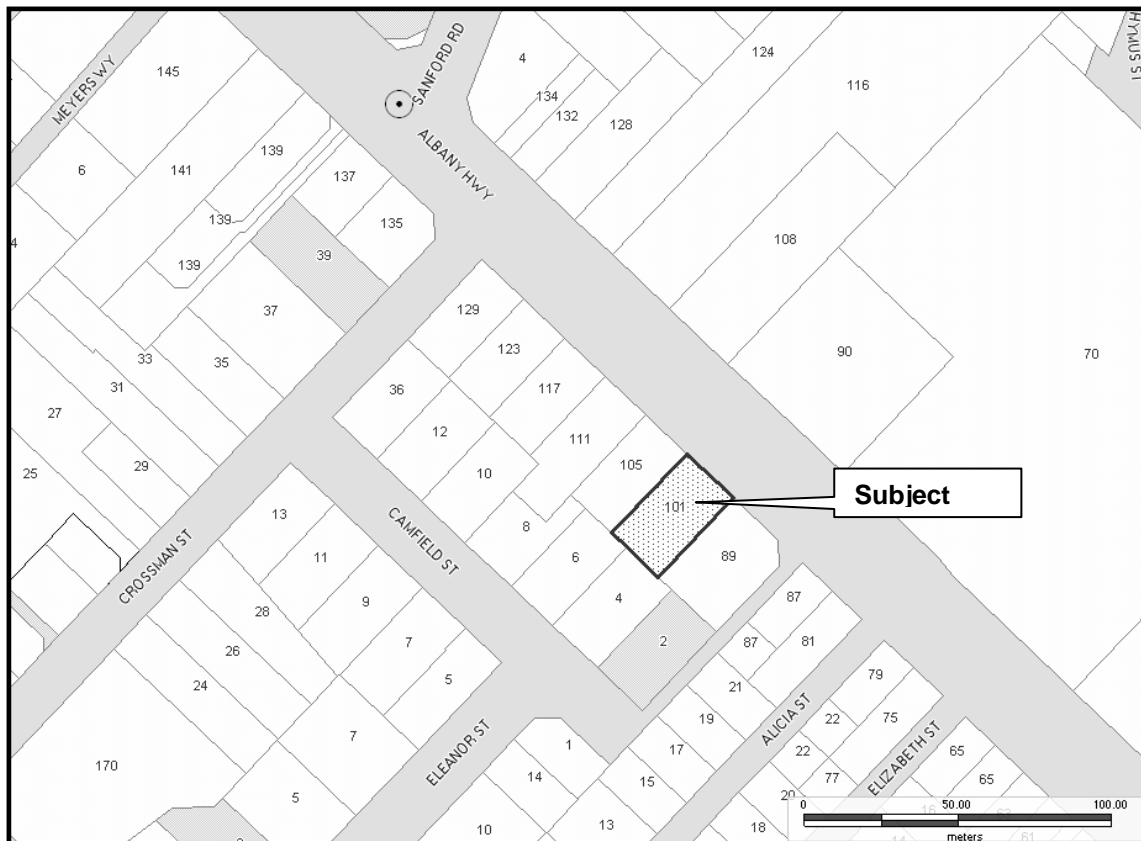
ITEM NUMBER: ITEM 13.1.4
ITEM TITLE: CLASSIFICATION OF LAND USE – 101-103 ALBANY HIGHWAY, MT MELVILLE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : A085466 (Frederickstown Ward)
- Summary of Key Issues** : Determining whether a building with an approved use of “Professional Office” can be occupied by a Real estate agency.
- Land Description** : 101-103 Albany Highway, Mt Melville
- Proponent** : Kingspath Pty Ltd
- Owner** : Kingspath Pty Ltd
- Reporting Officer(s)** : Coordinator Statutory Planning (J van der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Application for Planning Scheme Consent
- Consulted References** : Town Planning Scheme 1A
Albany Insight ~ Beyond 2020
- Councillor Lounge** : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

BACKGROUND

1. An application for planning scheme consent has been received from the owner of the property at 101 Albany Highway, Mt Melville.
2. The applicant is seeking a Planning Scheme Consent (PSC) to use the existing building as a Real Estate Agents' office.
3. The application is for a property at 101 Albany Highway (Lot 1013). The lot size is 743.5m² in area with the building footprint being 340m².
4. The land is zoned "Residential" within Town Planning Scheme 1A with a Special Site designation (S39) over the lot.
5. Special Site S39 includes a base Zone of "Residential R30" and 2 additional uses of Medical Clinic and Professional Office.
6. Conditional planning consent was granted on the 11th of October 2007 for the use of "professional offices". This consent also included the approval for the building upgrade and extensions.

DISCUSSION

7. This application is presented to Council to determine whether a real estate agent can be considered as an 'occupation of a similar nature' to those uses listed in the use class definition of "professional office".
8. The interpretation of "Professional Office" according to TPS 1A is as follows:

"Professional Office -means a building used for the purposes of his profession by an accountant, architect, artist, author, barrister, chiropractor, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or music teacher), town planner, or valuer, or a person having an occupation of a similar nature; and Professional Person has a corresponding interpretation."

9. The interpretation of "Office" according to TPS 1A is the following; *"Office - means premises used for the administration, clerical, technical, professional or other like business activities"*.
10. A Real Estate Agency would generally be classified as an "office" use.
11. A real estate agent is not generally considered a "Professional" and is also not expressly mentioned in the definition of "Professional office".
12. The definition does include amongst others the following related occupations; *quantity surveyor, surveyor, town planner, and valuer*.
13. The definition also mentions *"or a person having an occupation of a similar nature"*.
14. The use can therefore be permitted if a real estate agent according to Council can be considered as a profession or occupation of a similar nature as those listed as professional uses in the use class definition of "professional office".

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

15. Preliminary legal advice received suggests that although the original definition of a professional occupation would not have included a real estate agent, it could be argued that if a broader more contemporary view is taken that a real estate agent is a profession and Council could therefore make this determination.
16. This decision could create a precedent and could possibly affect 14 Special sites that include the “Professional office” use.
17. Most of the Special Sites that include the Professional Office use are located on the periphery and within walking distance of the Central Area.
18. The latest version of the Town Planning Regulations 1967, Model Scheme Text provisions does not differentiate between “Office” and “Professional Office” anymore. The proposed new Town planning Scheme will accordingly also not be differentiating between these uses.
19. The subject lot is in an area earmarked as the “retail core” according to the Activity Centres Planning Strategy.
20. The use of the building by a real estate agent should not affect the amenity of the area more than what a more conventional “Professional Office” use would.
21. If council agrees that the use fits the use class definition a real estate agent would be able to use the existing building as their office without requiring any additional planning approvals.

PUBLIC CONSULTATION / ENGAGEMENT

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

GOVERNMENT CONSULTATION

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

STATUTORY IMPLICATIONS

24. The land is zoned “Residential” within Town Planning Scheme 1A with Special Additional Use Site S39 over the lot.
25. Special Site S39 includes a base Zone of “Residential R30” and 2 additional uses of Medical Clinic and Professional Office.
26. Conditional planning approval was granted on the 11th of October 2007 for the use of “professional offices”. This approval also included the approval for the building upgrade and building extensions.
27. The use of the building as real estate agents’ office can only be permitted if a real estate agent according to Council can be considered as an ‘occupation of a similar nature’ as per the use class definition of “professional office”.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued

FINANCIAL IMPLICATIONS

28. Should the proponent lodge an appeal with SAT over any of the proposed conditions or a decision by Council to refuse the application some legal costs would be applicable.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

29. There are no strategic implications relating to this item

POLICY IMPLICATIONS

30. There are no strategic implications relating to this item

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

31. Council has the option to designate the use as an 'office', and refuse the application for planning scheme consent as this use is specifically not allowed within the Special Site zoning. This may prompt the proponent to lodge an appeal with the State Administrative Tribunal. This would have associated cost implications for the Council.

SUMMARY CONCLUSION

32. From a contemporary perspective a real estate agent could be classified as being a profession or occupation similar to those listed as part of the "professional office" definition.
33. The possible planning impact that a real estate agent will have on any site earmarked for this use as oppose to any other Professional Office function will be minimal.
34. It is therefore recommended that Council accepts that the use be classified as a 'professional office' to facilitate the occupation of the building by a real estate agency.

[8:27:39 PM](#) Councillor Matla said that she would like to move the motion with an addition, the addition being:

"That Council advise the proponent and lessee that management of parking on the site would be their responsibility, and should be undertaken to ensure that there is no parking impost on surrounding properties or illegal parking on council's verge."

[8:28:18 PM](#) Through the Mayor, Mr Bride responded that the additional section of the motion was basically saying that the proponent needed to take on the responsibility of parking management. It was not a condition, basically it was an advice to that particular land owner that they should ensure that parking on site was managed in a way that does not place an impost on surrounding properties, and that there was no illegal parking on the council verge. Mr Bride said that it was not a directive, just an advice note.

DEVELOPMENT SERVICES REPORTS

Item 13.1.4 continued.

8:29:40 PM Councillor Sutton requested a Point of Clarification on the amended part of the motion. Councillor Sutton asked what power the lessee would have if patrons were parking on the council verge.

8:30:04 PM Through the Mayor, Mr Bride replied that the lessee should have a management plan in place which ensures that the number of parking bays that they have are sufficient for the turnover of staff, and that it did not encourage illegal parking on council's verge. Mr Bride said that obviously the rangers would enforce that.

8:38:22 PM Councillor Paver requested a Point of Clarification regarding the adequacy of on site parking. Had staff applied parking standards?

8:38:34 PM Through the Mayor, Mr Bride replied that the application was approved in 2007, with the amount of parking that is currently available on site. The parking issue had been addressed.

ITEM NUMBER 13.1.4 – OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council informs the applicant that it is prepared to determine that for the purposes of Town Planning Scheme No 1A, that a 'real estate agent' would meet the definition of 'Professional Office'.

ITEM 13.1.4 – ALTERNATE MOTION BY COUNCILLOR MATLA

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA

SECONDED: COUNCILLOR DUFTY

THAT Council:

1. Informs the applicant that it is prepared to determine that for the purposes of Town Planning Scheme No. 1A, that a 'real estate agent' would meet the definition of 'Professional Office'; and

2. Advise the proponent and lessee that the management of parking on the site would be their responsibility and should be undertaken to ensure that there is no parking impost on surrounding properties or illegal parking on Council's verge.

MOTION CARRIED 9-3

Record of Vote

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

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

DEVELOPMENT SERVICES REPORTS

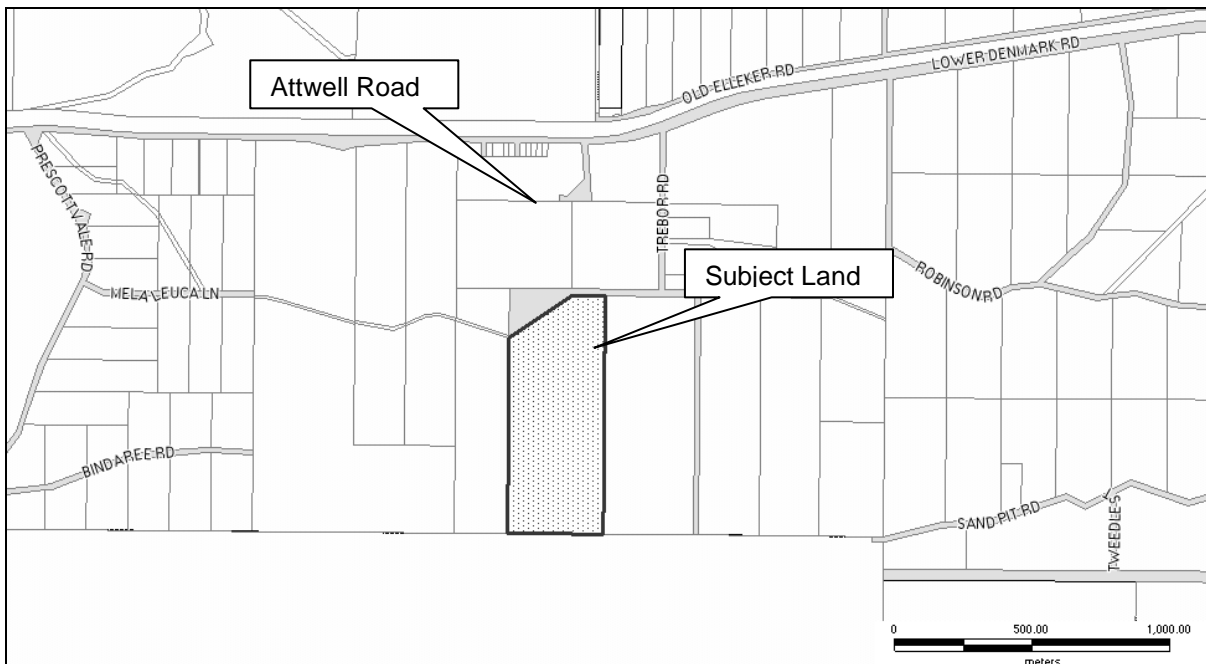
ITEM NUMBER: 13.1.5
ITEM TITLE: DEVELOPMENT APPLICATION – EXTRACTIVE INDUSTRY (SAND/LIME) – LOT 50 ATTWELL ROAD, CUTHBERT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : A159441 (West Ward)
- Summary of Key Issues** : Consider an application for an Extractive Industry (sand/lime)
- Land Description** : Lot 50 Attwell Road, Cuthbert
- Proponent** : G & C Attwell
- Owner** : G & C Attwell
- Reporting Officer(s)** : Assistant Planning Officer (T Gunn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Application for Planning Scheme Consent
Government agency responses
Letters of objections
- Consulted References** : Town Planning Scheme No.3
WQPN 15 – Extractive industries near sensitive water resources
'Extractive Industry Policy – Applying for an Extractive Industry: A Guideline for Developers'

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

BACKGROUND

1. An application has been received for an extractive industry, which involves the extraction of agricultural lime, limestone and sand from Lot 50 Attwell Road, Cuthbert. The application is for retrospective Planning Scheme Consent as the proponent has previously undertaken clearing and minor extraction without the correct approvals from Council and other Government agencies.
2. The site is over 28 hectares in area and is zoned “Rural” under Town Planning Scheme No. 3 (TPS 3). The proposed pit itself is approximately 2 hectares in size, and is classified as a Class 3 Extractive Industry under Council’s Extractive Industry Policy, as the depth of the pit exceeds 3 metres.
3. In accordance with the requirements of TPS 3 the use “Industry – Extractive” was advertised for public comment. Adjoining landowners were notified, a site notice was placed on the corner of Trebor Road and Lower Denmark Road and an advertisement was placed in the Weekender on 17 December 2009. The advertising period closed on the 6 January 2010 and a total of seven (7) public submissions were received; all being opposed to the application as discussed in further detail under Paragraphs 7 to 9 of this report (2 of the submissions have requested that their names be withheld).
4. The application has been referred to Council for consideration, due to the substantive comments received following the advertising period and following discussion with the A/Executive Director of Development Services. This is in accordance with the requirements of Council’s recently adopted guidelines “Processing Planning Applications”.

DISCUSSION

5. The subject site is a typical rural lot, and the pit is proposed to be located in the rear south-western corner of the property. The site backs on to Crown Reserve 13773 and will be setback a minimum of 20 metres from the side and rear boundaries. The majority of the immediate locality is also zoned rural and consists of larger agricultural lots (similar to this site) and also smaller rural farm stay lots. The closest neighbouring dwelling to the extractive industry is over 800 metres away, which is consistent with both Council and the Environmental Protection Authority Policy.
6. Access to and from the pit will be via Attwell Road only, with haulage vehicles exiting onto Lower Denmark Road. During the public consultation period, due to the positioning of the advertising sign (on the corner of Trebor Road and Lower Denmark Road) concern was expressed by residents that Trebor Road would be used as the haulage route from the property. The sign was placed in this location to ensure the residents of Trebor Road were aware that an application has been received for Lot 50 Attwell Road.
7. Included in the Information Bulletin is a copy of the proponents Works and Excavation Program, Rehabilitation and Decommissioning Program and Environmental Management Procedures, which outlines the general development information for the proposed extractive industry (i.e. depth, size, hours of operation etc).

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

PUBLIC CONSULTATION / ENGAGEMENT

8. As previously stated a total of seven (7) public submissions were received during the advertising period, with all being opposed to the application. Whilst a full copy of their submission is included in the Information Bulletin, the following summarises the areas of concern:

- Concerns regarding the possibility of dust blowing into the adjacent potato crop, during growing season.
- Concerns regarding the access, stating that Attwell Rd is not suitable for the volume of trucks proposed and the increased heavy traffic would have a substantial negative impact on the amenity of the area.
- Road not safe through visibility, width or dust.
- The possible location of acid sulphate soils on the site.
- Issues regarding unapproved works such as clearing, earthworks dumping of asbestos etc on the site, and concerns that the proponent will not adhere to the conditions of approval.
- Potential reduction in the amenity value of properties on both Trebor Rd and Attwell Road.
- Safety concerns for children and families residing in the immediate locality.
- Proximity of groundwater to the sand pit and the potential impact on water quality.
- Potential adverse impact on residences neighbouring the pit from dust and noise.
- Lack of information in regards to rehabilitation.
- Discrepancies between “Works and Excavation Program” and “Rehabilitation and Decommissioning Program”.
- The site is within a Priority 2 Drinking Water Source protection area and subject to its limitations and conditions as per the Department of Water.
- Potential environmental damage through spread of noxious weeds from the site, to neighbouring properties and also the Reserve located directly behind the subject site. Also discrepancies between Government guidelines in terms of environmental management procedures for reducing the spread of weeds. It is Council policy that vehicles prior to entering and existing the site are brushed/washed thoroughly to avoid spreading weeds and dieback to and from the site however under Water Quality Protection Note 15 - Extractive industries near sensitive water resources (WQPN 15) it states “*routine servicing and wash down of operating equipment is unacceptable*”
- Concerns raised regarding previous clearing of the site without the correct approvals (clearing permits) from the Department of Environment and Conservation.

9. In response to the submissions, staff advise the following:

- If approval is considered appropriate, the proponent would be;
 - Required to comply with the Department of Environmental Protection’s Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000 in terms of dust.
 - Required to comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in terms of noise.
 - Responsible for the repair of any undue damage to Attwell Road caused by the extraction operations.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

- The applicant has advised that the number of trucks using the site daily will be between 4 and 6.
- Although a portion of the site falls within an area which is noted as a high risk of containing acid sulphate soils the location of the pit itself is outside of this area.
- In terms of the application having an impact on ground water and water quality from the pit and its operational procedures, refer to paragraphs 13 to 14.
- In terms of the potential for spreading of noxious weeds and operational methods (such as wash down of vehicles etc) refer to paragraphs 12 and 15.
- The proponent has addressed the discrepancies between “Works and Excavation Program” and “Rehabilitation and Decommissioning Program” (refer to the proponents response included in the Information Bulletin).
- Additional information including rehabilitation plans can be required as a condition of approval if approval is considered appropriate.
- In regards to the unapproved clearing refer to paragraph 12.

GOVERNMENT CONSULTATION

10. The proposal was referred to both the Department of Water and the Department of Environment and Conservation; their formal responses are included in the Information Bulletin but a précis appears below:

11. Department of Environment and Conservation (DEC):

- Noted that previous clearing of the site has been undertaken without the correct approvals (clearing permits) from DEC.
- Clearing of native vegetation can only be undertaken if an approved exemption or a permit to clear is held.
- Noted that within the rear reserve (Reserve 13773) and in close proximity to the site (500m) there is a recorded location for a declared threatened fauna such as Main’s Assassin Spider (*austrarchaea mainae*).
- Cleaned and freely drained access for haulage movements is vital to reduce the spread of *phytophthora cinnamomi* dieback and other diseases to or from the site.
- If the application was to be approved, DEC site and plant licensing issues will need to be further clarified.

12. Department of Water (DOW):

- The subject site is located within a Priority 2 (P2) Area of the South Coast Water Reserve. Extractive industries are permitted within these areas subject to conditions.
- The depth to the ground water is approximately 20m below the surface, and as the proposed pit depth is only 15m, the pit is not expected to intercept and disturb the groundwater.
- The applicant has noted a refuelling area noted within the P2 area, and would recommend that refuelling be undertaken outside the drinking water source area. However if this cannot be achieved a suitable refuelling area is to be constructed to the satisfaction of DOW, and an environmental response plan is to be prepared in the case of accidental fuel/chemical spills.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

13. In addition to the advice from DOW, under the WQPN 15, it states *“routine servicing and wash down of operating equipment is unacceptable”*, however it is Council policy to ensure that vehicles have been brushed/washed thoroughly before entering and leaving the site to avoid spreading weeds and dieback to and from the site. After advising the DOW of this requirement they have further advised Council;

“The DOW's preference is that no refuelling and washdown should occur on the site, however, if this is not possible, then these activities should take place within a bunded, impervious compound. Washdown water should be collected and taken off-site and disposed of appropriately. DOW would like to see a plan of this compound.”

14. In summary both the comments from DOW and DEC can be suitably addressed and controlled through planning conditions (including management plans) if approval is considered appropriate.

STATUTORY IMPLICATIONS

15. Under TPS 3 an “Industry – Extractive” is classified as an “AA” use under the zoning table, within the “Rural” zone and is a *“use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with TPS 3 (i.e. public advertising)”*.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

18. Under the general development requirements of the “Extractive Industry Policy” it states;

“No more than 20 percent of the proposed pit area is to consist of remnant vegetation and should vegetation be affected, this area should not represent the only significant stand of vegetation on the site”

Approximately 50% of the site consists of existing vegetation, with the pit proposed to be located within this vegetated area. The applicant has previously cleared under storey native vegetation within the proposed pit without the correct clearing permits from the Department of Environment and Conservation (DEC). The applicant has been advised to cease clearing and that any further clearing of native vegetation will require a clearing permit from DEC. It should be noted that if approval is considered appropriate it would be strictly subject to the proponent obtaining a clearing permit from DEC.

19. In all other respects the proposed pit complies with the general development requirements for a Class 3 extractive industry as defined in Council’s Extractive Industry Policy.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

20. Council could refuse the application and the applicant would then be entitled to seek a Review of that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.

SUMMARY CONCLUSION

21. The application is for an extractive industry for the extraction of agricultural lime, limestone and sand from Lot 50 Atwell Road, Cuthbert. The application is for retrospective Planning Scheme Consent as extraction and clearing of native vegetation has already commenced without first obtaining the correct approvals from the City of Albany and other Government agencies.

22. The two main issues with regards to this proposal are;

Impact on neighbouring properties

Concerns raised by surrounding residents in relation to noise, dust and traffic safety are valid especially given the extraction area involved and the depth of excavation. The impacts could be mitigated however through conditions requiring the upgrading of Atwell Road and the use of dust suppression measures. Also the pit is in excess of the EPA policy buffer requirement of 500m for a lime extraction pit (the nearest dwelling being 800 meters away).

Impact on the natural environment

The development will impact on the natural environment in terms of unnecessary clearing of vegetation (which may be rare/threatened flora), the possibility of spreading weeds and dieback to and from the site, in particular the adjacent Crown reserve and the impact the application has on ground water from both extraction and maintenance operations (i.e. fuel/chemical spills).

23. In conclusion many of the matters outlined by government agencies and the public can be addressed through the application of planning conditions, however staff are concerned that a significant amount of vegetation will be cleared/disturbed under the proposal. Furthermore the applicant has already undertaken works to some extent without prior DEC and City of Albany approval, and there are concerns that strict compliance with any conditions of approval will not be observed.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM NUMBER 13.1.5 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme Refusal for an Extractive Industry at Lot 50 Attwell Road, Cuthbert, as:

- A. The development would provide additional vehicle loads on an unsealed road surface to the detriment of the road surface and local road users.
- B. The proposal would affect the amenity of the locality by the emission of noise, additional traffic and dust from the proposed activity.
- C. The development is inconsistent with Council's Extractive Industry Policy given the pit area contains more than 20% vegetation, which will be cleared under the proposal.
- D. The development does not satisfy Town Planning Scheme No. 3, section 5.4 (Matters To Be Considered By Council) Part (l) with regard to "the likely effect of the proposal on the natural environment and any means that area proposed to protect or to mitigate impacts on the natural environment".
- E. The development does not satisfy Town Planning Scheme No. 3, section 5.4A (Matters To Be Considered By Council) Part (n) with regard to "the preservation of the amenity of the locality".
- F. The development does not satisfy Town Planning Scheme No. 3, section 5.4A (Matters To Be Considered By Council) Part (q) with regard to "the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety" and would set an unwanted precedent.
- G. The development does not satisfy Town Planning Scheme No. 3, section 5.4A (Matters To Be Considered By Council) Part (y) with regard to "any relevant submission received on the application".
- H. The development does not satisfy Town Planning Scheme No. 3, section 5.4A (Matters To Be Considered By Council) Part (za) with regard to "potential impacts of noise, dust, light risk and other pollutants on surrounding land uses".

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM 13.1.5 – ALTERNATE MOTION BY COUNCILLOR WOLFE

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for an 'Extractive Industry (sand/lime)' at Lot 50 Atwell Road, Cuthbert, subject to the following conditions:

- A. A refundable bond/bank guarantee of \$1,700 shall be lodged on a per hectare basis with Council for remediation work.
- B. All refuelling activities are to take place outside of the public drinking water sources area. If this is not possible, the refuelling area to be located within a bunded, impervious compound designed to allow effective recovery of any fuel/chemical spill without loss to the environment. Details and plans of this compound are to be submitted to the satisfaction of the Department of Water prior to commencement of works.
- C. A detailed emergency response plan is to be prepared and submitted to both the satisfaction of Council, the Department of Water and Department of Environment and Conservation prior to commencement of works.
- D. Prior to commencing any works, a Dust Management plan must be submitted to the satisfaction of Council.
- E. A clearing permit must be obtained from the Department of Environment and Conservation, and submitted to Council prior to commencement of works.
- F. Attwell Road, is to be upgraded to a gravel standard to a depth of 150mm and a minimum pavement width of 6 metres to the satisfaction of Council prior to the operation of the pit.
- G. The applicant will be responsible for the repair of any undue damage to Attwell Road caused by the extraction operations.
- H. Operation of the pit shall be restricted to the hours of:
 - 7.00am - 6.00pm Monday to Friday
 - 7:00am – 5:00pm Saturday
 - No operation at all on Sundays or Public Holidays
- I. The site is to be suitably rehabilitated and re-contoured on a per hectare basis including re-battering of banks and reseeding and stabilising old extraction areas as per the rehabilitation plan.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM 13.1.5 – ALTERNATE MOTION – COUNCILLOR WOLFE CONTINUED.

- J. The operation of the pit shall be contained within that area indicated on plans submitted with the application.
- K. Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction area and is to be stored on-site for use in later rehabilitation.
- L. The extraction pit being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.
- M. The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse within the prior approval of the Department of Water.
- N. No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.
- O. Only one hectare of the pit shall be open at any one time.
- P. Remediation of completed excavation areas is to be undertaken on a per hectare basis.
- Q. Operation of the pit is to comply with the Environmental Protection (Noise) Regulations 1997.
- R. A minimum of 2m of undisturbed soil profile between the base level of the excavated area and the maximum anticipated water table. Should groundwater be intercepted, all operations are to cease immediately and the Department of Water contacted for further advice.
- S. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.
- T. The number of trucks visiting the site for the extraction operations shall be limited to no more than 10 per day.
- U. Access to and from the site for the extraction operations shall be via Attwell Road, and shall not be via Trebor Road.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

[8:46:36 PM](#) Councillor Hammond requested a Point of Clarification on the bond required of the proponent.

[8:46:37 PM](#) Councillor J Bostock left the chamber.

[8:46:48 PM](#) Through the Mayor, Mr Bride replied that the requirement of a bond was stipulated in the Extractive Industries Local Law. This bond ensures the rehabilitation of the site.

[8:47:02 PM](#) Councillor Paver requested a Point of Clarification regarding the preparation of Councillor Wolfe's alternate motion. Councillor Paver asked Mr Bride if he was satisfied that the alternate motion satisfied the previous concerns regarding this.

[8:47:36 PM](#) Through the Mayor, Mr Bride replied that the conditions which were drafted took into account the comments from surrounding landowners, including concerns about dust and traffic safety. Mr Bride said that he had tried to ensure that all negative concerns were addressed by the additional conditions.

[8:48:24 PM](#) Councillor J Bostock returned to the chamber.

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

**ITEM 13.1.5 – ALTERNATE MOTION BY COUNCILLOR WOLFE
VOTING REQUIREMENT: SIMPLE MAJORITY**

MOVED:COUNCILLOR WOLFE

SECONDED:COUNCILLOR WELLINGTON

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for an 'Extractive Industry (sand/lime)' at Lot 50 Atwell Road, Cuthbert, subject to the following conditions:

- A. A refundable bond/bank guarantee of \$1,700 shall be lodged on a per hectare basis with Council for remediation work.**
- B. All refuelling activities are to take place outside of the public drinking water sources area. If this is not possible, the refuelling area to be located within a bunded, impervious compound designed to allow effective recovery of any fuel/chemical spill without loss to the environment. Details and plans of this compound are to be submitted to the satisfaction of the Department of Water prior to commencement of works.**
- C. A detailed emergency response plan is to be prepared and submitted to both the satisfaction of Council, the Department of Water and Department of Environment and Conservation prior to commencement of works.**
- D. Prior to commencing any works, a Dust Management plan must be submitted to the satisfaction of Council.**
- E. A clearing permit must be obtained from the Department of Environment and Conservation, and submitted to Council prior to commencement of works.**
- F. Attwell Road, is to be upgraded to a gravel standard to a depth of 150mm and a minimum pavement width of 6 metres to the satisfaction of Council prior to the operation of the pit.**
- G. The applicant will be responsible for the repair of any undue damage to Attwell Road caused by the extraction operations.**
- H. Operation of the pit shall be restricted to the hours of:**
 - 7.00am - 6.00pm Monday to Friday**
 - 7:00am – 5:00pm Saturday**
 - No operation at all on Sundays or Public Holidays**
- I. The site is to be suitably rehabilitated and re-contoured on a per hectare basis including re-battering of banks and reseeding and stabilising old extraction areas as per the rehabilitation plan.**

DEVELOPMENT SERVICES REPORTS

Item 13.1.5 continued.

ITEM 13.1.5 – ALTERNATE MOTION – COUNCILLOR WOLFE CONTINUED.

- J. The operation of the pit shall be contained within that area indicated on plans submitted with the application.**
- K. Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction area and is to be stored on-site for use in later rehabilitation.**
- L. The extraction pit being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.**
- M. The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.**
- N. No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.**
- O. Only one hectare of the pit shall be open at any one time.**
- P. Remediation of completed excavation areas is to be undertaken on a per hectare basis.**
- Q. Operation of the pit is to comply with the Environmental Protection (Noise) Regulations 1997.**
- R. A minimum of 2m of undisturbed soil profile between the base level of the excavated area and the maximum anticipated water table. Should groundwater be intercepted, all operations are to cease immediately and the Department of Water contacted for further advice.**
- S. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system in accordance with the Department of Environmental Protection's Dust Control Guidelines and the City of Albany Prevention and Abatement of Sand Drift Local Law 2000.**
- T. The number of trucks visiting the site for the extraction operations shall be limited to no more than 10 per day.**
- U. Access to and from the site for the extraction operations shall be via Attwell Road, and shall not be via Trebor Road.**

MOTION CARRIED 12-0

DEVELOPMENT SERVICES REPORTS

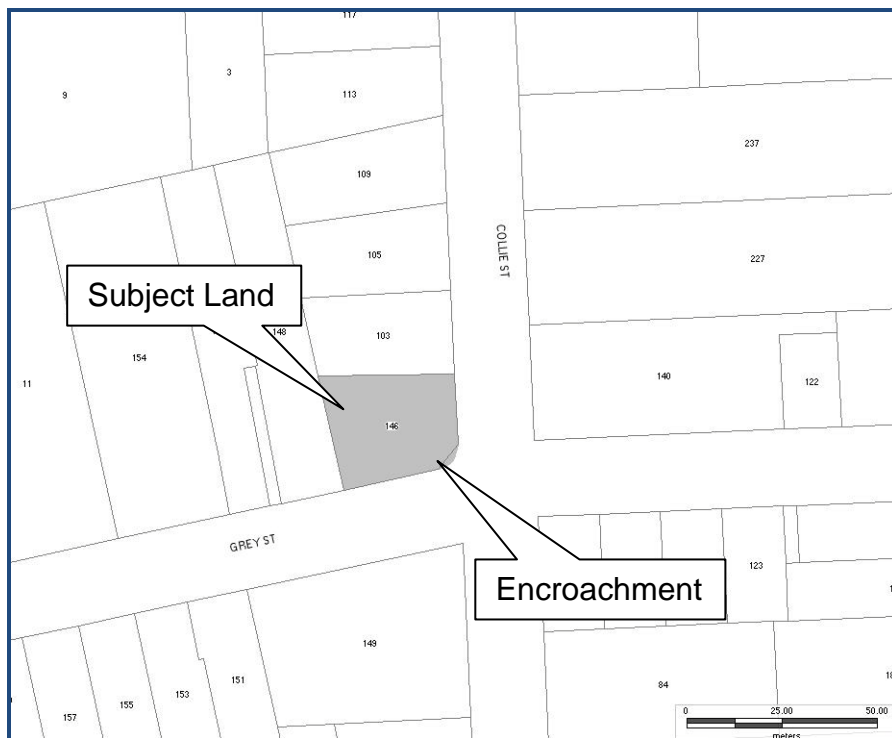
ITEM NUMBER: 13.1.6
ITEM TITLE: DEVELOPMENT APPLICATION – SINGLE HOUSE – ADDITIONS – 144-146 GREY STREET, ALBANY

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

- File Number or Name of Ward** : A104383 (Frederickstown Ward)
Summary of Key Points : Planning Scheme Consent is sought for additions to a single house, including the reconstruction of an existing retaining wall within a City of Albany Road Reserve
Land Description : Lot 10 (144-146) Grey Street, Albany
Proponent : Mr G Holmes
Owner : Mr & Mrs G Holmes
Reporting Officer(s) : Planning Officer (C McMurtrie)
Disclosure of Interest : Nil
Business Entity Name : Hobbs, Smith & Holmes Architects
Previous Reference : Nil
Bulletin Attachment(s) : Proposed plans
Consulted References : City of Albany Historic Town Design Policy
Local Government (Miscellaneous Provisions) Act 1960 – Section 400
Local Government (Uniform Local Provisions) Regulations 1996 – Schedule 9.1, Clause 8
Councillor Lounge : Nil

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued

BACKGROUND

1. An application for Planning Scheme Consent has been received for the construction of a carport addition to the eastern end of the existing house at 144-146 Grey Street, Albany, other minor works and the reconstruction of the existing stone retaining walls to the south and east of the property.
2. The existing retaining wall encroaches into the City of Albany road reserve and therefore requires Council and Ministerial approval for its reconstruction under Section 400 of the *Local Government (Miscellaneous Provisions) Act 1960*.

DISCUSSION

3. The house is a large, red brick and white render 1940s bungalow with a red tile roof, set in garden grounds on a lot of 886m² with a Residential R30 zoning.
4. The proposed carport addition has been designed to be in keeping with the overall style and appearance of the existing house, with a modern element added in the form of a glass balustrade around its southern and eastern edges. A variation to the side setback is sought to reduce it to nil setback. The City of Albany's *Albany Historic Town Design Policy 2009* states that:

“Side setbacks shall be determined as per Clause 3.3.1 of the Residential Design Codes except that an absolute minimum side setback of 1 metre shall apply. No parapet walls will be permitted”.

In this instance, no parapet wall is proposed and the public road is aligned to the eastern side of the adjoining road reserve, leaving an 11m wide road verge between the proposed carport and the carriageway. It is therefore considered reasonable that a variation to this aspect of the policy be granted.

5. The other minor works to the house include the addition of a small extension to the western side of the house and a 'waterfall' window to the rear elevation. These works are in keeping with the provisions of the *Albany Historic Town Design Policy*.
6. The proposed reconstruction of the existing stone retaining walls to the south and east of the property would involve the reconstruction of a section that runs outside the corner truncation on the property boundary and into the adjoining City of Albany road reserve. Section 400 of the *Local Government (Miscellaneous Provisions) Act 1960* requires that the local government grants its permission and the Minister for Lands grants approval before these works can be undertaken. Members will also note that a new footpath is illustrated on the plans within the road reserve, adjacent to the retaining wall encroachment. However, it must be stressed that this **does not** form a part of the application.
7. As the encroachment of the existing retaining wall does not impact upon servicing or lines of sight within the road reserve, and is necessary to the stability of the house at 144-146 Grey Street, as required by Section 400 of the *Local Government (Miscellaneous Provisions) Act 1960* it is considered that Council should grant its permission for the reconstruction of the retaining wall within the road reserve and seeks the approval of the Minister for Lands for the works to be undertaken.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued

PUBLIC CONSULTATION / ENGAGEMENT

8. Nil.

GOVERNMENT CONSULTATION

9. Nil.

STATUTORY IMPLICATIONS

10. A component of the proposed development would be constructed within a City of Albany road reserve, which requires the support of both Council and the Minister for Lands in order to be permitted.

11. Section 400 of the *Local Government (Miscellaneous Provisions) Act 1960* states that:

(l)(a) Except to the extent permitted, and in the manner prescribed, by any regulations made under this Part, a person shall not, without the permission of the local government granted only with the approval of the Minister –

(i) erect a building so as to encroach on, over, or under a street, way, or other public place, in its district;

(ii) rebuild an existing building which encroaches on, over, or under a street, way, or other public place in the district, so as to encroach on, over, or under a street, way, or other public place in the district.

(b) The local government shall not grant its permission and the Minister shall not give his approval unless each is of opinion that having regard to the size of the building, and the circumstances of the case it is necessary for the stability of the building that the permission should be granted and the approval should be given.

(c) The local government with the approval of the Minister may grant the permission subject to such conditions as the local government and the Minister think fit.

Should Council resolve to grant its permission for the proposed works, it will therefore be necessary to seek the approval of the Minister for Lands prior to the issue of a decision notice.

12. In addition to the above, Schedule 9.1, Clause 8 of the *Local Government (Uniform Local Provisions) Regulations 1996 – Private works on, over, or under public places –* states that:

(3) It is a condition of the permission that the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.

(4) A person who fails to comply with a condition of the permission commits an offence.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued

- (5) *A person who constructs anything in accordance with permission under this section is required to —*
- (a) *maintain it; and*
- (b) *obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.*
- (6) *A person who fails to comply with subregulation (5) commits an offence.*

Subject to Council resolving to grant its permission for the proposed works, and the approval of the Minister for Lands being obtained, any decision notice will therefore require appropriate conditions to be applied.

FINANCIAL IMPLICATIONS

13. As required by Schedule 9.1, Clause 8 of the *Local Government (Uniform Local Provisions) Regulations 1996 – Private works on, over, or under public places – subregulation 5(b) above*, the proponent would be required to take out an appropriate level of public liability insurance cover, in order to protect Council from any liability should an accident occur in association with the retaining wall.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

15. The application must also be assessed against the provisions of the City of Albany's *Albany Historic Town Design Policy 2009*.
16. Section 4.6.2 – *Townscape* requires that:

“Roofs shall be articulated to ensure that the scale of individual roof elements is comparable with the scale of existing roofs in the locality.

Gabled or hipped roofs are encouraged wherever possible and their pitch shall be between 25 and 40 degrees”.

The proposal is considered to be in compliance with these aspects of the policy.

17. Section 4.6.3 – *Streetscape* requires that:

“Extensions shall not significantly increase the form, size or height of a building when viewed from the street.

All garages and carports shall be located at least 1 metre behind the front wall of a dwelling and wherever possible at the rear of a dwelling. This requirement may be relaxed where the topography of makes compliance impractical and the established streetscape would not be detrimentally affected by such a relaxation.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued

Side setbacks shall be determined as per Clause 3.3.1 of the Residential Design Codes except that an absolute minimum side setback of 1 metre shall apply. No parapet walls will be permitted”.

It is considered that the proposal broadly complies with these aspects of the policy. However, the proponent is seeking a side setback variation to nil setback for the proposed carport. Due to the proposed carport having no parapet wall and the alignment of the public road (Collie Street) to the eastern side of the road reserve, leaving a verge of approximately 11m in width, it is considered that it would be reasonable to vary this aspect of the policy.

18. Section 4.6.4 – Built Form requires that:

“Retaining walls within the front setback area are to be stepped if they are more than 1.5 metres high to reduce their visual impact.

Strong emphasis will be placed on promoting high quality design which is sensitive to the scale and character of its context.

All additions and alterations are required to comply with the following requirements:

(a) Additions to existing residences should be sympathetic to the character and integrity of the original residence in terms of scale and form. Additions should generally not attempt to reproduce historic styles but represent a contemporary solution which is considerate of the existing building”.

The proposal is considered to be in compliance with these aspects of the policy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

19. Council has the option to refuse the application, which would then entitle the applicant to lodge an appeal against that decision with the State Administrative Tribunal. This would have associated cost implications for the City of Albany.

SUMMARY CONCLUSION

20. The proposed extension is considered to be broadly in keeping with the City of Albany’s *Albany Historic Town Design Policy*, with the exception of a minor variation to the side setback.

21. The encroachment of the existing retaining wall does not impact upon servicing or lines of sight within the road reserve, and is necessary to the stability of the house at 144-146 Grey Street, as required by Section 400 of the Local Government (Miscellaneous Provisions) Act 1960. It is therefore recommended that Council grants its permission for the reconstruction of the retaining wall within the road reserve and seeks the approval of the Minister for Lands for the works to be undertaken.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ITEM 13.1.6 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to:

- A. Seek approval from the Minister for Lands under the Local Government (Miscellaneous Provisions) Act 1960, Section 400, to allow the reconstruction of the existing retaining wall at 144-146 Grey Street within the road reserve;
- B. Subject to approval from the Minister for Lands being granted, and subject to approval from servicing authorities, grant delegation to the Acting Director of Development Services to issue a Planning Scheme Consent for the proposed additions to 144-146 Grey Street, Albany and the reconstruction of the existing retaining wall on the road reserve adjacent to 144-146 Grey Street, Albany subject to, but not limited to, the following conditions:
 - a. The roof of the proposed carport shall be finished in red clay tiles to match the existing house;
 - b. the external walls of the proposed additions and the support piers of the proposed carport shall be finished to match the existing house;
 - c. clearances for the encroachment of the retaining wall shall be obtained from the relevant servicing authorities;
 - d. the retaining walls shall be reconstructed using salvaged stone from the original walls wherever possible;
 - e. any new stone used in the reconstruction of the retaining walls shall match the salvaged stone as far as is practicable; and
 - f. an appropriate lime mortar shall be used in the reconstruction of the retaining walls.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

ITEM 13.1.6 – AMENDED OFFICER RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to SEEK approval from the Minister for Lands under the Local Government (Miscellaneous Provisions) Act 1960, Section 400, to allow the reconstruction of the existing retaining wall at 144-146 Grey Street within the road reserve.

ITEM 13.1.6 – AMENDED OFFICER RECOMMENDATION 2

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT subject to approval from the Minister for Lands being granted, and subject to approval from servicing authorities, grant delegation to the Acting Director of Development Services to ISSUE a Planning Scheme Consent for the proposed additions to 144-146 Grey Street, Albany and the reconstruction of the existing retaining wall on the road reserve adjacent to 144-146 Grey Street, Albany subject to, but not limited to, the following conditions:

- a. The roof of the proposed carport shall be finished in red clay tiles to match the existing house;
- b. the external walls of the proposed additions and the support piers of the proposed carport shall be finished to match the existing house;
- c. clearances for the encroachment of the retaining wall shall be obtained from the relevant servicing authorities;
- d. the retaining walls shall be reconstructed using salvaged stone from the original walls wherever possible;
- e. any new stone used in the reconstruction of the retaining walls shall match the salvaged stone as far as is practicable; and
- f. an appropriate lime mortar shall be used in the reconstruction of the retaining walls.

Officers Reason (G Bride)

Recommendation 2 involves delegating the issuing of planning scheme consent to an officer of Council and therefore an absolute majority is required.

DEVELOPMENT SERVICES REPORTS

Item 13.1.6 continued.

**ITEM 13.1.6 – AMENDED OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

THAT Council resolves to SEEK approval from the Minister for Lands under the Local Government (Miscellaneous Provisions) Act 1960, Section 400, to allow the reconstruction of the existing retaining wall at 144-146 Grey Street within the road reserve.

MOTION CARRIED 12-0

**ITEM 13.1.6 – AMENDED OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

THAT subject to approval from the Minister for Lands being granted, and subject to approval from servicing authorities, grant delegation to the Acting Director of Development Services to ISSUE a Planning Scheme Consent for the proposed additions to 144-146 Grey Street, Albany and the reconstruction of the existing retaining wall on the road reserve adjacent to 144-146 Grey Street, Albany subject to, but not limited to, the following conditions:

- a. The roof of the proposed carport shall be finished in red clay tiles to match the existing house;**
- b. the external walls of the proposed additions and the support piers of the proposed carport shall be finished to match the existing house;**
- c. clearances for the encroachment of the retaining wall shall be obtained from the relevant servicing authorities;**
- d. the retaining walls shall be reconstructed using salvaged stone from the original walls wherever possible;**
- e. any new stone used in the reconstruction of the retaining walls shall match the salvaged stone as far as is practicable; and**
- f. an appropriate lime mortar shall be used in the reconstruction of the retaining walls.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

DEVELOPMENT SERVICES REPORTS

13.2 DEVELOPMENT POLICY

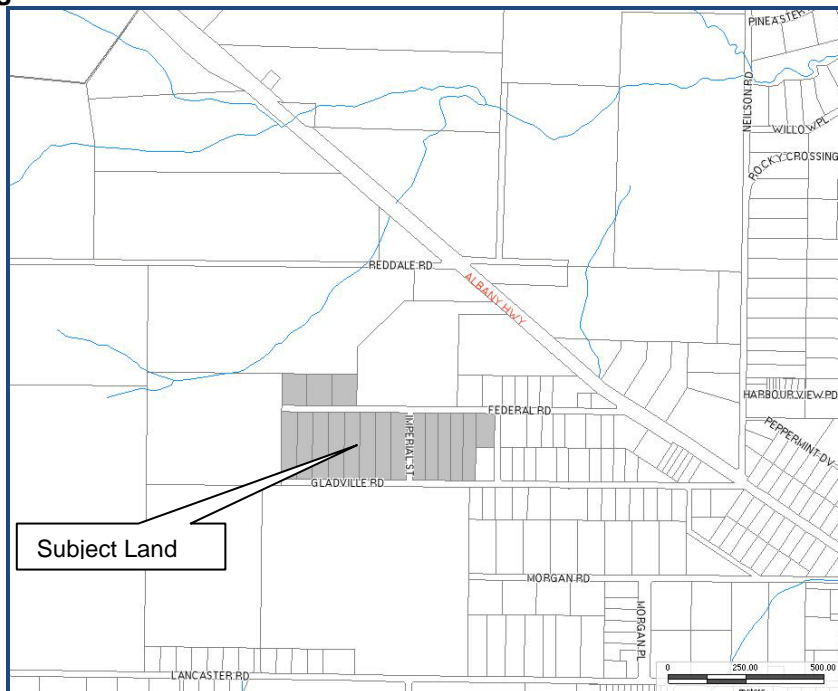
ITEM NUMBER: 13.2.1
ITEM TITLE: INITIATION OF SCHEME AMENDMENT – REZONING OF LOTS 36-38, 41-45 AND 47-52 FEDERAL STREET AND LOTS 39, 40 AND 46 GLADVILLE ROAD, MCKAIL

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : AMD 300 (West Ward)
- Summary of Key Issues** : Determine whether to initiate the proposed Town Planning Scheme Amendment to rezone Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road from 'Rural' to 'Special Residential'.
- Land Description** : Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road, McKail
- Proponent** : Harley Survey Group
- Owner** : Various owners
- Reporting Officer(s)** : Planning Officer (C McMurtrie)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 21/07/09 – Item 13.2.1 (SAR 141)
PESP 20/08/09 – Item 7.5
OCM 15/09/09 – Item 13.5.1
- Bulletin Attachment(s)** : 1. Scheme Amendment document
- Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
2. Albany Local Planning Strategy
- Councillor Lounge** : Copy of OCM 21/07/09 Item 13.2.1 (SAR 141)
Copy of PESP 20/08/09 – Item 7.5
Copy of OCM 15/09/09 – Item 13.5.1

Maps and Diagrams:



DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

BACKGROUND

1. Amendment 300 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road from 'Rural' to 'Special Residential'.
2. A Scheme Amendment Request (SAR 141) was reported to the Ordinary Council Meeting held on 21 July 2009 with the following officer recommendation:

“THAT Council ADVISE the proponent that it is prepared to entertain the submission of a formal scheme amendment to rezone Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road, McKail from the 'Rural' zone to the 'Residential Development' zone subject to the following matters being addressed:

- a) A detailed land capability report being prepared;*
- b) The capacity of the land to be connected to reticulated sewer to be resolved;*
- c) The preparation of a Local Water Management Strategy in accordance with "Better Urban Water Management" guidelines;*
- d) A traffic management assessment being prepared; and*
- e) A comprehensive opportunities and constraints map being incorporated.”*

However, the proponent spoke against the officer recommendation during Public Question and Statement Time (Item 5.0) and lodged a written submission, which led Council to resolve:

“THAT COUNCIL LAY ITEM 13.2.1 on the table.”

The SAR was then reported to the Planning and Environment Strategy and Policy Committee held on 20 August 2009. The following alternative motion was brought forward and carried 3/2:

“THAT Council ADVISE the proponent that it is prepared to entertain the submission of a formal scheme amendment to rezone Lots 36-38, 41-45 and 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road, McKail from the 'Rural' zone to the 'Special Residential' zone subject to the following matters being addressed:

- a) A detailed land capability report being prepared;*
- b) The capacity of the land to be connected to reticulated sewer to be resolved;*
- c) The preparation of a Local Water Management Strategy in accordance with "Better Urban Water Management" guidelines;*
- d) A traffic management assessment being prepared; and*
- e) A comprehensive opportunities and constraints map being incorporated.”*

The PESP minutes were subsequently reported to the Ordinary Council Meeting held on 15 September 2009, where the alternative motion was carried as a resolution of Council.

3. The matters outlined above have all been broadly addressed in the main text of the amending document, which based on the density of development proposed is appropriate.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

DISCUSSION

4. The 17 subject lots are located between Gladville Road and Atwell Park Speedway, approximately 430m to the west of Albany Highway and 7km north-west of the city centre. They cover a total area of approximately 16.2ha, with the land sloping gently downward in an easterly direction from the south-west corner of Lot 39 to the eastern boundary of Lot 52.
5. The land has been developed with single houses and associated outbuildings on large lots of at least 4000m². This development has preserved the open character of the area, with the lots being too small to support agricultural activities, such as stock grazing. However, their relatively large size can make maintenance difficult for landowners.
6. The subject lots have access to Gladville Road and Federal Street, which are both constructed to outer residential standards with bitumen sealed roads (not kerbed) and table drainage. Utilities are available, with the exception of reticulated sewer. The proposed rezoning would facilitate the creation of lots large enough to accommodate on-site effluent disposal, with sewer provision likely in the longer term, as urban development extends onto land to the west of the subject lots.
7. The land to the west and south of the subject lots forms 'Special Rural' Area No. 1D, which remains undeveloped and is used for rural purposes, including grazing and hay production. 'Special Residential' Area No. 9, a rural residential area with a minimum block size of 4000m², lies primarily to the east of the subject lots, although it also extends a short distance along their northern edge (see plan between pages 4 and 5 of the amending document). The remainder of the land to the north of the subject lots is composed of a 'Public Purposes' Reserve covering the Federal Street electricity sub-station and the 'Private Clubs and Institutions' zone covering the Atwell Park Speedway, which abuts the three northernmost lots.
8. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Furthermore, the amending documents broadly address the matters raised by Council at the SAR stage.

PUBLIC CONSULTATION/ENGAGEMENT

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

GOVERNMENT CONSULTATION

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

STATUTORY IMPLICATIONS

11. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
12. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

13. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
14. 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.
15. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

17. Council's decision on the Scheme Amendment must be consistent with the objectives of the draft Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
18. 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.*

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

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

The draft ALPS expands on this by stating that:

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

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

- *Provide compact growth of selected existing rural townsites in accordance with Table 4, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

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

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

20. The proposal is considered to be consistent with the various Strategic Objectives and aims set out in the draft ALPS, particularly those contained within Section 8.3.5 – *Rural Living*, while the subject land has been identified on the ALPS map as suitable for 'Special Residential' development.
21. However, Councillors are advised to consider the Strategic Objectives and aims set out in ALPS Section 8.3.4 – *Protection of Future Urban Land* (outlined below), given the proximity of the subject lots to the existing urban front.
22. Section 8.3.4 – *Protection of Future Urban Land* sets the following Strategic Objective:

"Protect areas designated as future fully-serviced urban areas from inappropriate land uses, subdivision and development".

The draft ALPS further states that:

"Future fully-serviced urban areas of Albany must be protected. Planning for these areas needs to accommodate urban growth within, and hopefully beyond, the timeframe of this strategy or to facilitate urban growth above current estimates. These areas have been identified in the ALPS as Future Urban Priority Development areas.

Urban growth must be planned for beyond the existing major development fronts (Priority 1 areas) in McKail, Yakamia and Bayonet Head. Apart from more detailed planning, measures need to be put in place to retain potential urban development areas as large landholdings and prevent inappropriate land uses, subdivision and development.

The main statutory mechanism the City has to protect Future Urban areas is the zoning of land for rural purposes in the LPS1 with appropriate controls on land uses, subdivision and development until it is required to be developed for urban uses.

All Future Urban growth areas will be subject to district structure, policy, precinct and local structure planning".

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

23. Although it may not be the intention of landowners to subdivide their properties into blocks of less than 5000m² at present, this may not always be the case. Similarly, the possibility exists of the Atwell Park Speedway being relocated at a future date, thereby removing the current need for a 71(db)A noise buffer. Additionally, nearby fully-serviced urban development at McKail will likely make reticulated sewer connections available as the infrastructure network is upgraded. Should these possibilities eventuate, then land on the urban fringe will likely be sought for further development.
24. While 'Special Residential' development may be appropriate in the short- to medium-term, it would seem inappropriate not to 'future-proof' the development potential of this land to a fully-serviced urban standard through the application of some simple planning controls.
25. It is therefore recommended that the proposed revegetation area shown on the Subdivision Guide Plan is straightened and also designated as a 'Development Exclusion Area', with a width of 35m, in order to allow the provision of a new road at some stage in the future, while maintaining appropriate building setbacks. (The figure of 35m is based on the need for a 20m road reserve and the 7.5m front setback requirement that has been applied to existing developments with an R5 density coding throughout the TPS 3 area, such as Milpara). This should be supplemented by a further two parallel 'Development Exclusion Areas' running east-west through the subject lots between Federal Street and Gladville Road, dividing them into four sections, when also factoring in the central revegetation area/'Development Exclusion Area'. By applying a width of 6m to these additional 'Development Exclusion Areas' (again based on the rear setbacks of existing R5-coded developments), flexibility in building location can be provided for at the present time, while putting in place the basis of a regular street pattern, should further subdivision be sought in the future.
26. It should also be noted that the existing houses on the subject lots are all positioned within these suggested development areas, which will provide all property owners with this further subdivision potential.

POLICY IMPLICATIONS

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

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

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.

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

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

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

32. 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

33. The proposal seeks to create an addition to Special Residential Area No. 9. It is considered that this would be in keeping with the objectives of Section 8.3.5 of the draft ALPS. However, it is considered that the location of this site on the existing urban fringe and the potentially temporary nature of current constraints on the land may lead to a demand for further subdivision in the future and that the present rezoning and subsequent subdivision should be appropriately 'future-proofed' to allow this potential to be realised.

DEVELOPMENT SERVICES REPORTS

Item 13.2.1 continued

34. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Staff would therefore recommend that the Scheme Amendment be initiated subject to the modifications outlined in paragraph 25 of this report.

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

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY**

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 WITH MODIFICATIONS Amendment No. 300 to Town Planning Scheme No. 3 for the purposes of:**

- 1) Rezoning Portion of Lots 36-38, Lots 41-45 and Lots 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road, McKail from 'Rural' zone to 'Special Residential' zone and amending the Scheme Maps accordingly;**
- 2) Including Lots 36-38, Lots 41-45 and Lots 47-52 Federal Street and Lots 39, 40 and 46 Gladville Road, McKail in 'Special Residential' Area No. 9, Schedule IV – Special Residential Zones – Provisions Relating to Specified Areas; and**
- 3) Modifying Schedule IV – Special Residential Zones – *Provisions Relating to Specified Areas*, Special Residential Area No. 9.**

MOTION CARRIED 10-2

Record of Vote

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

Against the Motion: Councillors J Bostock and D Bostock

DEVELOPMENT SERVICES REPORTS

ITEM NUMBER: 13.2.2
ITEM TITLE: MODIFICATIONS TO THE DRAFT ALBANY LOCAL PLANNING STRATEGY

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

8.51 CR MATLA LEFT THE CHAMBER

8.54 CR MATLA RETURNED TO CHAMBER

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

File Number or Name of Ward : STR078 (All Wards)
Summary of Key Points : Consideration of modifications proposed for the Albany Local Planning Strategy (ALPS)
Land Description : N/A
Proponent : City of Albany
Owner : N/A
Reporting Officer(s) : A/Executive Director Development Services (G Bride)
 Strategic Planning Officer (A Nicoll)
Disclosure of Interest : Nil
Business Entity Name : N/A
Previous Reference : OCM 21/08/07 – Item 11.3.1
 OCM 16/09/08 – Item 11.6.1
 OCM 16/12/08 – Item 11.6.1
 OCM 21/04/09 – Item 11.6.1
 OCM 19/01/09 – Item 13.2.1
Bulletin Attachment(s) : ALPS Map 9b – showing modification areas
 Copies of Submissions
 Exert of Map from Activity Centres Planning Strategy
Consulted References : Nil
Councillor Lounge : Activity Centres Planning Strategy
 Economic Impact Assessment (Centro)

BACKGROUND

1. On the 21 August 2007 the Albany Local Planning Strategy (ALPS) was adopted by Council, and subsequently forwarded to the Western Australian Planning Commission for endorsement.
2. The Western Australian Planning Commission (WAPC) in its letter of 16 April 2008 requested Council make several modifications to ALPS.
3. At its meeting dated 16 September 2008 Council resolved to support the majority of the modifications requested by the WAPC.
4. Separate to the ALPS process, at its meeting dated 16 December 2008 Council considered a Scheme Amendment Request (SAR) and resolved to advise the landowner that it was prepared to entertain the submission of a formal scheme amendment to rezone Lot 50 Chester Pass Road, King River from the "Rural" zone to the "Special Rural" zone and that the ALPS be amended to recognise this land as "Rural Living".
5. On 29 January 2009 the WAPC sent back a schedule relating to the draft ALPS in response to the City of Albany's recommendations (September 2008).

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

6. On 21 April 2009 Council resolved to support the WAPC's position on all modifications, including the insertion of recommendations relating to the Activity Centres Planning Strategy (ACPS).
7. On 2 December 2009 the WAPC advised that the five (5) substantial modifications, differing from the originally advertised version, would need to be placed on public exhibition seeking comments. The substantial modifications that required advertising were:
 - Modification 1
Modify Map 9B for land at Lower Kalgan (Kalgan River – North and South of Nanarup Road) from 'Rural Residential' to 'Future Urban' 'Priority 5';
 - Modification 2
Modify Map 9B for land at Little Grove (The Roman Catholic Church) from 'Local Reserve' to 'Future Urban';
 - Modification 3
Modify the retail components (text and maps) of the ALPS in accordance with the Activity Centres Planning Strategy;
 - Modification 4
Modify Map 9B for land at King River (Lot 50 Chester Pass Road) from 'Rural' to 'Rural Residential';
 - Modification 5
Modify Map 9B to differentiate 'Residential' and 'Special Residential' land.
8. During the advertising period of the ALPS, the Council resolved at its meeting dated 19 January 2010 to advise the proponent of Lots 50 and 51 Nanarup Road that it was prepared to entertain the submission of a formal Scheme Amendment (Scheme 3) to rezone Lots 50 and 51 Nanarup Road from the 'Rural' zone to the 'Special Residential' zone.
9. The advertising of the substantial modifications has now ended and a copy of the schedule of submissions providing staff commentary is provided at the rear of this report.

DISCUSSION

10. In relation to each of the modifications staff advise the following:

Modification 1 (Lower Kalgan Future Urban Cell)

11. Modification 1 involves modifying Map 9B for land at Lower Kalgan (Kalgan River – North and South of Nanarup Road) from 'Rural Residential' to 'Future Urban', 'Priority 5'.

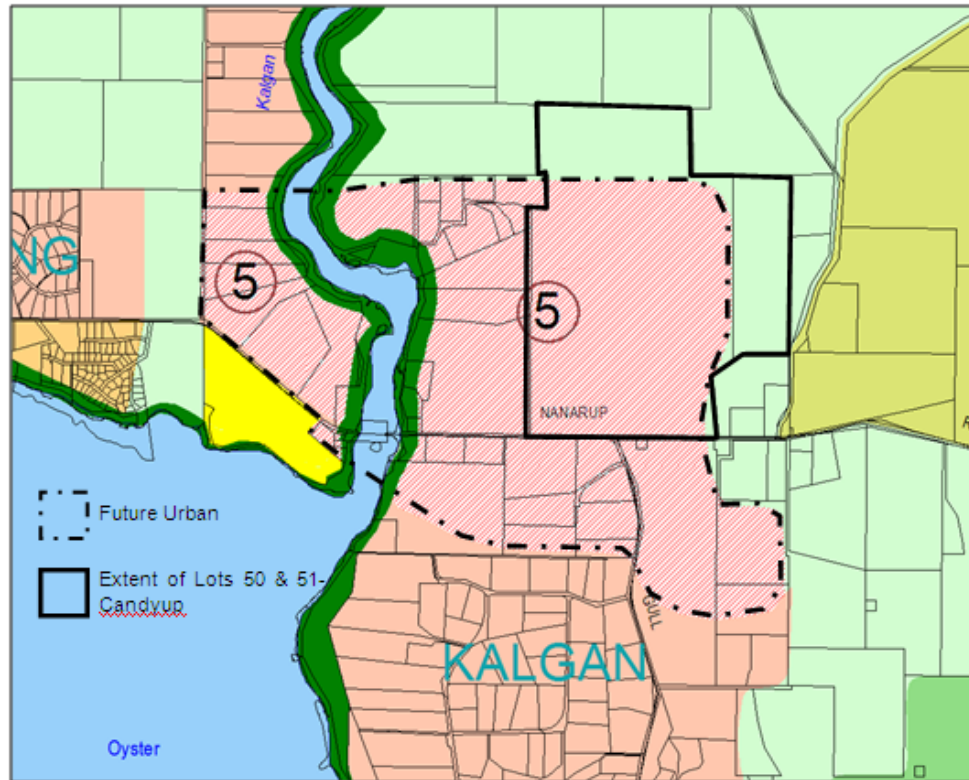
DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

12. The owner of Lots 50 and 51 Nanarup Road originally requested that the designation of land on Map 9B, Lower Kalgan be changed from 'Rural Residential' to 'Future Urban'. Council supported this and included a 'Priority 5' (P5) classification, the intent being to protect the current agriculture land use until such time that the higher priority areas (P1, P2, P3, and P4 areas) identified in ALPS were developed and demand was created to make available more land for residential development.
13. A number of submissions on this modification have been received with a full spectrum of opinions to either:
 - protect the current agriculture use of the land;
 - designate the land Map 9B as 'Future Urban' 'Priority 5', to protect the current use of the land and to support fully serviced, incremental (P1-P5) development; and
 - designate as 'Special Residential', to support low density residential living in keeping with the character of the area.
14. The final designation for this land on Map 9B, should be consistent with the objectives for settlement, which are as follows:
 - stop the spread of rural living;
 - infill existing rural and urban living areas as a first priority;
 - support incremental fully serviced urban development (Priority 1 first and priority 5 last); and
 - protect agricultural land uses.
15. Council at its 19 January 2010 meeting resolved to advise the proponent that it was prepared to entertain the submission of a formal scheme amendment for Lots 50 and 51 Nanarup Road to rezone the land to 'Special Residential' which forms part of the cell designated as Future Urban in ALPS. This decision has implications for the balance of the land within the designated Future Urban cell; the removal of Lots 50 and 51 from the Future Urban designation in effect would make long term residential development over the balance of the cell unviable (given the mass/density needed to offset the cost of providing sewer and reticulated water to the site into the future).
16. Council now needs to take a position on the whole cell within ALPS. The diagram below shows Lots 50 and 51 in context with the extent of the Lower Kalgan Future Urban cell as identified in the advertised version of ALPS.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued



17. In relation to the Future Urban cell staff believe Council have three distinct options which are:

Option 1

18. Change the designation from 'Future Urban' to 'Special Residential' north of Nanarup Road (consistent particularly in relation to Lots 50 and 51 as per it's resolution of 19 January 2010), with the balance of the Future Urban cell south of Nanarup Road and west of the Kalgan River being changed to Rural Residential (Special Rural).
19. This option also addresses in part the submission from H. Dykstra (submission 17) who suggested that land to the south of Nanarup Road should be designated as Rural Residential and Special Residential to tie in with existing surrounding development, and the submission from the Department of Environment and Conservation (submission 11) who did not support the Future Urban designation west of the Kalgan River.
20. This option would maintain a consistent form of development to that currently existing on the south side of Nanarup Road and would provide a clear distinction and buffer from the special residential designation proposed to the north.
21. The Department of Planning in their response to the SAR proposal for Lot 422 Affleck Road also supported this position as follows:

"In relation to the future redevelopment of the land to fully serviced urban residential land as anticipated in the SAR, DPI considers that all the land in the locality south of Nanarup Road should be identified as Special Rural, with the future urban residential land confined to the land to the locality north of Nanarup Road. This is in

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

recognition of the existing land uses, existing lot pattern, and existing special rural approvals in the locality south of Nanarup Road.”

Option 2

22. Change the designation from ‘Future Urban’ to ‘Special Residential’ both sides of Nanarup Road, with rural residential maintained west of the Kalgan River.
23. This option would cater for lot sizes down to a minimum of 2000m² where land capability permits, although it is recognised that in order to retain vegetation and to ensure there are sufficient areas for effluent disposal, a mix of lot sizes would be achieved.
24. The majority of lots on the south side of Nanarup Road are zoned special rural and are generally in excess of 1 hectare, or have the potential to be subdivided further to lots over 1 hectare. Unlike option 1, which allows for the separation of special residential and special rural development via Nanarup Road, special residential would immediately adjoin existing special rural development, and represent a density twice, or in most cases three times that of existing development.

Option 3

25. Retain the designation of Future Urban as advertised.
26. It is acknowledged that Council has advised the proponent through its meeting on 19 January 2010 that it would entertain a submission to rezone Lots 50 and 51 Nanarup Road from ‘Rural’ to ‘Special Residential’. This resolution, whilst by no means a guarantee, has given confidence to the owner of these lots to progress with a detailed rezoning proposal, which staff understands will be submitted in the coming months. The position of staff to retain the Future Urban designation was discussed in the 19 January 2010 report, and that position remains unchanged. The concerns raised in that report were:

“The growth of Albany in the long term (20 yrs plus) is restricted and considerable pressure will be placed on Council to support subdivisions and developments in areas where future generations will require access to land for City growth. Two decades ago, the Newby Street industrial area was on the outskirts of town and residential developments on Hudson Road, John Street, etc were “in the country”. Urban growth has caught up with those areas and they now lack the level of services provided in comparable developments; the provision of services will now be at taxpayers’ expense. ALPS takes a long term and pragmatic view of the development options for the City and it does not factor in the need for short term profit making by speculators, developers or investors. To ignore principles in ALPS does not constitute “orderly and proper planning”, nor does it support the objective of the current generation being custodians for sustainable development for future generations.”

27. Council has however not supported this argument and the following Councillor reason was articulated in support of the alternative motion:

“On viewing the land, it is difficult to support full urban development of the subject land given the exposure of the site and Special Residential development will result in less building activity and be less visually intrusive.”

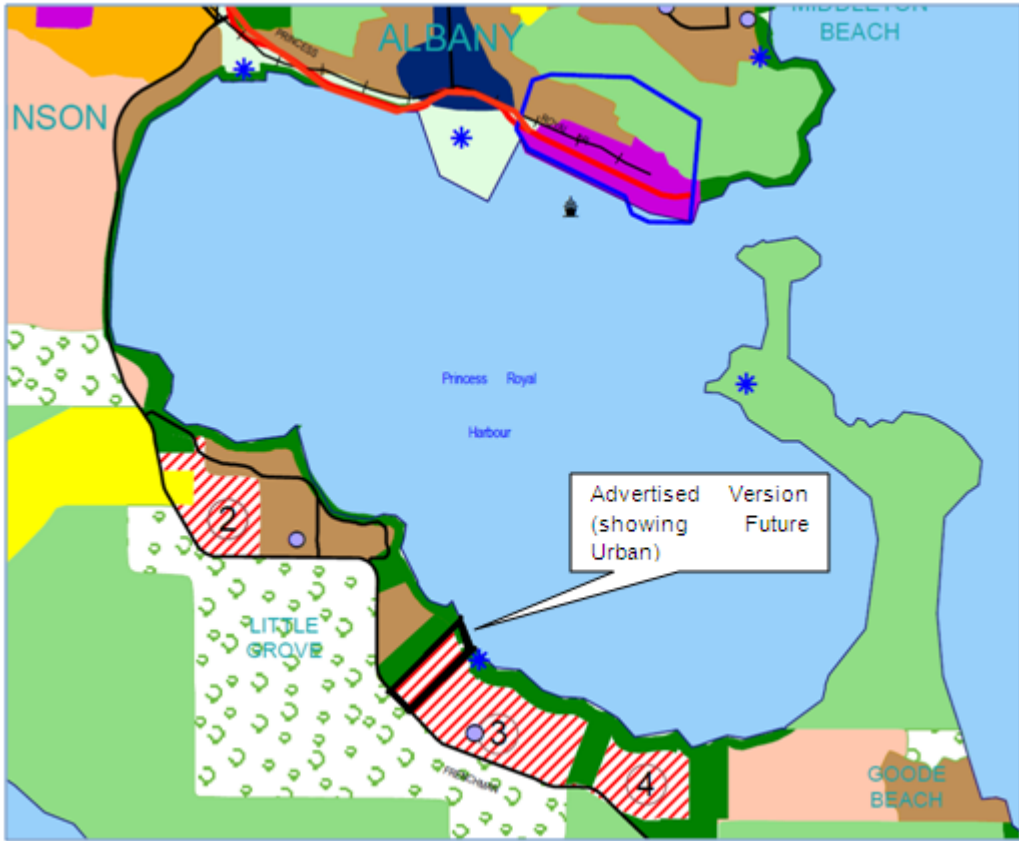
DEVELOPMENT SERVICES REPORTS

Modification 2 (Future Urban – Little Grove/Big Grove)

28. The modification involves changing Map 9B for land at Little Grove (The Roman Catholic Church) from 'Local Reserve' to 'Future Urban' (refer below plan).

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued



DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

29. The previous Minister for Planning and Infrastructure supported the principle of 'Future Urban' development for the locality of Little Grove and Big Grove. The owner of the land (The Roman Catholic Church) requested that Council change the designation of land (Lot 105 Frenchman Bay Road) on Map 9B of the ALPS from 'Local Reserve' to 'Future Urban'.
30. The Department of Environment and Protection has since opposed the change to 'Future Urban' on the grounds that the land is predominantly vegetated, that the vegetation is remnant in nature, of a substantial size, in excellent condition and if protected has the potential to provide a biodiversity corridor in conjunction with the neighbouring 'Reserve'.
31. The ALPS makes the following objectives for the protection of vegetation:
 - conserve remnant vegetation within the district landscape; and
 - protect areas of significant remnant vegetation and increase the area of re-established local species of vegetation within the landscape.
32. In view of the submission from the DEC and the objectives defined in the ALPS, it is unlikely that the land (Lot 105 Frenchman Bay Road) at Little Grove can be developed and it should be designated on Map 9B of the ALPS as 'Local Reserve'; the land is currently reserved 'Public Use' in Scheme 3.

Modification 3 – Introduction of recommendations contained in ACPS

33. The modification involves changing the retail components (text and maps) of the ALPS in accordance with the Activity Centres Planning Strategy (ACPS).
34. The WAPC requested that the retail components of the ALPS be modified to reflect the Activity Centres Planning Strategy prepared for the COA by Schrapnel Planning consultancy.
35. Map 9B and the text of the ALPS have been modified to reflect the findings of the ACPS, which looks to:
 - Promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern; and
 - Facilitate and maintain the neighbourhood and local centres for convenience retailing.
36. A submission has been received, on behalf of CENTRO requesting that the retail component of the ALPS be modified to support a Discount Department Store (DDS) and additional speciality retail stores at the Chester Pass Road site on the grounds that:
 - there is a need according to their Economic Impact Assessment (EIA); and that
 - impacts on the Central Business area if a DDS is developed on the Chester Pass Road site will be modest and offset by forecast market growth.
37. The EIA prepared by the proponent argues that a staged approach to floor space growth could be undertaken with a DDS (8,390m²) plus 325m² of specialty stores forming the initial stage, with a second stage producing an additional 2101m² of specialty stores. The EIA states that the staged approach, along with population growth and a redirection of spending currently escaping to centres outside of Albany (ie. Perth) would generate no major impact on existing retailing centres.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

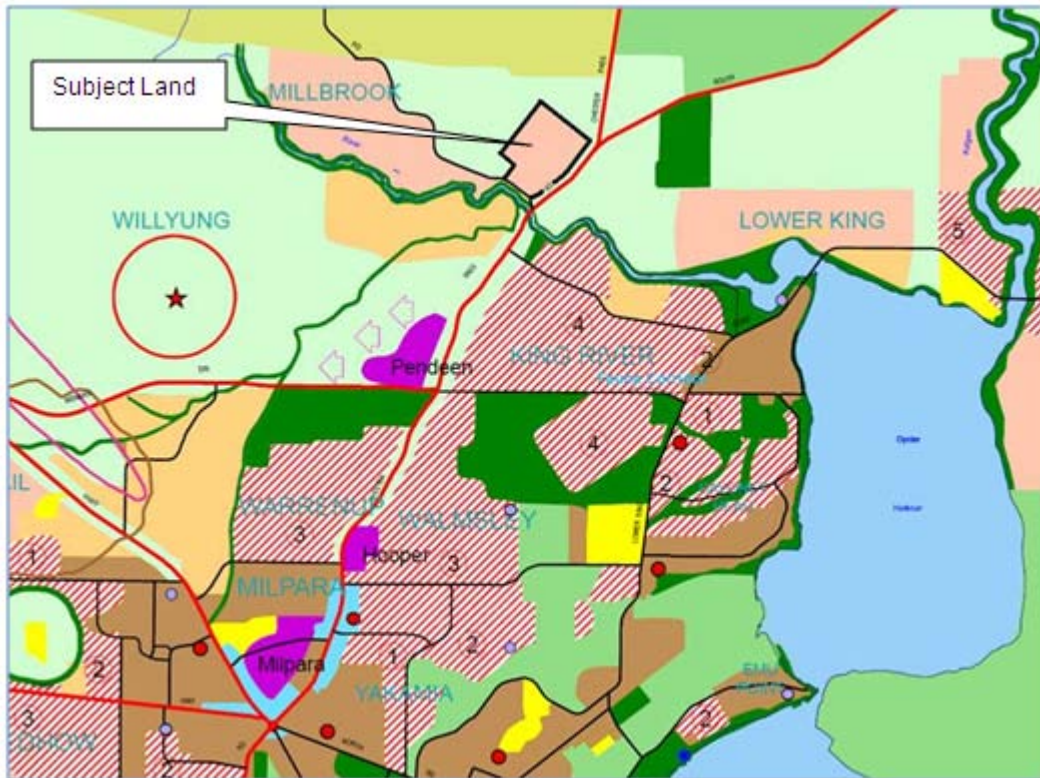
38. The ACPS acknowledges the possible (long term) potential of the Chester Pass Road site as a larger centre and that in the short term, further development of the site would either have a significant impact on other retail uses in the town or would not be fully tenanted. The ACPS makes the following comments in support of consolidating development in Albany's central area, rather than its neighbourhood centres:
- consumers are attracted towards larger centres with a concentration of uses;
 - consumers are tending towards widening their shopping experience as an enjoyable social and recreational experience,
 - consumers are increasingly demanding traditional shops fronting a main street; and
 - developers are trending towards satisfying location and space requirements through showrooms located in mixed business areas (eg central area).
39. In view of the objectives and trends defined in the ALPS and the ACPS, it is recommended that the retail components in the ALPS remain as per the advertised version, which promotes the continued viability of the Albany City Centre as the regional commercial and retail centre and the neighbourhood and local centres for convenience retailing.
40. Another submission was received from Cuscana Nominees Pty Ltd who expressed concerns regarding the designation of retail space in the Bayonet Head locality. The retail component of the ALPS recommends that the Bayonet Head south site be developed as a 'Future Medium Neighbourhood Centre (up to 3500m²) and the Bayonet Head north site be developed as a 'Future Large Neighbourhood Centre (up to 5000m²)'. The submission requested that the categorisations be reversed so that the Bayonet Head south site receives a designation of 5000m², which reflects the current planning approval in place for the site. It is noted that a planning approval is in place on the south site, and the current town planning scheme allows for a neighbourhood centre up to 4385m²; the proponent can construct a shopping centre to this size during the life of this consent, and until such time as the current Scheme allows for this floor space allocation.
41. The owner has been unable to secure an anchor tenant over the past decade. The ACPS identifies that the Bayonet Head north site is better positioned central to its future catchment and further away from the Centro Albany site at Chester Pass Road. The north site also allows for a Main Street shopping precinct (rather than the standard 'box' development) which is best practice from an urban design, retail viability and amenity perspective.

Modification 4 – King River (Rural Residential)

42. The modification involves the change of Map 9B for Lot 50 Chester Pass Road at King River from 'Rural' to 'Rural Residential'.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued



43. At its 16 December 2008 meeting Council resolved to advise Mr Cake, the owner of Lot 50 Chester Pass Road, that it was prepared to entertain the submission of a formal scheme amendment to rezone Lot 50 Chester Pass Road, King River to the “Special Rural” zone and promoted an amendment to the ALPS to recognise this land as Rural Residential.
44. The Department of Mines and Petroleum have since objected to the ‘Rural Residential’ designation on land in the vicinity of Chester Pass Road on the grounds that:
 - the decision is contrary to the WAPC policy 2.4, which promotes the extraction of raw materials ahead of staged development; and
 - ‘Rural Residential’ development could prevent the operation of the existing extraction industries located in the area.
45. WAPC Policy 2.4, although only applicable to the Perth and immediate surrounds, contains principles that can be applied across the state. The Policy states that before determining an application for Rural Residential within 1000m of a basic raw materials extraction area, the *Local Government* must consider the following, as appropriate:
 - referral to the Department of Environment and Conservation to determine:
 - the significance of the resource in terms of whether it is a key extraction area, priority resource area or extraction area;
 - the likely effects of vehicular traffic, noise, blasting, dust and vibration arising from the extractive industry on the proposed use or development.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

46. WAPC Policy 2.4 has a presumption against the introduction of sensitive land uses which could be adversely affected by existing or potential extractive industries unless appropriate measures can be taken to ameliorate the adverse impacts. Whilst the concerns are valid, Mr Cake's land has been used as an extractive industry and the majority of the gravel resources have been exploited; the pits could be rehabilitated and the further resources extracted prior to the subdivision of the land. Planning controls as part of the scheme amendment process (including internal buffers and memorials on titles) can be used to ensure new residents are not subjected to noise and/or dust nuisance associated with existing extractive industries.
47. A planning consultant (R Hensel) has also objected to the modification on the grounds that the modification conflicts with the objectives of the ALPS, which are to:
- Contain the spread of fragmented urban and rural living areas;
 - Minimise the development footprint on the landscape;
 - Protect agriculture land; and
 - Encourage the infill of existing rural living areas.
48. Mr Hensel's comments are consistent with those issues raised by staff in the 16 December 2008 Council report, however it is acknowledged that the owner of Lot 50 Chester Pass Road has received Council support through the Scheme Amendment Request process to convert the land ultimately to Special Rural, and a detailed amendment document, at significant cost, has been prepared by the owner on that basis.
49. Council has the following options in relation to this modification being:

Option 1

50. Consistent with Council's previous resolution of 16 December 2008 to support a scheme amendment request, maintain the designation of Lot 50 Chester Pass Road from "Rural" to "Rural Residential" within ALPS.

Option 2

51. To support the submissions received from the Department of Mines and Petroleum and planning consultant (R Hensel) and change the designation of Lot 50 Chester Pass Road as "Rural". As stated above this would be contrary to Council's previous direction.

Modification 5 – designation of special residential areas

52. The modification involves the change to Map 9B to designate various land parcels as 'Special Residential'.
53. There are some areas in Albany that are already developed as Special Residential lots (2000m²-1ha lot sizes). These areas are constrained in their ability to accommodate fully serviced urban development. The WAPC requested that Map 9B be modified to designate those areas as 'Special Residential' to reflect the current land use and constraints.
54. There was one submission of support received in relation to this modification.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

55. It is recommended that this modification be adopted.

Other

56. The WAPC recently supported an amendment (Lot 124 Gladville Road McKail) to Town Planning Scheme 3 to change the zoning of the land from the 'Special Rural' zone to the 'Residential Development' zone. The WAPC has recommended that Map 9B in the ALPS be modified (Lot 124 Gladville Road McKail) and designated as 'Future Urban' to reflect the new Town Planning Scheme zoning as part of this process.

57. There were comments made on other matters relating to the ALPS, which were not the subject of the substantial modifications. The merits of these submissions have not been explored by staff, and it is recommended that these additional issues be considered as part of the review stage which will be undertaken once the ALPS is finally endorsed by the WAPC to ensure it is a live and functional document.

PUBLIC CONSULTATION / ENGAGEMENT

58. A copy of the schedule of submissions is included within the Information Bulletin.

GOVERNMENT CONSULTATION

59. A copy of the schedule of submissions is included within the Information Bulletin.

STATUTORY IMPLICATIONS

60. The *Town Planning Regulations 1967* (subsidiary to the *Planning and Development Act 2005*) make the following requirements:

- a) If a Scheme envisages the zoning or classification of land, the local government shall;
 - i. prepare the Scheme Report under regulation 12 in the form of a Local Planning Strategy; and
 - ii. forward the Local Planning Strategy to the Commission.

FINANCIAL IMPLICATIONS

61. There are no financial implications related to this item.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

62. In accordance with the *Town Planning Regulations 1967 (12B)*, when the Commission has certified a Local Planning Strategy...the local government shall,...advertise the Local Planning Strategy as if it were part of the Scheme.

POLICY IMPLICATIONS

63. There is no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

64. Council has the ability to either change or retain each of the five modifications that were advertised.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued

SUMMARY CONCLUSION

65. In relation to modification 1 (Future Urban) and modification 4 (King River) staff have previously conveyed their position on these matters, which has not been supported by Council. As no new information and arguments have been raised through the submissions, with the exception of the comments from the Department of Mines and Petroleum, which can be addressed through the scheme amendment process, staff have reluctantly drafted a positive recommendation on these matters.

[8:53:48 PM](#) The Mayor called for a seconder for his alternate motion.

[8:53:50 PM](#) Councillor Wolfe said that before he seconded the motion he would like to query point 1b, as it was against an earlier council decision.

[8:54:12 PM](#) Through the Mayor, Mr Bride replied that the WAPC recommended council make that change. Council made the change and advertised it, as part of the submissions received, the DEC urged council not to make the change given the vegetation on the site.

[8:54:42 PM](#) Councillor Wolfe said that to proceed with this motion that council would need a revocation motion.

[8:55:09 PM](#) The Mayor suggested that point 1b of the motion lay on the table, and he called for a mover.

[8:55:21 PM](#) Councillor Paver asked if this was the only item that presents this difficulty. Councillor Paver asked if the land in question was the only land that was called something before, that was approved, that Councillor Wolfe was concerned about in terms of going forward from here without a revocation motion.

[8:58:03 PM](#) Councillor Wolfe said he believed that council made a decision some months ago to change the zoning on that piece of land from local reserve to future urban.

[8:58:38 PM](#) Through the Mayor, Mr Madigan said that if the items have been resolved by council to be adopted or advertised for purposes, that is the reason for that particular motion. The advertising has now been carried out, the submissions have been received and evaluated. Mr Madigan said that the original decision was to adopt them for advertising, now it is time to make a decision on the submissions that have been received. Mr Madigan said that he would not consider that a revocation motion was necessary, it that was the decision of council at that time.

[8:59:09 PM](#) Councillor J Bostock requested a Point of Clarification. At what stage is council able to proceed without a rescission motion, is there a time factor. Councillor Bostock said that there had been other decisions on ALPS where council had gone against their own resolution.

[8:59:44 PM](#) Through the Mayor, Mr Madigan replied that if council adopted a position for advertising purposes, and that advertising has been carried out, they have actually acted on that particular decision. Mr Madigan said that they had now received submissions and were considering those submissions, so therefore it is the order to consider items which were adopted for advertising purposes. However, if the council had decided that land in question was to be zoned for a particular use, and was now saying they were not going to support that decision anymore, they do require a rescission motion.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued.

[9:00:41 PM](#) Councillor J Bostock asked for further clarification and said that if council decides resolves to implement WAPC recommendations as in the 16/04/2008, and then make a resolution that is contrary to that, is that acceptable.

[9:01:07 PM](#) Councillor Leavesley asked for a Point of Clarification. Councillor Leavesley said that the letter received from the Roman Catholic Church indicated that would wish to take the interest in this land and looking for recourse if council changed their mind.

[9:02:26 PM](#) Through the Mayor, Mr Madigan replied to Councillor J Bostock's question. If council had adopted a particular position as a resolution and council was now moving away from that particular decision, yes, you would need a rescission motion.

RECOMMENDATION

ITEM 13.2.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT:

1. Council RECEIVE the submissions and ENDORSE the following recommendations:
 - a) For land at Lower Kalgan CHANGE the 'Future Urban' designation to 'Special Residential' on the north side of Nanarup Road and 'Rural Residential' on the south side of Nanarup Road and to the west of the Kalgan River.
 - b) For land at Little Grove, CHANGE on Map 9B to 'Local Reserve';
 - c) For retail components, MAINTAIN as per the recommendations of the Activity Centres Planning Strategy;
 - d) For land at King River RETAIN the land in the 'Rural Residential' designation.
 - e) For existing and constrained special residential areas, CHANGE on Map 9B to 'Special Residential'; and
 - f) For land at Lot 124 Gladville Road McKail, CHANGE on Map 9B to 'Future Urban'.
2. Council MODIFY the draft Albany Local Planning Strategy as recommended above; and
3. The modified draft Albany Local Planning Strategy be FORWARDED to the Western Australian Planning Commission with a request that the document be endorsed as soon as possible.

DEVELOPMENT SERVICES REPORTS

Item 13.2.2 continued.

[9:03:15 PM](#)

Mayor Evans moved the following alternate motion.

**ITEM 13.2.2- ALTERNATE MOTION BY MAYOR EVANS
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR EVANS
SECONDED: COUNCILLOR DUFTY**

THAT this item lay on the table.

MOTION CARRIED 11-1

Councillors Reason (Mayor Evans)

This will allow Council further time for discussion of this item.

Record of Vote

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

Against the Motion: Councillor M Leavesley

DEVELOPMENT SERVICES REPORTS

**Schedule of Submissions
Considering substantial modifications to the Draft Albany Local Planning Strategy (ALPS).
April 2010:**

Proponents	Summary of Comments	Staff Recommendation
1. Tourism Western Australia	1. No objections.	1. Noted.
2. Department of Transport	2. No objections.	2. Noted.
3. Western Power	3. No objections	3. Noted.
4. Department of Agriculture and Food.	4. Modifications accepted.	4. Noted.
5. Department of Education.	5. No objections to the draft planning strategy.	5. Noted.
6. Great Southern Development Commission	6. Modifications noted.	6. Noted.
7. Department of Water	<p>7. (a) Modify Map 9B to exclude the area to the west of the Kalgan River or any low lying land (below 5m contour) from 'Future Urban' development.</p> <p>(b) Future development of Little Grove will impact on the foreshore areas of the Princess Royal Harbour.</p> <p>(c) The ALPS needs to explain that 'Future Urban' areas are schematic only and that a scheme amendment and environmental assessment process would need to be prepared to verify suitability.</p> <p>(d) Include the need to safeguard the water reserves and make future land uses consistent</p>	<p>7. (a) It is appreciated that the land is low lying and flood prone and may not be suitable for residential development. This would normally be assessed through drainage and environmental studies to determine the extent to which development can or cannot occur. <i>(Should Council support the officer recommendation for this modification, the Future Urban designation would be removed west of the Kalgan River).</i></p> <p>(b) Note that future development in this locality may impact on the foreshore areas (refer to 11(f)).</p> <p>(c) Note. Map 9B already notes the following: "This is a twenty year strategic plan only and is not a zoning map. All boundaries are indicative only."</p> <p>(d), (e), (f), (g), (h) and (i) Note. Comments on matters not the subject of those substantial modifications being advertised can</p>

DEVELOPMENT SERVICES REPORTS

	<p>with water quality protection.</p> <p>(e) The mapping of water resources is inaccurate.</p> <p>(f) Text within the ALPS relating to the DOW is inaccurate.</p> <p>(g) Map floodplains.</p> <p>(h) Action in the ALPS the need to deep sewer the Lower Denmark Road industrial area.</p> <p>(i) Restrict in the ALPS the use of Tourism sites for permanent residential use.</p>	<p>be considered as part of a review to the ALPS at a later stage.</p>
8. WestNetEnergy	8. No objection	8. Noted.
9. Department of Mines and Petroleum	<p>9. (a) Object to the 'Rural Residential' designation in the vicinity of Chester Pass Road and Millbrook Road, King River as 'Rural Residential' development could prevent the existing extraction industries located in the area. Consider development in view of the WAPC Policy 2.4 which promotes the extraction of raw materials ahead of staged development.</p> <p>(c) Replace the words 'new mining and basic raw materials proposals' with 'extractive industry proposals' in the second action listed on page 87 of the ALPS.</p>	<p>9. (a) There are several extractive industry operations on and adjacent to the subject land, and staff share the Department's concerns that rural residential expansion into King River may expose future residents to dust, noise etc, and potentially curtail or prevent future expansion of extractive industries in the area. Detailed analysis of these issues would normally be addressed as part of a scheme amendment document, should Council resolve to retain the designation in ALPS as advertised.</p> <p>(c) Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.</p>
10. Western Australian Planning Commission	10. The WAPC has granted approval to rezone land west of Gladville Road McKail to 'Future Urban'.	10. Support the change of Map 9B to make consistent with a recently endorsed amendment to the Town Planning Scheme 3.

DEVELOPMENT SERVICES REPORTS

	<p>The <i>Local Government</i> is advised to modify the ALPS map to designate the site as 'Future Urban'.</p>	
<p>11. Department of Environment and Conservation</p>	<p>11. (a) Make minor text variations to misleading statements on pages 40, 41 and 87 of the ALPS.</p> <p>(b) The ALPS needs to recognise environmental and social consequences from carbon sequestration plantations.</p> <p>(c) The correct reference for the South Coast macro Corridor project is Wilkins et al 2006.</p> <p>(d) A clear statement is to be included at Map 9B to clarify that the land use designations are indicative only and will be subject to EPA consideration and assessment.</p> <p>(e) Urban development in the Lower Kalgan area may be particularly challenging due to soil and visual constraints. If any residential development is to occur, it should be low density.</p> <p>(f) Little Grove. Opposed to any change for Lot 105 that will place the native vegetation at risk. This lot together with the adjacent Reserve 931 provide a sound linkage of native vegetation in excellent condition.</p>	<p>11. (a), (b), (c) and (d). Note. Comments on matters not the subject of those substantial modifications being advertised and can be considered as part of a review to the ALPS at a later stage.</p> <p>(e) Note. 'Future Urban' development will require environmental, visual and detailed design assessment in accordance with the EPA and the WAPC Liveable Neighbourhoods document. The 'Future Urban' classification does not automatically mean that the land will be developed at a high density.</p> <p>(f) Support the change of Map 9B back to indicate Lot 105 as a Local Reserve. The majority of Lot 105 is accommodated with remnant vegetation in excellent condition with the potential of acting as a biodiversity corridor. The principles in the ALPS are strong on protecting the natural environment, especially substantial areas of remnant vegetation.</p>
<p>12. Confidential Proponent</p>	<p>12. Modify text within the ALPS.</p>	<p>12. Note. Comments on matters not the subject of those substantial</p>

DEVELOPMENT SERVICES REPORTS

		modifications being advertised can be considered as part of a review to the ALPS at a later stage.
13. Frederickstown Progress Association	13. No objection.	13. Noted.
14. BSO Development Consultants	14. Support the modification from 'Local Reserve' to 'Future Urban' for Lot 105 Frenchman Bay Road, Little Grove on the grounds that the Minister for Planning and Infrastructure supported Future Urban in the locality.	14. It is noted that the Minister for Planning and Infrastructure supported Future Urban in locality, which has been achieved through the zoning and structural planning of Big Grove. Refer to 11(f) on reasons as to why this modification is not supported.
15. D. P. Fairborn	15. Support in the ALPS 'Rural Residential' development in the Wilson/Elleker region.	15. Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.
16. Town Planning and Urban Design	<p>16. Change the commercial component in the draft ALPS to support the development of a Discount Department Store (DDS) in 2012 and additional speciality retail in 2016 at Catalina. The reasons being;</p> <ul style="list-style-type: none"> • The current centre is trading well, which indicates demand is outstripping supply; • it will provide a positive impact in terms of employment and greater choice with convenient access; • expected population and tourism growth will provide a need for more retail space outside of the retail core (CBD); • the provision of DDS floorspace in Albany is 33% lower than the average for benchmark cities; • additional competition may help reduce prices; 	<p>16. Staff do not support the development of a DDS and additional speciality retail at Catalina because it will undermine planning objectives of the ALPS for Retail and Commerce, which are to:</p> <ul style="list-style-type: none"> • Promote the continued viability of the Albany City Centre as the regional commercial and retail centre of the district and Lower Great Southern; and • Facilitate and maintain neighbourhood and local centres for convenience retailing. <p>The Albany Local Government Activity Centres Planning Strategy makes the following comments in support of consolidating development in its central area:</p> <ul style="list-style-type: none"> • consumers are attracted towards larger centres with a concentration of uses; • consumers are tending towards widening their shopping experience as an enjoyable social and recreational experience, • consumers are increasingly demanding traditional shops

DEVELOPMENT SERVICES REPORTS

	<ul style="list-style-type: none"> • additional options for shopping will maintain expenditure locally rather than residents in the Great Southern using Perth; • impacts on the Central Business area as a result of a DDS at Catalina will be modest and offset by forecast market growth; • more shopping trips to Catalina will provide a positive spin off effect for other businesses in the locality; and • the retailing of the central business area is protected by its superior scale, proximity, access and history. 	<p>fronting a main street; and</p> <ul style="list-style-type: none"> • developers are trending towards satisfying location and space requirements through showrooms located in mixed business areas (eg central area).
<p>17. Dykstra Planning</p>	<p>17. Object to the 'Future Urban' classification at Lot 422 Lower Kalgan. Support a change for Lot 422 to 'Rural Residential' and 'Special Residential' for the following reasons:</p> <ul style="list-style-type: none"> • The adjacent land uses are similar in nature (rural living); • Consolidating on the adjacent special rural land uses increases the efficiency of servicing; • 'Rural Residential' and 'Special Residential' will not result in the loss or conflict with agricultural land uses; • Any other land use (eg intensive agriculture) may undermine the conservation values of the land; • Soil types are capable of handling conventional septic tank leach drains; • Development for fully serviced urban is 	<p>17. Council in its decision of 19 January 2010 resolved to support special residential to the north of Nanarup Road (namely Lots 50 and 51 Nanarup Road). Based on this decision the issue as to what the balance of the cell should be designated needs to be addressed. Should the Future Urban designation not be supported, staff believe that land south of Nanarup Road should be consistent with the existing character and settlement patterns associated with the Swan Point special rural subdivision.</p>

DEVELOPMENT SERVICES REPORTS

	<p>beyond the 20-30 time frame of the strategy;</p> <ul style="list-style-type: none"> • Urban prospects have not been subject to thorough and careful planning research and assessment; • Future Urban contradicts the key aim of the ALPS which is to contain the spread of fragmented urban areas and rural living areas; • There are still many decades of urban settlement that can be accommodated west of the Kalgan River in existing identified urban and future urban areas and via urban infill and consolidation; • Previous responses from DEC and DOW on a proposal for urban development in the locality make it clearly evident that the physical and environmental features of Lot 422 are not suitable for urban development; • Future urban is indicated north of Nanarup Road. The suggestion that Future Urban is required south of Nanarup Road to provide a large development area to make urban development economical is without considering the physical attributes and is therefore questionable. 	
<p>18. H Poole</p>	<p>18.Object to the identification of the land north of Nanarup Road as 'Future Urban' for the following reasons:</p> <ul style="list-style-type: none"> • Housing development should not be on 	<p>18. Noted.</p>

DEVELOPMENT SERVICES REPORTS

	<p>prime agricultural land; and</p> <ul style="list-style-type: none"> • One of the objectives of the ALPS is to facilitate the protection of priority and general agricultural land from incompatible land uses, developments and management practices. 	
<p>19. Ayton Baesjou Planning</p>	<p>19. Object to the ALPS indicating Lots at Lower Kalgan as 'Future Urban'. Request change to 'Special Residential' (SR) for the following reasons:</p> <ul style="list-style-type: none"> • SR is the most appropriate form of development for the locality; • The Albany Regional Rural Strategy (1991), the Albany Local Rural Strategy (1996) and the 2006 Albany Local Planning Strategy all designated the land for rural residential; • There is sufficient land available adjacent to the existing urban footprint to accommodate fully serviced urban development; • Provision for special residential development is modest. • The locality has reasonable access to necessary services; • There is now a much greater emphasis on maximising the efficient use of land and minimising the take up of agricultural land on the periphery; • The Local Government recently resolved to support in principle rezoning lots at Lower Kalgan to 'Special Residential'. 	<p>19. This position has previously been supported by Council at its meeting dated 19 January 2010.</p>

DEVELOPMENT SERVICES REPORTS

<p>20. Ayton Baesjou Planning</p>	<p>20. (a) Need to directly reference the Activity Centres Planning Strategy (ACPS) into the Albany Local Planning Strategy.</p> <p>(b) Rural Townsite boundaries should be relative to ground realities.</p> <p>(c) Table 4 should be modified to support the expansion of all Rural Townsites not just a select few.</p> <p>(d) The locality of Robinson, which is indicated as 'Rural Residential' should be changed to 'Special Residential'.</p> <p>(e) Change the ALPS such that it supports 'Rural Residential' type development south of South Coast Highway and west of George Street.</p> <p>(f) The ALPS indicates areas of 'Reserve' over private landholdings. Consider changing to support 'Special Residential'.</p> <p>(g) The ALPS needs to maintain a flexible approach in the allocation of the 'Reserve' area indicated alongside Lower King Road and between the Hooper and Gibb reserves.</p> <p>(h) Further investigation of the areas indicated as 'Conservation' should be undertaken to</p>	<p>20. (a) Note. Key components from the ACPS have been included in the ALPS. Direct reference to the Activity Centres Planning Strategy by the Albany Local Planning Strategy can be considered as part of a review to the ALPS at a later stage.</p> <p>(b), (c), (d), (e), (f), (g) and (h) Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.</p>
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DEVELOPMENT SERVICES REPORTS

	clarify the possibility of intensification of land use.	
21. Ayton Baesjou Planning	21. Include land (Lots 301, 810 and 1337) in the vicinity of Chester Pass Road and Millbrook Road, King River as Rural Residential.	21. Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.
22. Ayton Baesjou Planning	22. Include land (Lot 110) in the vicinity of Chester Pass Road and Millbrook Road, King River as Rural Residential.	22. Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.
23. Ayton Baesjou Planning	23. Delete the words ' <i>in the long term</i> ' in the new strategic objective at 8.3.5 " <i>In the long term encourage the efficient use of existing rural living areas, based on land capability to maximise their development potential.</i> "	23. Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.
24. Ayton Baesjou Planning	24. Support the reintroduction of the Special Residential category in the ALPS. Reference should be made to Special Residential in the analysis of Rural Villages and associated tables and figures.	24. Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.
25. Rob Hensel Consulting Services: Sustainable Planning	<p>25. (a) Development should be staged.</p> <p>(b) Any modifications need to be evaluated against aims and objectives, of the ALPS namely:</p> <ul style="list-style-type: none"> • Infill and consolidation of development within existing urban areas; and • New urban areas to be developed incrementally from existing urban areas based on the concept of settlement nodes integrated within the environment; • Seek to contain the spread of fragmented 	<p>25. (a) Note. In keeping with principles for sustainability, the ALPS looks to:</p> <ul style="list-style-type: none"> • Consolidating existing urban and rural living areas; and • Contain sprawl by staging development starting with Priority 1 (P1) areas and then progressing to P2, P3, P4 and P5 areas in that order. <p>(b) Note. (Refer to 25 (a)).</p> <p>(c) Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.</p>

DEVELOPMENT SERVICES REPORTS

	<p>urban and rural living areas in the City.</p> <p>(c) The Local Government needs to develop a set of sustainability principles as a “check list” when considering major rezoning. If a proposal complies with the “check list” then the proposal may be considered by the Local Government.</p> <p>(d) Maintain the ‘Priority 5’ ‘Future Urban’ classification in the ALPS for the Lower Kalgan and Lower King areas. Population growth projections suggest that only up to the ‘Priority 3’ development areas may be required for development over the next 20 years. Development of the ‘Priority 5’ areas prior to the ‘Priority 3’ areas may prejudice the long term planning options.</p> <p>(e) The designation of ‘Rural Residential’ in the vicinity King River does not accord with the aims and objectives of the ALPS, which include:</p> <ul style="list-style-type: none"> • Contain the spread of fragmented urban and rural living areas; • Minimise the development footprint on the landscape; • Protection of agriculture land; and • Encourage the infill of existing rural living areas. 	<p>(d) Refer to recommendations 17 and 19.</p> <p>(e) Council has previously resolved to support a Scheme Amendment Request at its meeting dated 16 December 2008 to support the change of designation to Special Rural (Rural Residential). The issues raised by the consultant have previously been raised in that particular officer report.</p>
<p>26. Cuscuna Nominees Pty Ltd</p>	<p>26. The retail component of the ALPS recommends that the Bayonet Head south site be developed as a ‘Future Medium Neighbourhood Centre (up</p>	<p>26. Dismiss for the following reasons:</p> <ul style="list-style-type: none"> • The south site has approval for a commercial development;

DEVELOPMENT SERVICES REPORTS

	<p>to 3,500sqm)' and the Bayonet Head north site be developed as a 'Future Large Neighbourhood Centre (up to 5000sqm)'.The following amendment is requested for the retail section of the ALPS in order to reflect a current planning approval:</p> <ul style="list-style-type: none"> • The legend keys for Bayonet Head north (16) and south (5) on Figure 9 in the draft ALPS be reversed so that Bayonet Head south site is shown as a 'Future Large Neighbourhood Centre (up to 5,000sqm)'. 	<p>however it has not yet attracted the interest of a suitable major tenant and therefore has not yet been developed;</p> <ul style="list-style-type: none"> • The development of a major neighbourhood centre on the Centro Albany site has impacted on the potential of the Bayonet Head south site, which is in close location; • The Bayonet Head north site is better positioned central to its future catchment and further away from the Centro Albany site.
<p>27. Water Corporation</p>	<p>27. (a) The Water Corporation is not prepared to support urban rezoning of the land at Lower Kalgan until infrastructure planning and funding decisions have been further advanced.</p> <p>(b) The Timewell Road Waste Water Treatment Plant Buffer must be modified and any parts of the adjacent 'Future Urban' designated areas must be deleted from the buffer area.</p>	<p>27. (a) Noted.</p> <p>(b) Note. Comments on matters not the subject of those substantial modifications being advertised can be considered as part of a review to the ALPS at a later stage.</p>

DEVELOPMENT SERVICES REPORTS

13.3 HEALTH, BUILDING & RANGERS

ITEM NUMBER: 13.3.1

ITEM TITLE: IMPOSING NEW FEE – PORTABLE SIGNS UNDER LOCAL LAW

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

[9:04:17 PM](#) Councillor Dufty left the chamber having declared a financial interest.

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

File Number or Name of Ward	: MAN179 (All Wards)
Summary of Key Issues	: To set a new fee for verge sign applications
Land Description	: N/A
Proponent	: City of Albany
Owner	: N/A
Reporting Officer(s)	: A/Executive Director Development Services (G Bride)
Disclosure of Interest	: Nil
Previous Reference	: OCM 16/03/2010 – Item 13.5.1
Bulletin Attachment(s)	: Nil
Consulted References	: Town Planning Scheme 1A Albany Insight ~ Beyond 2020
Councillor Lounge	: Nil

BACKGROUND

1. At its meeting dated 16 March 2010 Council resolved:

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

2. Before this process can be commenced Council needs to determine an application fee for a ‘portable sign’ under the Activities in Thoroughfare and Public Places and Trading Local Law 2001.

DISCUSSION

3. Staff recommend that an application fee of \$100 for a portable sign be introduced into Council's fees and charges for the balance of the 2009/2010 financial year.

PUBLIC CONSULTATION / ENGAGEMENT

4. There is no public consultation related to this item

GOVERNMENT CONSULTATION

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

DEVELOPMENT SERVICES REPORTS

Item 13.3.1 continued

STATUTORY IMPLICATIONS

6. Under Council's Activities in Thoroughfare and Public Places and Trading Local Law 2001 the following is stated:

“7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall.

(a) be in the form determined by the local government;

(b) be signed by the applicant;

(c) provide the information required by the form; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local

government under and in accordance with sections 6.16 to 6.19 of the Act.

7. The relevant sections of the Local Government Act 1995 are:

“Imposition of fees and charges

6.16. *(1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

(2) A fee or charge may be imposed for the following —

(a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;

(b) supplying a service or carrying out work at the request of a person;

(c) subject to section 5.94, providing information from local government records;

(d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorization or certificate;

(e) supplying goods;

(f) such other service as may be prescribed.

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

(a) imposed during a financial year; and*

(b) amended from time to time during a financial year.*

** Absolute majority required.*

6.19. *If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —*

(a) its intention to do so; and

(b) the date from which it is proposed the fees or charges will be imposed.”

FINANCIAL IMPLICATIONS

8. The imposition of a fee will offset the cost and time of staff to process applications and ensure shop owners comply with the Local Law.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

9. There are no strategic implications relating to this item

DEVELOPMENT SERVICES REPORTS

Item 13.3.1 continued

POLICY IMPLICATIONS

10. There are no strategic implications relating to this item

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Council has the option to charge no fee for such permit applications.

SUMMARY CONCLUSION

12. As per the requirements of the Local Government Act 1995 it is recommended that Council adopts a fee of \$100 for portable sign applications and gives public notice that the fee will be introduced as of 1 June 2010.

[9:08:26 PM](#) Councillor Leavesley requested a Point of Clarification. Councillor Leavesley asked if part of the licensing fee would be used to indemnify the City against any insurance claim relating to the sign.

[9:08:44 PM](#) Through the Mayor, Mr Bride replied that the Local Law relating to this clearly spelled out the requirements for these signs, and that was that the applicant lodged a public indemnity insurance as part of the application.

[9:09:12 PM](#) Councillor Sutton requested a Point of Clarification and asked if this was an annual fee or one off fee?

[9:09:22 PM](#) Through the Mayor Mr Bride replied that it was an annual fee.

[9:13:34 PM](#) On voting councillors voted against the motion as councillors were not aware prior to moving and seconding the motion that this was to be an annual fee.

**ITEM NUMBER 13.3.1 –OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR PAVER
SECONDED: COUNCILLOR LEAVESLEY**

THAT Council:

- A. INTRODUCES a new fee for portable sign permits as per the Activities in Thoroughfare and Public Places and Trading Local Law 2001 of \$100; and**
- B. GIVES public notice in accordance with Clause 6.19 of the Local Government Act 1995 that the fee will be introduced from 1 June 2010.**

MOTION LOST 0-11

DEVELOPMENT SERVICES REPORTS

13.4 EMERGENCY MANAGEMENT

Nil

DEVELOPMENT SERVICES REPORTS

13.5 DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 13.5.1
ITEM TITLE: CITY OF ALBANY LOCAL EMERGENCY MANAGEMENT COMMITTEE (LEMC) - 10TH MARCH 2010.

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Acting Executive Director Development Services (G Bride)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the Local Emergency Management Committee Meeting held 10th March 2010.
Councillors Lounge : Nil.

[9:14:18 PM](#) Councillor Dufty returned to the chamber.

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WOLFE

THAT the UNCONFIRMED Minutes of the Local Emergency Management Committee held on 10th March 2010 be RECEIVED.

MOTION CARRIED 11-1

Record of Vote

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

Against the Motion: Cr D Bostock

ITEM 13.5.1 – COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY

THAT Council AGREES to incorporate the Airport Emergency Committee within the LEMC Structure with requirements as identified by the Civil Aviation Safety Authority that:

- a) The airport manual is amended to reflect the inclusion of the AEC with LEMC;
- b) an Airport Reporting Officer must attend every meeting;
- c) The Airport Emergency Plan (AEP) is still called AEP and reviewed annually;
- d) The chairperson must take responsibility for all CASA 139.205, 210, 215 requirements;
- e) Albany Aerodrome airport emergency plan must always be an agenda item; and
- f) All minutes must be available at each inspection.

MOTION CARRIED 11-1

Record of Vote

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

Against the Motion: Cr D Bostock

**CORPORATE & COMMUNITY
SERVICES
Reports**

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.1.1

ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

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

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

BACKGROUND

1. 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

2. The table below summarises the payments drawn from the municipal fund during the month of April 2010. Further details of the accounts authorised for payment by the Chief Executive Officer is included within the Elected Members Report/Information Bulletin.

Municipal Fund

Trust	Totalling	\$5,000.00
Cheques	Totalling	\$139,868.65
Electronic Fund Transfer	Totalling	\$2,768,732.82
Credit Cards	Totalling	\$14,730.21
Payroll	Totalling	\$932,222.17
	TOTAL	<u>\$3,860,553.85</u>

3. As at the 30th April 2010, the total outstanding creditors, stands at \$39,339.22
4. Cancelled cheques – Nil

PUBLIC CONSULTATION /ENGAGEMENT

5. Nil

GOVERNMENT CONSULTATION

6. Nil

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.1 continued

STATUTORY IMPLICATIONS

7. 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.
8. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund. This delegation was last reviewed in December 2007 – Item 14.4.1.
9. 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

10. Expenditure for the period to 30 April 2010 has been incurred in accordance with the 2009/10 budget parameters.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.

POLICY IMPLICATIONS

12. The City's 2009/10 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2009/10 budget parameters, it is recommended that the list of accounts for payment be received.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

13. Nil

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.1 continued

SUMMARY CONCLUSION

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

ITEM 12.1.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WELLINGTON

THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 30 April 2010 totalling \$3,860,553.85.

MOTION CARRIED 12-0

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.1.2

ITEM TITLE: FINANCIAL ACTIVITY STATEMENT – 30 APRIL 2010

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number or Name of Ward	: FIN 040 (All Wards)
Summary of Key Points	: Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 30 April 2010
Reporting Officer(s)	: Finance Manager (P Wignall)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Bulletin Attachment(s)	: Nil

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 April 2010 has been prepared and is listed below.
2. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the elected group 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. For the financial year 2009/10 variations in excess of 10% are reported to the elected group.

STATEMENT OF FINANCIAL ACTIVITY – AS AT 30th APRIL 2010

6. See Appendix 1 to Report Item 14.1.2

CITY OF ALBANY - BALANCE SHEET – AS AT 30th APRIL 2010

7. See Appendix 2 to Report Item 14.1.2

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

INCOME STATEMENT FOR PERIOD ENDED – AS AT 30th APRIL 2010

8. See Appendix 3 to Report Item 14.1.2

PORTFOLIO VALUATION – MARKET VALUE – AS AT 30th APRIL 2010

9. See Appendix 4 to Report Item 14.1.2

PUBLIC CONSULTATION / ENGAGEMENT

10. Nil

GOVERNMENT CONSULTATION

11. Nil

STATUTORY IMPLICATIONS

12. Section 34 of the Local Government (Financial Management) Regulations 1996 provides:

- I. *A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –*
 - a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - b) *budget estimates to the end of the month to which the statement relates;*
 - c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relate*
 - d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - e) *the net current assets at the end of the month to which the statement relates.*
- II. *Each statement of financial activity is to be accompanied by documents containing –*
 - a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - b) *an explanation of each of the material variances referred to in sub regulation (1)(d); 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.*

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

FINANCIAL IMPLICATIONS

13. Expenditure for the period ending 30 April 2010 has been incurred in accordance with the 2009/10 current budget parameters. Details of any budget variation in excess of \$100,000 (year to date) follow. Other than potential liabilities in relation to claims by the ex CEO there are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

Variances to Budget in excess of \$100,000 - as at 30th April 2010

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD Percentage Variance	Variance Ticks	Comments
CHIEF EXECUTIVE OFFICER							<input type="checkbox"/>	
182820. CEO - SALARIES	412,901	412,901	333,491	604,624	(271,133)	-81%	x	Over budget year to date, and will be over budget for the full year due to the CEO contract termination payment made in April.
Total CHIEF EXECUTIVE OFFICER	412,901	412,901	333,491	604,624	(271,133)	-81%	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
DIRECTOR CORPORATE & COMMUNITY								
170020. ADMIN-DEPRECIATION	1,056,144	1,056,144	879,631	667,570	212,061	24%	✓	Currently under budget due to timing differences, since most capitalisation of assets is done at year end.
172220. PARKS -DEPRECIATION	674,260	674,260	561,568	414,904	146,664	26%	✓	Currently under budget due to timing differences, since most capitalisation of assets is done at year end.
174420. ROADS- DEPREC	7,557,156	7,557,156	6,294,175	6,077,092	217,083	3%	✓	Currently under budget due to timing differences, since most capitalisation of assets is done at year end.
177770. Land Development	1,200,894	1,849,135	1,849,135	1,638,781	210,354	11%	✓	Under budget year to date, and will be under budget at year end. Cull Road marketing expenses are to be carried over to 2010/2011.
194140. ALAC - Stage 2	5,919,375	5,919,375	1,580,036	741,106	838,930	53%	✓	Year to date costs are below budget due to contractor invoicing delays. Annual costs will be below budget due to the full project cost being budgeted this year, but project will not be completed until December 2010. There are no known cost overruns.
Total DIRECTOR CORPORATE & COMMUNITY	16,407,829	17,056,070	11,164,545	9,539,453	1,625,092	12%		

CORPORATE & COMMUNITY SERVICES REPORTS

Account	Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance	YTD Percentage Variance	Variance Ticks	Comments
<u>DIRECTOR WORKS & SERVICES</u>							<input type="checkbox"/>	
118520. REFUSE-TIP MAINTENANCE	928,000	954,000	777,554	888,485	(110,931)	-14%	×	Year to date costs are over budget, and annual costs will exceed budget. This is due to the delay in supply of the purchased refuse compactor resulting in additional unbudgeted compactor hire costs.
126920. REC'N-PARK/RESERVE MAINT	1,000,000	1,001,900	819,834	976,939	(157,105)	-19%	×	Year to date costs over budget, and annual costs will exceed budget due to focus on required parks & reserves building maintenance.
132220. ROAD MAINTENANCE	3,500,000	3,500,000	2,732,973	2,304,776	428,197	16%	✓	Year to date costs are below budget, & annual costs will be under budget - mainly due to reduced staff availability & cut back on overtime.
140150. Capital Grants - EDWS Other	0	(45,000)	(45,000)	(319,000)	274,000	609%	✓	Year to date grants are above budget, & will be above budget at year end. This relates to Federal grants of \$274,000 to be carried over to 2010/2011.
147920. PLANT-ALLOCATE TO W/SERV.	(2,855,000)	(2,688,000)	(2,372,160)	(2,094,210)	(277,950)	-12%	×	Any under-recoveries in relation to Plant Charge-out and Works Labour Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered.
149120. WO-LESS ALLOC.W/SERVICES	(2,772,322)	(2,845,601)	(2,283,098)	(2,012,005)	(271,093)	-12%	×	Year to date costs are above budget (timing difference), but annual costs will be below budget. There is the potential for approximately \$500k to be carried over to 2010/2011 for drainage design & works.
149940. ASSET PRESERVATION	2,135,442	2,483,685	1,010,200	1,358,640	(348,440)	-34%	×	Year to date costs are above budget due to timing differences on the budget allocation. Annual costs are expected to be line with budget.
151840. PARKS & RESERVES	310,000	749,236	419,031	607,993	(188,962)	-45%	×	Year to date costs are below budget due to timing differences on the budget allocation. Annual costs are expected to be line with budget.
167640. Peace Park	1,388,568	1,137,058	1,066,458	834,772	231,686	22%	✓	
Total DIRECTOR WORKS & SERVICES	3,634,688	4,247,278	2,125,792	2,546,390	(420,598)	-13%		

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.

POLICY IMPLICATIONS

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

16. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. Nil

SUMMARY CONCLUSION

18. Nil

**ITEM 14.1.2 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

THAT Council RECEIVES the Financial Activity Statement for the period ending 30 April 2010.

MOTION CARRIED 12-0

CORPORATE & COMMUNITY SERVICES REPORTS

APPENDIX 1 STATEMENT OF FINANCIAL ACTIVITY YEAR TO DATE – 30 APRIL 2010			
	Actual Year to Date 30-Apr-10	Current Budget Year to Date 30-Apr-10	Current Budget vs Actual Variance
REVENUE			
Operating Grants, Subsidies and Cont	2,254,504	2,293,624	-39,120
Fees and Charges	5,775,954	5,986,736	-210,782
Service Charges	3,009,638	3,012,168	-2,530
Interest Earnings	631,858	548,368	83,490
	12,140,830	12,224,327	-83,497
EXPENDITURE			
Employee Costs	11,953,627	11,718,538	235,089
Materials and Contracts	7,841,008	8,657,348	-816,340
Utility Charges	812,638	924,144	-111,506
Interest Expenses	600,104	598,532	1,572
Insurance Expenses	476,810	486,857	-10,047
Other Expenditure	380,451	368,876	11,575
Depreciation	9,201,384	9,842,841	-641,457
	31,266,022	32,597,136,	-1,331,114
Adjustment for Non-Cash Revenue and Expenditure			
Depreciation	-9,201,384	-9,842,841	641,457
CAPITAL REVENUE			
Non-Operating Grants, Subsidies and Cont	4,246,765	3,698,890	547,875
Proceeds from Asset Disposals	434,550	363,114	71,436
Proceeds from New Loans	0	0	0
Self-Supporting Loan Principle Revenue	32,503	37,569	-5,066
Transfers from Reserves (Restricted Assets)	7,483,656	7,417,109	66,547
	12,197,474	11,516,682	680,792
CAPITAL EXPENDITURE			
Capital Expenditure	9,457,550	10,069,784	-612,234
Repayment of Loans	652,357	613,545	38,812
Transfers to Reserves (Restricted Assets)	1,832,460	1,198,549	633,911
	12,197,474	11,516,682	60,488
Estimated Surplus B/fwd			
ADD Net Current Assets July 1 B/fwd	-1,790,453	n/a	n/a
LESS Net Current Assets Year to Date	10,103,520	n/a	n/a
Amount Raised From Rates	-21,562,674	-21,529,828	-32,846

/ Is higher than expected revenue or lower than expected expenditure

< is lower than expected revenue and higher than expected Expenditure

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 2 – BALANCE SHEET AS AT 30 APRIL 2010

	Actual 30-Apr-10	Budget 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS			
Cash - Municipal	9,193,808	776,514	477,330
Restricted cash (Trust)	1,479,804	1,976,788	1,987,438
Reserve Funds - Financial Assets	1,170,755	0	1,170,755
Reserve Funds - Other	1,708,850	2,647,383	7,360,046
Receivables & Other	2,903,639	1,600,000	2,912,825
Investment Land	(0)	0	(0)
Stock on hand	909,470	780,000	1,033,538
	17,366,326	7,780,685	14,941,932
CURRENT LIABILITIES			
Borrowings	435,540	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	2,117,502	2,200,000	2,023,128
Trust Liabilities	1,422,642	1,778,124	1,930,516
Creditors prov & accruals	818,172	3,000,000	4,190,793
	4,793,856	8,208,124	9,232,333
NET CURRENT ASSETS	12,572,470	(427,439)	5,709,599
NON CURRENT ASSETS			
Receivables	106,322	152,865	106,322
Pensioners Deferred Rates	292,616	265,945	292,616
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	74,299,908	131,774,682	67,901,036
Infrastructure Assets	179,469,915	197,134,056	186,048,238
Local Govt House Shares	19,501	19,501	19,501
	256,338,262	331,497,049	256,517,713
NON CURRENT LIABILITIES			
Borrowings	20,796,675	19,566,675	20,796,675
Creditors & Provisions	259,838	262,000	259,838
	21,056,513	19,828,675	21,056,513
NET ASSETS	247,854,219	311,240,935	241,170,800
EQUITY			
Accumulated Surplus	224,556,147	289,818,918	212,131,560
Reserves	4,523,438	2,647,383	10,264,605
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	247,854,219	311,240,935	241,170,800

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 3 - INCOME STATEMENT FOR THE PERIOD ENDED – 30 APRIL 2010

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
INCOME			
Rates	21,562,674	21,346,462	19,277,114
Grants & Subsidies	1,911,379	3,069,252	4,051,358
Contributions. Reimb & Donations	343,125	362,187	408,897
Fees & Charges	5,775,954	7,294,973	7,276,163
Service Charges	3,009,638	2,996,718	2,698,198
Interest Earned	631,858	547,200	658,167
Other Revenue / Income	470,236	401,500	529,090
	33,704,864	36,018,292	34,898,987
EXPENDITURE			
Employee Costs	11,953,627	14,039,923	13,749,398
Utilities	812,638	1,311,912	903,193
Interest Expenses	600,104	1,179,588	1,322,148
Depreciation on non current assets	9,201,384	11,818,000	10,714,400
Contracts & materials	7,841,008	11,628,876	11,490,819
Insurance expenses	476,810	453,863	410,959
Other Expenses	381,571	(128,769)	11,553
	31,267,142	40,303,393	38,602,470
Change in net assets from operations	2,437,722	(4,285,101)	(3,703,483)
Grants and Subsidies - non-operating	4,186,749	70,066,581	6,497,507
Contributions Reimbursements and Donations - non-operating	60,017	5,175,706	4,738,136
Profit/Loss on Asset Disposals	(1,068)	(32,000)	61,301
Fair value - Investments adjustment	0	1,987,226	(193,144)
	6,683,419	72,912,412	7,400,317

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE – 30 APRIL 2010

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value	Market Value	Market Value	Latest Monthly Variation
				Feb-10	Mar-10	Apr-10	
MUNICIPAL ACCOUNT							
Bendigo	10/03/2010	1,000,000	5.17%	1,000,000			
Bendigo	19/03/2010	1,000,000	4.90%	1,000,000			
NAB	30/03/2010	2,000,000	5.25%	2,000,000			
Westpac	30/03/2010	1,500,000	5.75%	1,500,000			
Bankwest	19/04/2010	1,000,000	5.15%	1,000,000	1,000,000		
Bendigo	22/04/2010	1,000,000	5.40%	1,000,000	1,000,000		
Bankwest	22/04/2010	1,000,000	5.40%	1,000,000	1,000,000		
ANZ	29/04/2010	2,500,000	5.13%		2,500,000		
Bendigo	18/05/2010	1,000,000	5.20%		1,000,000	1,000,000	
Bankwest	25/05/2010	1,000,000	5.10%			1,000,000	
Westpac	28/05/2010	1,500,000	5.50%	1,500,000	1,500,000	1,500,000	
ANZ	3/06/2010	1,500,000	5.10%			1,500,000	
Bendigo	21/06/2010	1,000,000	5.30%			1,000,000	
NAB	21/06/2010	1,500,000	5.30%			1,500,000	
				10,000,000	8,000,000	7,500,000	n/a
RESERVES ACCOUNT							
NAB	4/03/2010	1,000,000	4.90%	1,000,000			
NAB	18/04/2010	1,000,000	5.30%		1,000,000		
Bankwest	25/05/2010	1,500,000	5.10%			1,500,000	
		1,500,000		1,000,000	1,000,000	1,500,000	n/a

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE – 30 APRIL 2010

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value	Market Value	Market Value	Latest Monthly Variation
				Feb-10	Mar-10	Apr-10	
COMMERCIAL SECURITIES - CDOs (New York Mellon)**							
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	354,120	354,120	354,120	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	307,100	307,100	307,100	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
		2,118,046		976,350	976,350	976,350	0
COMMERCIAL SECURITIES - CDOs - Other							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	119,000	119,000	119,000	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	303	303	303	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,503	68,503	68,503	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	6,600	6,600	6,600	0
		1,324,656		194,405	194,405	194,405	0
PORTFOLIO TOTAL		4,942,702		12,170,755	10,170,755	10,170,755	0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

APPENDIX 5 – FINANCIAL RATIOS

CITY OF ALBANY FINANCIAL RATIOS	30-Jun-09	30-Apr-10	Benchmark
Liquidity Ratios			
Current Ratio ¹	73.7%	470.7%	>100%
Untied Cash to trade creditors Ratio ²	19.7%	2743.0%	>100%
Financial Position Ratio			
Debt Ratio ³	11.2%	9.4%	<100%
Debt Ratios			
Debt Service Ratio ⁴	11.1%	4.1%	<10%
Gross Debt to Revenue Ratio ⁵	63.2%	63.4%	<60%
Gross Debt to Economically Realisable Assets ⁶	26.2%	26.4%	<30%
Coverage Ratio			
Rate Coverage Ratio ⁷	58.5%	69.7%	>33%
Effectiveness Ratio			
Outstanding Rates Ratio ⁸	3.7%	6.5%	<5%

1. This ratio focuses on the liquidity position of a local government.
2. This ratio provides an indication of whether a local government has sufficient unrestricted cash to pay it's 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 it's 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 it's total borrowings.
7. The Coverage Ratio measures the local governments dependence on rate revenue to fund it's operations. The higher the ratio, the less dependent a local government is on grants and external sources to fund it's operations.
8. The Effectiveness Ratio measures the effectiveness of a local governments with the collection of it's rates. It would be expected to be above 5% at this time of the year but reduce to below the benchmark at 30 June.

CORPORATE & COMMUNITY SERVICES REPORTS

14.2 – ADMINISTRATION

Nil

14.3 – LIBRARY SERVICES

Nil

14.4 – DAY CARE CENTRE

Nil

14.5 – TOWN HALL

Nil

14.6 – RECREATION SERVICES

Nil

Note: 22.2 - AUTHORISATION OF EXPENDITURE FOR REPLACEMENT BOILER AT ALAC

“Due to pending legal action this item was dealt with behind closed doors in accordance with s5.23(2)(d) of the Local Government Act 1995, being: legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting”.

14.7 - ECONOMIC DEVELOPMENT

Nil

14.8 - TOURISM & VISITORS CENTRE

Nil

14.9 – AIRPORT MANAGEMENT

Nil

14.10 – CONTRACT MANAGEMENT

Nil

14.11 PROPERTY MANAGEMENT

Nil

CORPORATE & COMMUNITY SERVICES REPORTS

14.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE

ITEM NUMBER: 14.12.1

ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 15 APRIL 2010

File umber or Name of Ward : MAN 131 (All Wards)
Summary of Key Points : Receive the minutes of the Seniors Advisory Committee.
Reporting Officer(s) : Executive Director Corporate & Community Services (WP Madigan)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Committee meeting minutes – 15 April 2010

COUNCIL'S ROLE: EXECUTIVE FUNCTION

[9:17:08 PM](#) **COUNCILLOR PAVER LEFT THE CHAMBER**

ITEM 14.12.1 - COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR DUFTY

THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 15 April 2010 be RECEIVED.

MOTION CARRIED 10-1

Record of Vote

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

Against the Motion: Councillor D Bostock

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.2

ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES – 9 APRIL 2010

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction for the transition of the Committee.

File Number or Name of Ward	: STR 208 (All Wards)
Summary of Key Points	: Committee Items for Council Consideration
Reporting Officer(s)	: Executive Director Corporate and Community Services (P Madigan)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Bulletin Attachment(s)	: Committee Meeting minutes – 9 April 2010

BACKGROUND

1. The 2014/15 ANZAC Centenary Strategy Committee has identified a required transition from the current committee structure to a new broader structure that includes wider community representation. The new proposed structure will allow for the continual development of the ANZAC commemorations in partnership with the RSL and to provide a framework for the development of a partnership strategy.

DISCUSSION

2. The City of Albany Council resolved at an Ordinary Council Meeting (OCM) on 15 July 2008 to establish a committee to strategically plan for the 2014-15 Anzac Centenary. The terms of reference were established as:
 - To establish a framework to guide Councils' role in the 2014/15 ANZAC commemorations;
 - To prepare a draft business plan outlining a program of activities for 2014/15;
 - To recommend a process to engage other stakeholders that may have an interest in commemorating the Centenary;
 - To develop a strategy for the official opening of the Anzac Peace Park event in 2010;
 - To develop a strategy and funding plan for the gradual upgrading of facilities at Mt Clarence as outlined in the City Mounts Management Plan; and
 - To develop a strategy to ensure annual ANZAC Day events are continuously improved from year to year with a major event in 2014/15
 - To facilitate the continual development of Anzac Day events beyond the proposed major event in 2014/15

STRATEGIC IMPLICATIONS & ALIGNMENT FO CORPORATE PLAN

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

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

Community Vision:

Historic Albany – Home to a vibrant, resourceful and culturally diverse community driven by a spirit of generosity and opportunity, nestled around a spectacular natural harbour in a region of unique beauty.

Priority Goals and Objectives:

Goal 2: Economic Development..... Albany will be Western Australia's first choice for regional investment offering a wide range of development, employment and learning opportunities within a robust economy.

Objective 2.5: Our unique cultural heritage attractions deliver world class tourism experiences.

Objective 2.6: A significant annual international festival is hosted.

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

Objective 4.2: Manage our municipal assets to ensure they are capable of supporting our growing community.

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

ITEM 14.12.2 COMMITTEE RECOMMENDATION 1

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR WELLINGTON

THAT the UNCONFIRMED minutes of the 2014/15 ANZAC Centenary Strategy Committee Meeting Committee meeting held on 9 April 2010 be received.

MOTION CARRIED 10-1

Record of Vote

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

Against the Motion: Councillor D Bostock

9.21 CR PAVER RETURNED TO CHAMBER

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

ITEM: 14.12.2 COMMITTEE RECOMMENDATION 2

THAT APPROVAL in principle be given to the establishment of an organisational structure to plan and implement commemorative activities associated with the Centenary of ANZAC and its continued prominence post 2015.

**ITEM 14.12.2 - ALTERNATE MOTION BY COUNCILLOR WOLFE
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ENDORSE the formation of a partnership with the RSL for the purposes of the organisation and implementation of commemorations to mark the Centenary of ANZAC 2014/18 and;

- i) The partnership to consist of three members from the RSL and three members from the City of Albany, and one “prominent” community person (to be chosen by the partnership) to give a total of seven
- ii) The representatives from the City of Albany to be the Mayor, the CEO and one Councillor to be nominated by Council, namely Councillor Wolfe
- iii) The partnership is to select a suitable name and develop a Memorandum of Understanding at the earliest opportunity.

**ITEM 14.12.2 - ALTERNATE MOTION BY COUNCILLOR WOLFE
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR WELLINGTON**

THAT Council ENDORSE the formation of a partnership with the RSL for the purposes of the organisation and implementation of commemorations to mark the Centenary of ANZAC 2014/18 and;

- i) The partnership to consist of three members from the RSL and three members from the City of Albany, and one “prominent” community person (to be chosen by the partnership) to give a total of seven**
- ii) The representatives from the City of Albany to be the Mayor, the CEO and one Councillor to be nominated by Council, namely Councillor Wolfe**
- iii) The partnership is to select a suitable name and develop a Memorandum of Understanding at the earliest opportunity.**

MOTION CARRIED 12-0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

[9:23:58 PM](#) The Mayor called for nominations to fill the vacancy for councillor. Councillor Wolfe and Councillor Wellington nominated. A ballot was held to decide the position.

[9:26:32 PM](#) Mr Madigan announced the results of the ballot. Councillor Wolfe is the nominated Councillor 8-4.

ITEM 14.12.2 MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR MATLA

SECONDED: COUNCILLOR DUFTY

THAT Council ENDORSE Councillor Wolfe's appointment to the partnership with the RSL.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

[9:28:31 PM](#) Councillor Paver requested a Point of Clarification regarding the gift and exactly what it is.

[9:28:40 PM](#) The Mayor replied that Rear Admiral Peter Briggs had visited the Mayor some time ago. Rear Admiral Briggs has dedicated his time and energy in finding the wreck of the AE2, which was scuttled in the Sea of Marmara, Turkey. Five bronze plaques were struck in memory of the AE2 Stoker Submarine, which escorted the troop ships leaving from Albany, and penetrated the Dardanelles when all else failed. Rear Admiral Briggs gifted one of these plaques to Albany. Mayor Evans said that this plaque fits well into the First World War story of the departure of troops from Albany.

ITEM 14.12.2 COMMITTEE RECOMMENDATION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR DUFTY

THAT the committee ACCEPTS the gift from the AE2 Commemorative Foundation Ltd conditional upon location change to pier of remembrance and receiving date is to be the week of ANZAC Day 2011.

MOTION CARRIED 12-0

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.2 continued.

AMENDED OFFICER RECOMMENDATION

**ITEM: 14.12.2 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING
MINUTES – 9 APRIL 2010**

ITEM 14.12.2 AMENDED OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council LOCATE the AE2 plaque being gifted to the City of Albany by the AE2 Commemorative Foundation Ltd within the vicinity of the US Submariners memorial at the Princess Royal Fortress, rather than at the ANZAC Peace Park.

Officers Reason:

(a) The interpretation consultant for the ANZAC Peace Park (Freeman Ryan Design - FRD) has reviewed the AE2 bronze plaque proposal by the AE2 Commemorative Foundation Ltd and has made a recommendation that it NOT be located in the ANZAC Peace Park as it will introduce a non-uniform style of interpretation. In response to the initial proposal to place the plaque in the ANZAC Park, FRD has recently produced a specific Panel to be located in the Lone Pine Grove section of the Park when completed (a copy of the panel text and graphic is attached).

(b) The curator of the Princess Royal Fortress is procuring two submarine torpedos to be located in the vicinity of the US Submariners memorial and has proposed the plaque also be co-located in this area, which symbolises Albany's heritage with regards to sub-mariners. The addition of the plaque will provide symmetry to the placement of the torpedos and to the existing sub-mariners memorial which is also a bronze plaque set on granite stone.

CORPORATE & COMMUNITY SERVICES REPORTS

ITEM NUMBER: 14.12.3

**ITEM TITLE: ALBANY TOURISM MARKETING ADVISORY COMMITTEE (ATMAC)
MEETING MINUTES – 8 APRIL 2010**

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction for the transition of the Committee.

File Number or Name of Ward : STR 208 (All Wards)
Summary of Key Points : Committee Items for Council Consideration
Reporting Officer(s) : Executive Director Corporate and Community
Services (WP Madigan)
Disclosure of Interest : Nil
Previous Reference : N/A
Bulletin Attachment(s) : Committee Meeting minutes – 8 April 2010

COUNCIL'S ROLE: EXECUTIVE FUNCTION

[9:30:54 PM](#) Councillor Paver left the chamber after declaring a financial interest.
Councillor Leavesley and Councillor Hammond declared an impartiality interest and remained in the chamber.

**ITEM 14.12.3 – OFFICERS RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR WOLFE**

THAT committee recommendations 1, 2 and 3, are carried en bloc.

**CARRIED 10-1
ABSOLUTE MAJORITY**

Record of Vote

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

Against the Motion: Councillor D Bostock

ITEM 14.12.3 – COMMITTEE RECOMMENDATION 1

THAT the UNCONFIRMED minutes of the Albany Tourism Marketing Advisory Committee (ATMAC) Meeting held on Thursday 8th April 2010 be RECEIVED.

CORPORATE & COMMUNITY SERVICES REPORTS

Item 14.12.3 continued.

ITEM: 14.12.3 – COMMITTEE RECOMMENDATION 2

THAT the Winter Campaign as detailed in the tabled briefing paper is APPROVED.

THAT City of Albany staff IMPLEMENT the Winter Campaign taking into account the strategic brief developed by the committee.

ITEM: 14.12.3 – COMMITTEE RECOMMENDATION 3

THAT Council APPROVES continuing to proceed with the Perth Royal Show Guest Town initiative and staff INPUT \$20,000 as the City's contribution in the 2010/11 draft budget.

14.13 – COMMUNITY DEVELOPMENT

Nil

WORKS & SERVICES Reports

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.1
ITEM TITLE: REGIONAL FUNDING ALLOCATIONS – PROGRESS REPORT

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number	: REL088 Great Southern District
Summary of Key Points	: Regional Road Group Funding Allocations
Reporting Officer(s)	: Executive Director, Works & Services – Kevin Ketterer
Disclosure of Interest	: Great Southern District
Previous Reference	: Asset Management Policy and Strategy Committee Meeting Minutes – 19 February 2010; OCM 16 March 2010
Bulletin Attachment(s)	: Annexure A – Letter from Minister Grylls
Consulted References	: Nil
Maps and Diagrams	: Nil

BACKGROUND

1. The City has long been unsatisfied with the allocations received from regional bodies tasked with the distribution of state allocated funds to regions. A report in this regard was considered by Council at the March 2010 Ordinary Council meeting and resolved as follows:
2. That Council enter into discussions with the State Department for the reallocation of unspent Royalties for Regions funds from local authorities who do not have the capacity to implement projects.
3. That Council request that the second grant of Royalties for Regions funding be made available as soon as possible in order for the City of Albany to deliver on State and City undertakings.
4. That Council request that the GSRRG rescind the resolution of 22 October 2002 to implement the capping system for funding allocations.
5. That Council request that the GSRRG apply the allocation of funds in terms of the original guidelines as issued by the State funding body.
6. That Council request that the GSRRG revisit the 2010/11 funding allocations in line with the above recommendations.
7. That Council request that the TIRES committee revisit it allocation criteria and apply these consistently across all participating local authorities.

WORKS & SERVICES REPORTS

Item 15.1 continued

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

DISCUSSION

10. Following the adoption of the above resolutions, the following actions were taken by officers and Councillors to put the above resolutions into effect.
 - a) The R4R funding allocations have been reassigned with the State Government structures and now resort under the Minister for Local Government, heritage, Citizenship and Multicultural Interests. The new minister has made sweeping changes to the allocations and the guidelines in this respect have now been received. These are attached as *Annexure A*. The need for the discussions has therefore fallen away.
 - b) The notice regarding the second round of R4R funding has been published and is detailed in *Annexure A* as well.
 - c) A report was submitted to the GSRRG for consideration, and the GSRRG resolved that the matter be delayed to their July 2010 meeting to allow time for each individual council to consider the report.
 - d) Following the RRG meeting, an immediate negative backlash was experienced with elected members of member Shires going on radio naming Albany as predatory and wanting to grab funds from smaller Shires. It can be expected that the July meeting will not result in a positive response to the request from Albany that the capping limits be dropped.
 - e) An agenda item is to be submitted to the TIRES meeting scheduled for July 2010 regarding the application of the criteria of the committee in their decision making processes. At the April meeting of TIRES, Albany was allocated \$450,000 of the available \$1 000,000 for the first phase of the reconstruction of Down Road. This is the largest allocation to the City of Albany through TIRES ever.
 - f) This request has been submitted to the Minister's office for consideration. The City is still awaiting a response.

WORKS & SERVICES REPORTS

Item 15.1 continued

ACTIONS OUTSTANDING

11. The only action outstanding is that the TIRES committee be requested to revisit the assessment criteria and that these be applied consistently.

[9:32:19 PM](#) Councillor Hammond left the chamber.

[9:32:34 PM](#) Councillor Paver returned to the chamber.

**ITEM 15.1 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY**

THAT Council:

- 1) **NOTE the actions taken in response to the Council resolutions**
- 2) **REQUEST feedback on the last outstanding issues after the July TIRES meeting.**

MOTION CARRIED 11-0

WORKS & SERVICES REPORTS

15.1 WASTE MANAGEMENT

Nil

WORKS & SERVICES REPORTS

15.2 CAPITAL WORKS

ITEM NUMBER: 15.2.1
ITEM TITLE: **CONTINGENT LIABILITY – DEVELOPMENT OF LOT 260 ARGYLL STREET- EXTENSION CONTRIBUTION**

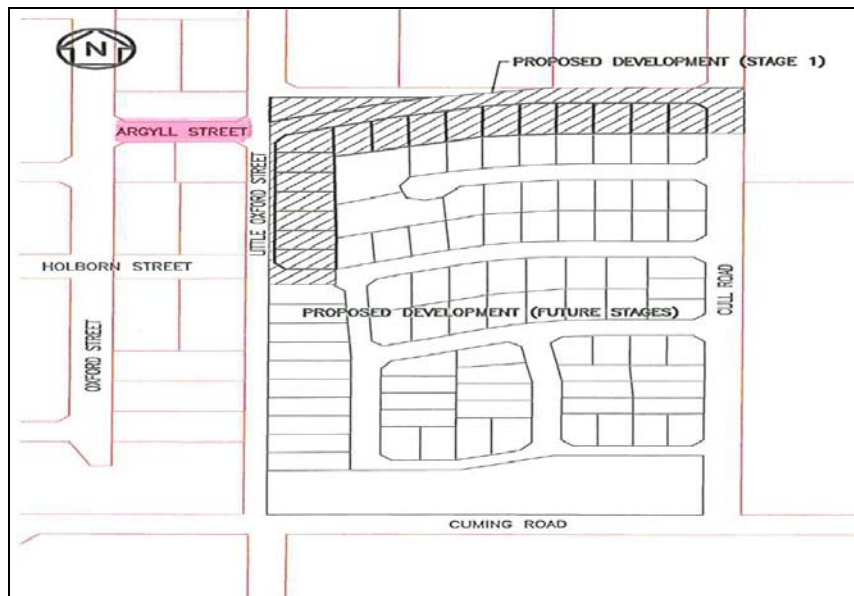
THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number : STR238 Lot 260, Argyll Street Extension
Summary of Key Points : Development of Lot 260, Argyll Street extension contribution.
Reporting Officer(s) : Executive Director, Works & Services – Kevin Ketterer
Disclosure of Interest : Argyll Street
Previous Reference : N/A
Bulletin Attachment(s) : Annexure A
 Annexure B
Consulted References : Nil
Maps and Diagrams : Refer below

BACKGROUND

1. Lot 260 Cull Road was approved by the WAPC in 2007 for the development of residential blocks. Part of the development entailed a requirement by officers of Council for the extension of Argyll Street, beyond the boundaries of the development, in order to improve connectivity to the adjoining areas.



WORKS & SERVICES REPORTS

Item 15.2.1 Continued

2. An undertaking was made to the developers that Council would bear half of the costs of the extension of Argyll Street. This undertaking was minuted and referred to by the Council officers in subsequent email and minuted correspondence. Please refer to Annexure A for copies of correspondence pertaining to this item.
3. The works have now been completed and the developer has submitted an invoice for Councils' contribution of \$34,137, which amounts to half of the construction costs of the full works. Please refer to Annexure B for copies of correspondence pertaining to this item.

DISCUSSION

4. Negotiations of this nature are part of the normal negotiations with developers, but it is also normal to have the financial implications authorised by the relevant delegated authority. As no budget was provided for such expenditure, this item should have been submitted to Council for consideration and funding allocation. No formal agreement was ever entered into, and no quantum was determined.
5. It can be confirmed that the works have made a positive contribution to the Council Road Network and connectivity has been improved in the area. Council would have had to make these improvements in due course, at Council's cost. Having the work done at the same time as the development roads in essence saved Council half of the cost of providing the connection road.
6. The contractor proceeded in good faith and has completed the works as agreed at the development meeting.

FINANCIAL IMPLICATIONS

7. No funding provision has been made on the 2009/10 budget for such expenditure. Funding could be included in the 2010/11 budget should council approve this expenditure and honour the officer undertaking.

ALTERNATE OPTIONS

8. Council could consider one of the following:
 - Agree that the contribution is warranted;
 - Agree not to contribute as this matter was not considered by council.

SUMMARY

9. From the history and correspondence it is clear that the developer has acted in good faith, the community has gained from the road linkages created and the expenditure would be justified.

WORKS & SERVICES REPORTS

Item 15.2.1 Continued

[9:34:18 PM](#) Councillor Wolfe said that he would like to move the motion with the following amendment:

“That Council consider the contribution of \$34,137 towards construction of the Argyll Street extension in the 2010/11 budget”.

[9:34:38 PM](#) Councillor J Bostock requested a Point of Clarification and said that she could not find the bulleting attachment.

[9:34:36 PM](#) Councillor Leavesley left the chamber.

[9:34:47 PM](#) Councillor Hammond returned to the chamber.

**15.2.1 PROCEDURAL MOTION BY COUNCILLOR MATLA
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WELLINGTON**

THAT the motion be put.

MOTION CARRIED 9-2

Record of Vote

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

Against the Motion: Councillors J Bostock and D Bostock

[9:37:39 PM](#) Councillor D Bostock requested a Point of Clarification.

[9:37:45 PM](#) Mayor Evans responded that he was totally confused with the process here.

[9:37:42 PM](#) Through the Mayor, Mr Madigan replied that the motion was moved by Councillor Wolfe and seconded by Councillor Dufty, that council consider the contribution of \$34,137 towards construction of the Argyll Street extension in the 2010/11 budget. Then a procedural motion was moved by Councillor Matla and seconded by Councillor Wellington that the motion be put. The procedural motion has been carried, we are now back to voting on the original motion.

[9:38:32 PM](#) Councillor Leavesley returned to the chamber.

**ITEM 15.2.1 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. **CONSIDER** the contribution of \$34,137 towards construction of the Argyll Street extension.

WORKS & SERVICES REPORTS

Item 15.2.1 continued.

**ITEM 15.2.1-AMENDED MOTION BY COUNCILLOR WOLFE
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY**

THAT Council consider the contribution of \$34,137 towards construction of the Argyll Street extension in the 2010/11 budget.

MOTION CARRIED 10-2

Record of Vote

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

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.2
ITEM TITLE: REQUEST FOR RE-ALLOCATION OF 2009/10 ROAD FUNDING FOR CAPITAL WORKS PROGRAMME

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

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

File Number or Name of Ward	:	GOV081; SER099; GOV089; REL088 (All Wards)
Summary of Key Points	:	That Council approve the various Road Funding Re-allocations
Reporting Officer(s)	:	Manager City Projects (S. Pepper); Principal Engineer – Asset Management (G. Hoey)
Disclosure of Interest	:	Nil
Previous Reference	:	SCM 30.06.09 item 6.2
Bulletin Attachment(s)	:	Nil
Consulted References	:	Nil
Maps and Diagrams	:	Nil

BACKGROUND

1. The annual Capital Works program is adopted through the budgetary process, with specific costs allocated to the individual projects. Once works commence, at times the scope of works can vary due unforeseen issues, such as drainage, soil types, fill not available, gravel cartage costs etc, and these costs are then reflected in the budgetary line items.
2. As the various funding sources require their conditions to be met, before Council approval can be sought, delays can occur, causing budget over/under runs, that then require subsequent Council approval.
3. The following discussion highlights the funding sources affecting the Capital Works program, and their subsequent proposals for funding adjustment, which require appropriate Council endorsement.

DISCUSSION**Auslink Roads To Recovery Program**

4. Under the Roads to Recovery Program (R2R), Council may apply up to \$844,968 per year to its roads program, effective from 2009/10 to 2014/15, as per its funding agreement. Council chose to utilise only \$574,968 of its allocation in 2009/10. The Department has notified local authorities that should they not apply the full allocation to each year, the remainder will be deferred to the last financial year of the funding agreement.
5. To maximise Council's annual funding allocation for R2R, it is recommended selected road projects be brought forward to cover the proposed funding shortfall. The roads in question are Rutherford and Homestead Roads. These roads are reseals, and can be completed by Council's approved contractor in this financial year.

WORKS & SERVICES REPORTS

Item 15.2.2 Continued

6. Rutherford Road has been costed at \$180,000 and Homestead Road at \$100,000, with the funding component of \$270,000 covering the annual R2R shortfall and an additional \$10,000 reallocated from the Road Masterplan.

Nation Building Blackspot Program

7. In April 2009, Main Roads Western Australia (MRWA) advised Council that its application for funding under the Federal Government's Nation Building Package 2008/09 had been successful. A budget totalling of \$303,000 was approved with a funding completion deadline of 31 December 2009. It should be noted; the Nation Building program provided 100% external funding.

8. The projects included works at –

• Intersection of Mawson Road and Hanrahan Road	\$ 43,000
• Intersection of Drome Road and Lakeside Drive	\$ 9,000
• Ulster Road (slk 2.88-3.39)	\$ 10,000
• Intersection of Princess Avenue and Sandpatch Road	\$ 53,000
• Intersection of Nanarup Road and Prideaux Road	\$149,000
• Intersection of MacKenzie Drive and Marsh Way	\$ 39,000

Total **\$303,000**

9. Council completed the various works within the approved timeframe, with one project being cancelled, as the proposed road closure was not supported by the public (Mawson Road). As the Mawson Road project was cancelled, the \$43,000 funding was no longer available.
10. In December 2009, staff sought MRWA approval to re-allocate moneys from the various jobs to offset the over and under expenditures. In March 2010, MRWA notified Council, the Federal Government wanted this funding fully spent, and as Council had already completed the works, it was agreed the moneys could be re-allocated accordingly.
11. Council approval is sought to accommodate this proposal agreed to by both the Nation Building Blackspot Program and MRWA, as it is contrary to the adopted budget.
12. The project adjustments are as follows –

	Orig Budget	Amended Budget
• Intersection of Drome Road and Lakeside Drive	\$ 9,000	\$ 7,586
• Ulster Rd (slk 2.88-3.39)	\$ 10,000	\$ 9,432
• Intersection of Princess Avenue and Sandpatch Road	\$ 53,000	\$103,566
• Intersection of Nanarup Road and Prideaux Road	\$149,000	\$114,991
• Intersection of MacKenzie Drive and Marsh Way	\$ 39,000	\$ 25,149
Total	\$260,000	\$260,724

STATE BLACKSPOT PROGRAM

13. In the 2009/10 budget, Council approved various projects as supported by the State Blackspot program, which provided a funding component of \$336,667. The funding is based on a local authority providing a one third contribution with two thirds from MRWA.

WORKS & SERVICES REPORTS

Item 15.2.2 Continued

14. The projects are as follows –

	Orig Budget	2 Quarter
• Bathurst/Nelson	\$ 53,000	
• Festing Street	\$189,000	
• Hunton Road	\$ 48,000	
• Grey Street West	\$ 61,000	
• La Perouse Road	\$ 27,000	
• Redmond Hay River Road	\$ 62,000	
• Tennessee South Road	\$ 46,000	\$108,500 (Funding adjustment)*
• Wilson Street	\$ 19,000	

Total	\$505,000	\$567,500
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*NB-Main Roads notified staff of a funding variation on 3 May 2010 for the Tennessee South Road project which required a reallocation of council funds totalling \$38,382.

15. Under the State Blackspot program, the Great Southern Regional Road Group (MRWA and local authorities) agree to fund various road projects and with their prior approval, Councils may vary the allocations to address under and over expenditure on approved projects.

16. Staff have sought GSRRG approval to vary some project budgets, as cost over-runs due to scope changes, savings on gravel cartage, etc have highlighted financial adjustments for these projects.

17. The project details are as follows –

	Orig Budget	2 Quarter	Amended Budget
• Bathurst/Nelson	\$ 53,000		\$ 61,900
• Festing St	\$189,000		\$125,000
• Hunton Rd	\$ 48,000		\$ 48,000
• Grey St W	\$ 61,000		\$ 70,000
• La Perouse Rd	\$ 27,000		\$ 21,000
• Redmond Hay River Rd	\$ 62,000		\$ 41,600
• Tennessee S Rd	\$ 46,000	\$108,500	\$160,000
• Wilson St	\$ 19,000		\$ 40,000

Total	\$505,000	\$567,500	\$567,500
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TIMBER INDUSTRY REGIONAL EVALUATION STRATEGY

18. In the 2009/10 budget the City allocated \$390,000 to projects funded under the TIRES program. Two thirds of these funds, \$260,000, came from the TIRES program. It subsequently came to light that the TIRES contribution was \$280,000, requiring an increase in total project expenditure to \$420,000.

19. During the year several issues emerged:

- a. Pfeiffer Road – a road heavily used by the timber industry, suffered several pavement failures. Out of necessity these were urgently repaired using maintenance funds, but are actually of a capital works scale.

WORKS & SERVICES REPORTS

Item 15.2.2 Continued

- b. Down Road – had been allocated funding for 2009/10, but continued to suffer further pavement failure. It was decided to undertake a geotechnical investigation before carrying out further repairs. This was only recently completed, too late to undertake the pavement works required.
- c. Mettler Road – another road used heavily by the timber industry, showed signs of significant seal failure.

20. As a result of these events it is proposed to reallocate funds from the Down Road and Redmond West projects to Pfeiffer Road and Mettler Road. This would result in the following TIRES program:

Project	Original Budget	Proposed Budget	Comment
Down Road	\$150,000	\$17,000	Geotechnical investigation
Redmond West Road	\$ 80,000	\$ 46,000	Completion 2010/11
Redmond Hay River Road & Redmond Street	\$ 100,000	\$ 122,000	Add 2 nd coat seal to new works
Takenup Road	\$ 60,000	\$ 60,000	Unchanged
Pfeiffer Road		\$ 63,000	New – already done
New – already done Mettler Road		\$ 112,000	New - reseal
TOTAL	\$390,000	\$420,000	

PUBLIC CONSULTATION / ENGAGEMENT

21. Not applicable

GOVERNMENT CONSULTATION

- 22. The Federal Government Department of Transport and Regional Services manage the Auslink Roads to Recovery Program, which provides, under a five year agreement, \$844,968 per year to road projects. The Department liaises with each local authority advising on any funding anomalies.
- 23. Main Roads Western Australia provide various funding through Nation Building Blackspot, State Blackspot, Timber Industry Regional Evaluation Strategy (TIRES) and Road Project Grants, and meets regularly via the various regional committees with the Great Southern local authorities, to co-ordinate funding arrangements.

WORKS & SERVICES REPORTS

Item 15.2.2 Continued

STATUTORY IMPLICATIONS

24. Under the Local Government Act, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
- a) is incurred in a financial year before the adoption of the annual budget by the local government;
 - b) is authorised in advance by a resolution (absolute majority required) or;
 - c) is authorised in advance by the mayor in an emergency.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Community Vision:

Nil

Priority Goals and Objectives:

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

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

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

27. Council has the following options in relation to the proposal
- a) To approve the re-allocations to obtain the maximum funding opportunities, or
 - b) Decline the request and lose the funding.

SUMMARY CONCLUSION

28. Council approves the various re-allocations to maximise the funding opportunities available for the 2009/10 Capital Works program.

WORKS & SERVICES REPORTS

Item 15.2.2 Continued

[9:39:54 PM](#) Councillor J Bostock requested a Point of Clarification, and asked if Lake Seppings Drive was a priority. Has it been missed out and if so why.

[9:40:20 PM](#) Through the Mayor, Mr Ketterer replied that the request for Lake Seppings Drive was for next financial year. This item deals with this financial year.

WORKS & SERVICES REPORTS

Item 15.2.2 continued.

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

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

THAT Council APPROVES

1. the inclusion of Rutherford Road reseal totalling \$180,000 and Homestead Road reseal totalling \$100,000, with \$10,000 to be re-allocated from Road Masterplan;

2. the Nation Building Blackspot Program road project adjustments as follows –

	Orig Budget	Amended Budget
• Intersection of Drome Rd and Lakeside Drive	\$ 9,000	\$ 7,586
• Ulster Rd (slk 2.88-3.39)	\$ 10,000	\$ 9,432
• Intersection of Princess Ave and Sandpatch Rd	\$ 53,000	\$103,566
• Intersection of Nanarup Rd and Prideaux Rd	\$149,000	\$114,991
• Intersection of MacKenzie Drive and Marsh Way	\$ 39,000	\$ 25,149
TOTAL	\$260,000	\$260,724;

3. The State Blackspot program road project adjustments are as follows –

	Orig Budget	2 Quarter	Amended Budget
• Bathurst/Nelson	\$ 53,000		\$ 61,900
• Festing St	\$189,000		\$125,000
• Hunton Rd	\$ 48,000		\$ 48,000
• Grey St W	\$ 61,000		\$ 70,000
• La Perouse Rd	\$ 27,000		\$ 21,000
• Redmond Hay River Rd	\$ 62,000		\$ 41,600
• Tennessee S Rd	\$ 46,000	\$108,500	\$160,000
• Wilson St	\$ 19,000		\$ 40,000
TOTAL	\$505,000	\$567,500	\$567,500; with \$36,382 to be reallocated from Road Masterplan.

AND

4. The TIRES program roads project adjustments as follows:

	Original Budget	Proposed Budget
• Down Rd	\$150,000	\$ 17,000
• Redmond West Rd	\$ 80,000	\$ 46,000
• Redmond Hay River Rd & Redmond St	\$100,000	\$122,000
• Takenup Rd	\$ 60,000	\$ 60,000
• Pfeiffer Rd		\$ 63,000
• Mettler Rd		\$112,000
TOTAL	\$390,000	\$420,000

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.3
ITEM TITLE: PROPOSAL TO EXCISE PORTION OF TELECOMMUNICATIONS RESERVE INTO CITY OF ALBANY MANAGED RESERVE

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number (Name of Ward)	: MAN268 (<i>Frederickstown Ward</i>)
Summary of Key Points	: Proposal to excise portion of Telecommunications Reserve into City of Albany managed Reserve
Land Description	: Telecommunications Reserve 16692
Proponent	: City of Albany
Owner	: Crown
Reporting Officer(s)	: Project Officer, Melissa Organ
Disclosure of Interest	: Nil
Previous Reference	: OCM 18/4/06 Item 11.4.2
Bulletin Attachment(s)	: Nil
Consulted References	: Nil
Maps and Diagrams	: Located at end of report

BACKGROUND

1. In 2006 the Mounts Management Concept Plans for Mount Clarence was adopted by Council. Detailed design and interpretive detail for the Mount Clarence precinct was actioned, with this documentation being proposed to be used as the basis for the funding applications and construction programmes leading to the ANZAC 2014/15 Centenary.
2. The Padre White Lookout was identified in the Mount Management Plans to undergo an infrastructure upgrade which forms part of the ANZAC Centenary – Mount Clarence Infrastructure Improvement Project.
3. The Padre White lookout formed part of the Phase II tender for the ANZAC Centenary – Mount Clarence Infrastructure Improvement Project. Full detailed design is expected to be completed by the 16th of June 2010. Prior to construction, the excision of this portion of land is required from the Commonwealth managed Reserve 16692.
4. The purpose of this report is therefore to gain approval for the excision of the portion of land from the Telecommunications Reserve 16692 into the City of Albany managed Reserve 2682.

DISCUSSION

5. The City of Albany cannot progress to construction stage without first excising this portion of land. There will be no impact on the Telecommunication Reserve and there are no existing leases involved.
6. Failure to have this portion of land excised will impact on the proposed plans for Mount Clarence and my future funding applications identifying Padre White as an area of interest, together with interpretive works proposed for the site.

WORKS & SERVICES REPORTS

Item 15.2.3 Continued

FINANCIALS

7. The State Land Department shall meet costs and comply with the statutory requirements to add the subject land to Class A Reserve 2682.

PUBLIC CONSULTATION / ENGAGEMENT

8. Council approved the 2006 Mounts Management Plan, which included the Padre White Lookout proposal concepts.
9. Local community groups were consulted regarding the Mount Clarence precinct proposal and are in full support of the project.
 - RSL
 - Apex Club Albany
 - Albany Historical Society

GOVERNMENT CONSULTATION

10. The State Land Department have been consulted and shall be provided with completed feature survey pending the outcome of this report.

STATUTORY IMPLICATIONS

11. In accordance with Section 42 of the Land Administration Act 1997 – Class A reserves
 - (1) *The Minister may by order classify a reserve as a Class A reserve*
 - (3) *Subject to subsection (5), the Minister may by order –*
 - (a) *Add crown land to a class A reserve;*

12. Section 51 of the Land Administration Act, 1997, -

“Cancellation, etc of reserves generally.

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

FINANCIAL IMPLICATIONS

13. There are no financial implications as a result of excising this portion of land into the City of Albany managed reserve. The State Land department shall meet costs to add the subject land to Class A Reserve 2682
14. Once detailed design has been completed for Phase II of the ANZAC Centenary – Mount Clarence Infrastructure Improvement project, the City of Albany will be sourcing external funds to undertake construction and shall not proceed until the funds have been secured. Regardless whether funding is received or not, it is in Council’s best interest to manage this portion of land for future development opportunities relating to the project.

WORKS & SERVICES REPORTS

Item 15.2.3 Continued

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

15. *“Priority Goals and Objectives:*

Goal 2: Economic Development...

Albany will be Western Australia’s first choice for regional investment offering a wide range of development, employment and learning opportunities with a robust economy.

Objective 2.5...

Our unique cultural heritage attractions deliver world class tourism experiences.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

17. There are no alternative options or legal implications relating to this item. Should Council chose not to approve the excision, Padre White Lookout will not form part of the construction tender and money spent to date cannot be recouped.

SUMMARY CONCLUSION

18. It is recommended that a portion of Telecommunications Reserve 16692 be excised and the resultant land be amalgamated into the City of Albany managed Reserve 2682 for the purpose of the ANZAC Centenary – Mount Clarence Infrastructure Upgrade project, for the construction of Padre White Lookout.

**ITEM NUMBER – 15.2.3 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR DUFTY**

THAT Council:

- i) SEEK APPROVAL for the excision of 658m2 portion of Telecommunications Reserve 16692 as per drawing 1 in accordance with section 51 of the Land Administration Act 1997;**
- ii) SEEK APPROVAL to add 658m2 of excised Crown Land into the City of Albany Class A managed reserve 2682, in accordance with section 42 of the Land Administration Act;**

MOTION CARRIED 12-0

Item 15.2.3 Continued

Diagram 1 – Portion of land for excision

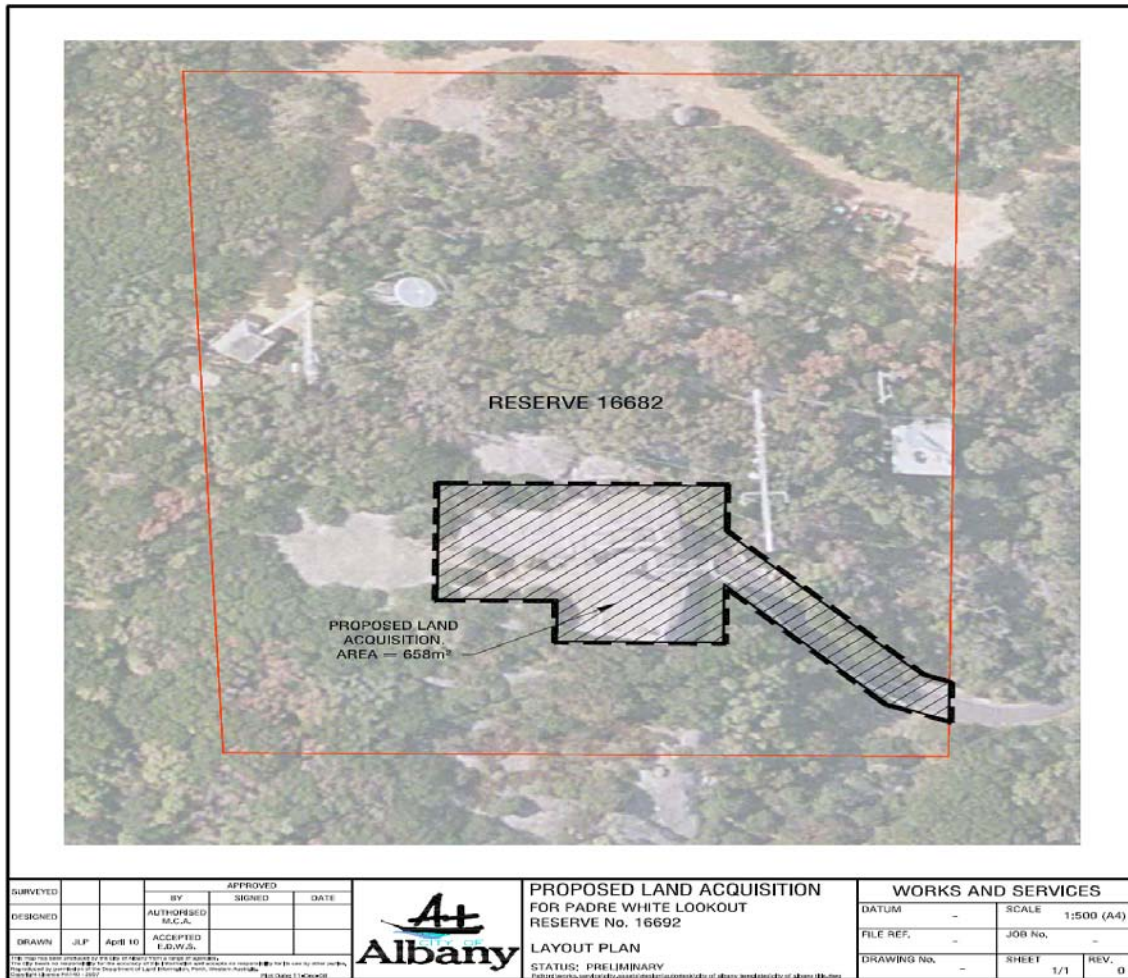


Diagram 2 – Padre White Lookout, in relation to the Desert Mounted Corps Memorial.



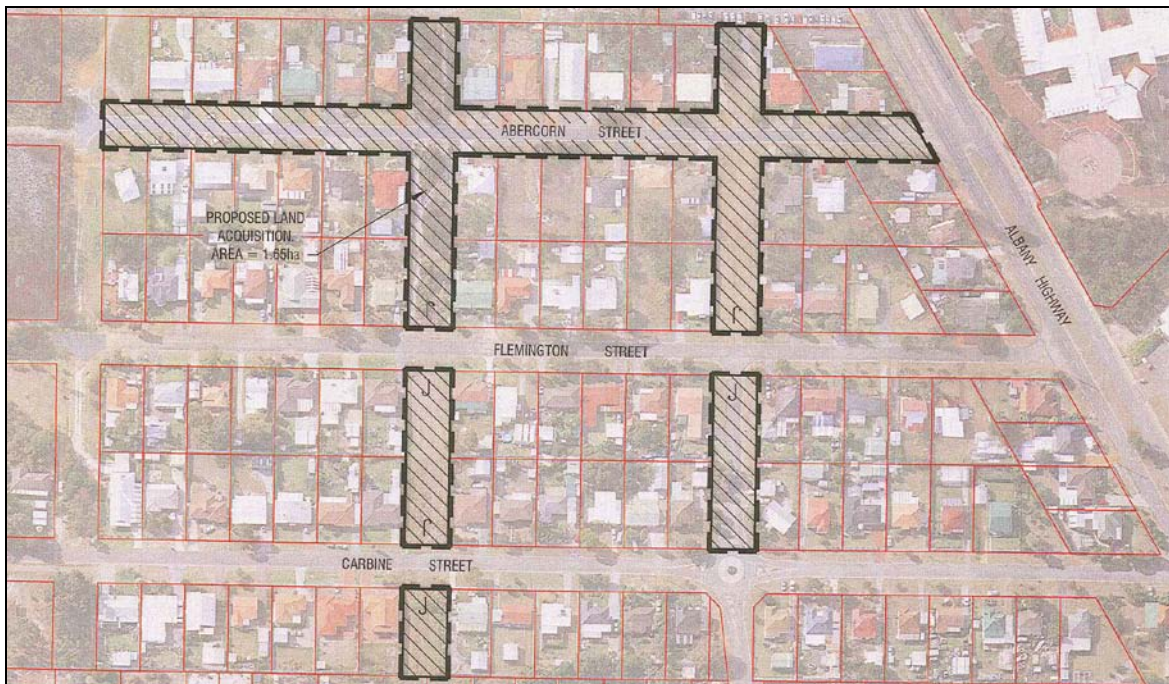
WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.4
ITEM TITLE: DEDICATION OF PRIVATELY OWNED LAND KNOWN AS LOT 150 ABERCORN STREET, ORANA AS PUBLIC ROAD RESERVE

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

- | | |
|-----------------------------------|--|
| File Number (Name of Ward) | : SER086 (Vancouver Ward) |
| Summary of Key Points | : Council's approval to request the Minister for Lands to dedicate the privately owned land know as Lot 150 on Plan 243 Abercorn Street, as a road reserve |
| Land Description | : Lot 150 on Plan 243 Abercorn Street |
| Proponent | : Harley Global |
| Owner | : Austbrokers Holdings Ltd (previously known as Inter-colonial Land and Investment Company Ltd) |
| Reporting Officer(s) | : City Projects Finance Officer – J Ferry |
| Previous Reference | : Nil |
| Bulletin Attachment(s) | : Nil |
| Consulted References | : Nil |
| Maps and Diagrams | : Refer below |



WORKS & SERVICES REPORTS

Item 15.2.4 Continued.

BACKGROUND

1. Council's approval is being sought for the City of Albany to request the Minister of Lands to dedicate the privately owned land, Lot 150 on plan 243 Abercorn Street, as a road reserve.

DISCUSSION

2. Harley Global services were obtained by the City of Albany for the Katoomba Street Development – Drainage, they identified privately owned land which should technically be a public road reserve, due to the land containing already constructed roads.
3. Harley Global requested that the City of Albany commence the process to dedicate the private land as public road reserve.

PUBLIC CONSULTATION / ENGAGEMENT

4. Austbrokers Holding Ltd have been engaged and made aware of the works and the requirements for the dedication.
5. Surrounding landowners will be contacted and given the opportunity to comment of the proposal.

GOVERNMENT CONSULTATION

6. Government agencies and service authorities will be contacted and requested to comment on the proposal.

STATUTORY IMPLICATIONS

7. Under the Land Administration Act 1997, section 56, Dedication of Roads –
“(1). If in the district of a local authority –
 - (a) land is reserved or acquired for use by the public, or is used by the public, as a road under care, control and management of the local government;*
 - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*
 - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or*
 - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;*
or

WORKS & SERVICES REPORTS

Item 15.2.4 Continued.

- (c) *land comprises a private road of which the public has had uninterrupted use for a period not less than 10 years, and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.”*

FINANCIAL IMPLICATIONS

8. Upon dedication of the public road, the ongoing maintenance of the road will be the responsibility of Council.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

9. 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

10. Not Applicable.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Council can decline the proposal. This action would result in the land remaining a privately owned road and any future works to this particular lot would be the responsibility of the landowner.

SUMMARY CONCLUSION

12. Should the Council agree, the land will be dedicated a public road which will allow any present and futures works to be managed by the City of Albany.

ITEM 15.2.4 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA

SECONDED: COUNCILLOR PAVER

THAT Council;

1. **Approves the dedication of land, being Lot 150 on plan 243 Abercorn Street, as road in accordance with section 56 of the Land Administration Act;**

AND

2. **Should there be no objections; staff are to proceed with the administrative requirements.**

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.2.5
ITEM TITLE: CONTRACT C09023-TENDER FOR CONSTRUCTION OF EMU POINT ABLUTION BLOCK

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

Executive Function: Council setting strategic direction and overseeing the operational functions of the City. For example the adoption of budgets, acceptance of tenders, setting of policies, disposition of property, administering local laws and the granting of delegations to the Chief Executive Officer.

File Number or Name of Ward	: STR278 (<i>Breaksea Ward</i>)
Summary of Key Points	: Tender for Construction of New Emu Point Ablution Block.
Land Description	: Crown Land vested with the City of Albany Reserve number 22698
Proponent	: City of Albany
Owner	: City of Albany
Reporting Officer(s)	: Project Co-ordinator (R Taylor), Executive Director Works and Services (K Ketterer)
Disclosure of Interest	: Nil
Previous Reference	:
Bulletin Attachment(s)	: Pre tender cost estimate EF1012044 STR278

BACKGROUND

1. The proposed construction of the new Emu Point Ablution Block was accepted into the Council budget 2009/10 under EDWS Sundry Capital. The new Emu Point Ablution Block will considerably upgrade and enhance the Emu Point recreation area and deliver a facility that is modern, connected to mains sewer, up to date with relevant standards and will provide a high standard of construction and quality finish.
2. The project was proposed and has come about due to the present ablution block's leach bed system failure on occasion which does not cope with use during large events such as fishing competitions. This has led to reactive maintenance due to health and safety issues. The existing ablution block is constructed of outdated and hazardous materials, namely asbestos roof sheets. The existing building does not comply with disabled/universal access requirements.
3. Community consultation was carried out regarding the construction of the new ablution block for a period from 12 November to 27 November 2009. Two negative comments were received via telephone calls preferring the existing location and retaining the existing grassed area in the park. There is insufficient space to construct a new ablution block adjacent to the existing toilet and costs would increase significantly to allow for demolition and a new switchboard. The new building area is approximately 88m² in total. This represents 2% of park space from the concrete water tank opposite Hunter Street to Swarbrick Street. The buildings location screens it from view for residences on Roe Parade.

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

4. The majority of respondents including the Friends of Emu Point were receptive of the proposal.
5. Allowance for the demolition of the existing toilet and construction of a new car park extension should be made in future budgets.
6. This tender for construction contractor's services for the new Emu Point Ablution Block is for the delivery of construction of the ablution block. A superintendent has been appointed to act on the City's behalf during the construction phase of the project and will administer the contractual requirements.
7. The project consists of two elements:
 - 1) Construction of ablution block
 - 2) New sewer headworks construction
8. The project has been retendered due to only one tender received, which was non conforming. This non conforming tender was brought before the 16 /02/10 OCM (Item 15.2.4).

DISCUSSION

9. A total of 8 (eight) sets of documents were downloaded from the City of Albany tender website. Only 1 (one) completed tender document was submitted to the Procurement and Contracts office on/before the stipulation closing date and time. This tender was subsequently opened, and the name of the tenderer was recorded in the tender register and logged into the Records Management System.
10. Evaluation of Tenders. The tender was evaluated in 7 (seven) key areas:
 - Cost
 - Technical compliance
 - Reliability
 - Experience
 - Safety management
 - Quality
 - Other considerations

The tender submitted by Robinson Buildtech addressed all areas satisfactorily with no deficiencies, met criteria and was deemed to be a conforming tender. Please refer to the Cost Score Table below.

REFER DISCLAIMER

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

ATTACHMENT 4
Contract Name - C88023 Erro
Pond Abolition Work

Grading Scale:

- 10 = Outstanding offer, greatly exceeds criterion
- 9 = Very good offer, exceeds criterion
- 8 = Good offer, no deficiencies, meets criterion
- 7 = Fair offer, few deficiencies, almost meets criterion
- 6 = Marginal offer, some deficiencies, partly meets criterion
- 5 = Unacceptable offer, many deficiencies, does not meet criterion

Inset Score out of 10 in Blue	Robinson Buildtech		Supplier B		Supplier C		Supplier D		Supplier E			
	Weighting	Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted	
Insert criteria and enter weightings in cell		(Out of 10)		(Out of 10)		(Out of 10)		(Out of 10)		(Out of 10)		(Out of 10)
Cost	40%	6	24									
Technical Compliance and Experience	15%	6	9									
Reliability	15%	7	10.5									
Experience	10%	7	7									
Safety Management	5%	6	3									
Quality	5%	6	3									
Other Considerations	10%	6	6									
TOTAL	100%		58.5									

Name: *Kim Storch* Signature: *[Signature]* Position: *Project Coordinator* Date: *20/3/10*
 Name: *John Pearson* Signature: *[Signature]* Position: *Gen Manager* Date: *23/3/10*

FINANCIAL IMPLICATIONS

- The tender was checked for arithmetical errors, and corrections were made appropriately. A summary of the tenderers financial offer as submitted and corrected, is included in the table below.

Tenderer	Tender amount (ex GST)	Corrected Tender amount (ex GST)
Robinson Buildtech	\$269,237.01	\$269,237.01
TOTAL		\$269,237.01

- Value for money was assessed by the commissioning of a cost estimate of the contract documentation by a quantity surveyor. The cost estimate was carried out by Chris O’Keefe Construction Cost Consultant. (please refer to Bulletin)
- The project cost estimate summary amount is \$346,500 including GST
 Robinson Buildtech tender submission amount is \$296,160.71 including GST

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

EMU POINT TOILET	
Spent to date	\$18,296.77
Outstanding orders	\$39,208.00
Minus Superintendent cost	\$7920.00
EOFY spend	\$49,584.77
Toilet Construction (inc GST)	\$296,160.77
Superintendent (inc GST)	\$7920.00
Switchboard estimate	\$35,000.00
PROJECT BUDGET TOTAL	\$339,080.77
Project Contingency	\$36,919.30
TOTAL PROJECT COST	\$376,000.00
09/10 BUDGET PROVISION	\$250,000.00
PROJECT SHORT FALL	\$126,000.00

NB: a contingency amount has been allowed for by the quantity surveyor for construction only. A greater contingency amount has been allocated as this is for the complete project which includes toilet and switchboard construction elements.

14. In the 09/10 budget an allocation of \$250,000 has been made, of this approximately \$49,000 will be expended by the end of financial year with the remained being carried over into 10/11.it is therefore intended to include a figure of \$126,000 in 10/11 budget for council consideration.
15. Subject to the 10/11 project request being granted the project can be completed. Without budget allocation the project cannot be completed.
16. A request was made to Robinson Buildtech to fix the price of the project at the original tender price. Robinson Buildtech notified the City that sub contractors may bring about price increase due to increase in the price of materials.

WORKS & SERVICES REPORTS

Item 15.2.5 continued.

STRATEGIC IMPLICATIONS AND ALIGNMENT TO CORPORATE PLAN

“Lifestyle & Environment”:

1.5 Development...

Embraces environmentally responsible approaches to energy and water consumption.

POLICY IMPLICATIONS

17. Nil.

ALTERNATE OPTIONS AND LEGAL IMPLICATIONS

18. Council can elect to approve the recommended tender, not approve any tender, or appoint any submitted tender. Any variation from the recommended tender would need to be motivated as a variation of the current Procurement Policy and tender assessment guidelines.

SUMMARY CONCLUSION

19. A project cost estimate has been completed to establish value for money.

20. A new budget allocation recommendation for the completion of the project has been completed.

ITEM NUMBER: 15.2.5 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR J BOSTOCK

1. **THAT Council award the tender for construction of Emu Point Ablution Block to Robinson Buildtech for \$296,160.71 including GST subject to adoption in 10/11 budget, which would include an allocation of \$126,000 to complete the project.**
2. **THAT a contingency provision of \$36,919.30 be approved for this project.**

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS**15.3 RESERVES, PLANNING & MANAGEMENT**

ITEM NUMBER: 15.3.1
ITEM TITLE: **ADOPTION OF THE DRAFT ASSET MANAGEMENT PLAN – RESERVES (NATURAL)**

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

File Number or Name of Ward	: All wards
Summary of Key Points	: Adoption of Draft Asset Management Plan – Reserves (Natural)
Land Description	: City of Albany Municipality
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager City Assets (P Brown)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Bulletin Attachment(s)	: Draft Asset Management Plan – Reserves (Natural) Councillors Lounge
Consulted References	: Nil
Maps and Diagrams	: Nil

BACKGROUND

1. At the February 2008 Ordinary Council meeting, an item was adopted by Council to support the introduction of the WA Asset Management Improvement Program (WAAMI) for the City's asset management infrastructure.
2. The Western Australian Improvement Programme (WAAMI) represents a Western Australian initiative to improve asset management activities at a local government level and is being supported by the Western Australian Local Government Association (WALGA), Department of Local Government and Regional Development (DLGRD), Local Government Manager's Association (LGMA) and the Institute of Public Works Engineers Australia (IPWEA).
3. Council resolved on 19th February 2008 to participate in the Western Australian Asset Management Improvement Program (WAAMI). The Asset Management Plan – Reserves (Natural) is the fourth in a series of new asset management plans being developed using the tools developed by the two (2) year programme.

DISCUSSION

4. This new Asset Management Plan – Reserves (Natural) takes into account the changes in population, demographics and the City development. It also provides an overall picture of the City's liabilities in relation to new reserve requirements, renewal and maintenance activities over a fifteen (15) year period.

PUBLIC CONSULTATION / ENGAGEMENT

5. It is proposed that the draft document be adopted and advertised for a period of 21 days to seek community feedback. The document will also be sent to key stakeholders listed in this plan.

WORKS & SERVICES REPORTS

Item 15.3.1 continued

6. Comments received will be collated and the item returned to Council for final adoption.

GOVERNMENT CONSULTATION

7. The government agency stakeholders have been identified in the plan and a copy of the draft document will be circulated for comment. Major stakeholders include the Department of Sport and Recreation, Department of Planning and Infrastructure, Department of Education and Main Roads Western Australia.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

9. The cost of the initiatives highlighted in the Asset Management Plan – Reserves (Natural) will be presented annually for budget deliberations.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

10. The Asset Management Plan – Reserves (Natural) aligns with Albany Insight – Beyond 2020. The City plans to operate and maintain its reserve network to achieve the following strategic objective:

“Item 4 Governance

4.2 Manage our municipal assets to ensure they are capable of supporting our growing community.”

POLICY IMPLICATIONS

11. This document complies with the Council adopted Asset Management Policy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

SUMMARY CONCLUSION

13. The adoption of the Asset Management Plan – Reserves (Natural) will provide the City with a strategic direction for the management of this asset over a five (5) year period. The plan will be reviewed annually and revisions will include the ultimate 15 year plan.

WORKS & SERVICES REPORTS

Item 15.3.1 continued

ITEM: 15.3.1 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR WOLFE

THAT Council:

1. **ADOPT the Draft Asset Management Plan – Reserves (Natural);**
2. **ADVERTISE for a period of 21 days; and**
3. **INCLUDE funding in the 2010/11 draft budget funds for consideration**

MOTION CARRIED 12-0

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.3.2
ITEM TITLE: ADOPTION OF THE DRAFT ASSET MANAGEMENT PLAN – RESERVES (DEVELOPED)

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number or Name of Ward	: All wards
Summary of Key Points	: Adoption of Draft Asset Management Plan – Reserves (Developed)
Land Description	: City of Albany Municipality
Proponent	: N/A
Owner	: N/A
Reporting Officer(s)	: Manager City Assets (P Brown)
Disclosure of Interest	: Nil
Previous Reference	: N/A
Bulletin Attachment(s)	: Draft Asset Management Plan – Reserves (Developed) – Councillors Lounge
Consulted References	: Nil
Maps and Diagrams	: Nil

BACKGROUND

1. At the February 2008 Ordinary Council meeting, an item was adopted by Council to support the introduction of the WA Asset Management Improvement Program (WAAMI) for the City’s asset management infrastructure.
2. The Western Australian Improvement Programme (WAAMI) represents a Western Australian initiative to improve asset management activities at a local government level and is being supported by the Western Australian Local Government Association (WALGA), Department of Local Government and Regional Development (DLGRD), Local Government Manager’s Association (LGMA) and the Institute of Public Works Engineers Australia (IPWEA).
3. Council resolved on 19th February 2008 to participate in the Western Australian Asset Management Improvement Program (WAAMI). The Asset Management Plan – Reserves (Developed) is the third in a series of new asset management plans being developed using the tools developed by the two (2) year programme.

DISCUSSION

4. This new Asset Management Plan – Reserves (Developed) takes into account the changes in population, demographics and the City development. It also provides an overall picture of the City’s liabilities in relation to new reserve requirements, renewal and maintenance activities over a fifteen (15) year period.

PUBLIC CONSULTATION / ENGAGEMENT

5. It is proposed that the draft document be adopted and advertised for a period of 21 days to seek community feedback. The document will also be sent to key stakeholders listed in this plan.

WORKS & SERVICES REPORTS

Item 15.3.2 continued

6. Comments received will be collated and the item returned to Council for final adoption.

GOVERNMENT CONSULTATION

7. The government agency stakeholders have been identified in the plan and a copy of the draft document will be circulated for comment. Major stakeholders include the Department of Sport and Recreation, Department of Planning and Infrastructure, Department of Education and Main Roads Western Australia.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

9. The cost of the initiatives highlighted in the Asset Management Plan – Reserves (Developed) will be presented annually for budget deliberations.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

10. The Asset Management Plan – Reserves (Developed) aligns with Albany Insight – Beyond 2020. The City plans to operate and maintain its reserve network to achieve the following strategic objective:

“Item 4 Governance

4.2 Manage our municipal assets to ensure they are capable of supporting our growing community.”

POLICY IMPLICATIONS

11. This document complies with the Council adopted Asset Management Policy.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

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

SUMMARY CONCLUSION

13. The adoption of the Asset Management Plan – Reserves (Developed) will provide the City with a strategic direction for the management of this asset over a five (5) year period. The plan will be reviewed annually and revisions will include the ultimate 15 year plan.

WORKS & SERVICES REPORTS

Item 15.3.2 continued

**ITEM: 15.3.2 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

THAT Council:

- 1. ADOPT the Draft Asset Management Plan – Reserves (Developed),**
- 2. ADVERTISE for a period of 21 days, and**
- 3. INCLUDE funding in the 2010/11 draft budget funds for consideration**

MOTION CARRIED 12-0

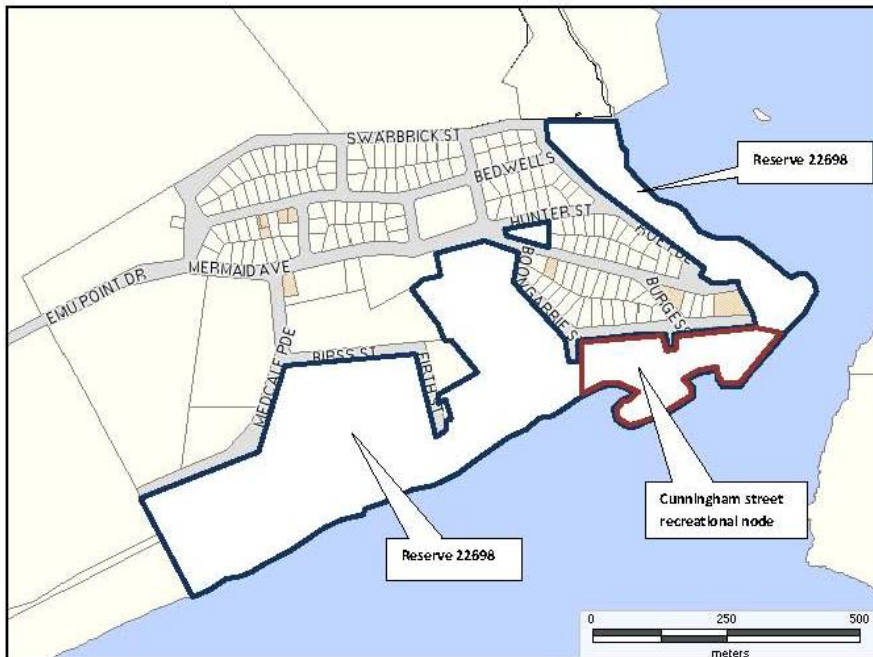
WORKS & SERVICES REPORTS

ITEM NUMBER: 15.3.3
ITEM TITLE: NAMING OF CUNNINGHAM STREET RESERVE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : A152221 (Breaksea Ward)
- Summary of Key Points** : Allocate a local name to Cunningham Street reserve and release it for public comment
- Land Description** : R22698, Cunningham Street, Emu Point
- Proponent** : Friends of Emu Point Inc.
- Owner** : Crown Reserve (R22698) (Vested with the City of Albany)
- Reporting Officer(s)** : Reserves (Bush and Coastal) Officer (A. Tucker)
- Disclosure of Interest** : Nil
- Maps and Diagrams** : See below



BACKGROUND

1. Due to recent demolition of some old DPI houses along Cunningham Street, Emu Point, a public recreation park has been created along the foreshore.
2. Council has cleaned up the area and removed weeds and untidy vegetation as well as installing some BBQ’s and seating in the area.
3. The ‘Friends of Emu Point’ has requested the newly created park to be named in honour of ‘Elizabeth Johnson’, was born in 1854 and was the first woman to settle at Emu Point in approximately 1888 with her husband George. Ten years later (1908) her and her family built the first house on the western side of the channel, which was extended to become of boarding house for holiday makers and housed the first tea rooms. She later died in 1928.

WORKS & SERVICES REPORTS

Item 15.3.3 continued

DISCUSSION

4. The areas that the old DPI houses were situated on have been amalgamated into the larger surrounding C class reserve (R22698) for recreation and associated businesses.
5. R22698 is actually a much larger reserve than just the Cunningham Street Park. It in fact runs from Swarbrick street around the Point to past Firth Street and incorporates the two caravan parks and also another smaller isolated park at the intersection of Mermaid Ave and Hunter Street (see map).
6. The reserve does not currently have an official name, under the Geographic Naming Committee, although many of the recreational nodes do have unofficial names recognised by locals.
7. There are two options for naming the park. Council can request to either officially name the reserve through the Geographic Naming Committee or allocate it an unofficial local name without registering it with Landgate.
8. If the reserve is given an official name through Landgate the whole reserve would be assigned the name. Due to the size and many nodes within the reserve this option would be impractical. To allow for just the Cunningham Street recreational node to be officially named, Council would need to request an excision of the area from the larger reserve and have it be given its own reserve number. This is a costly and timely process and in this case is not practical nor would be beneficial from an operational point of view.
9. If Council were to propose unofficially naming the reserve, there would be no need to excise the land from the existing reserve. After seeking public submissions on the proposal, Council could adopt the name as a local name and install a park sign to that affect.
10. It is considered that the best for Council would be to leave the whole of R22698 as one and adopt a local, unofficial name of 'Elizabeth Johnson Park' for the Cunningham Street recreational node.

PUBLIC CONSULTATION / ENGAGEMENT

11. The proposal, once received by Council, will need to be published for wider public comment for a period of 21 days.

FINANCIAL IMPLICATIONS

12. \$5,000 has been included for consideration in the 2010/2011 budget for the preparation and installation of one name sign and four informative boards telling the stories of Mrs Johnson and other pioneers of the area.

SUMMARY CONCLUSION

13. It is recommended that the proposal for unofficially naming the existing Cunningham Street recreational node as the 'Elizabeth Johnson Park' be received by the committee and then advertised for public comment.

WORKS & SERVICES REPORTS

Item 15.3.3 continued

[9:46:10 PM](#) Councillor Wolfe wished to move the motion with an amendment as follows:
“That the proposal for unofficially naming the Cunningham Street recreational node as the ‘Elizabeth Johnson Park’ be accepted and released for public comment for a period of 21 days and if there are no objections, adopt the proposal as tabled AND to approve the name with the Geographic Naming Committee.”

ITEM: 15.3.3 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the proposal for unofficially naming the Cunningham Street recreational node as the ‘Elizabeth Johnson Park’ be accepted and released for public comment for a period of 21 days and if there are no objections, adopt the proposal, as tabled.

ITEM 15.3.3-AMENDED MOTION BY COUNCILLOR WOLFE

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR J BOSTOCK

THAT the proposal for unofficially naming the Cunningham Street recreational node as the ‘Elizabeth Johnson Park’ be accepted and released for public comment for a period of 21 days, and if there are no objections, adopt the proposal as tabled:

And

To approve the name with the Geographic Naming Committee.

MOTION CARRIED 12-0

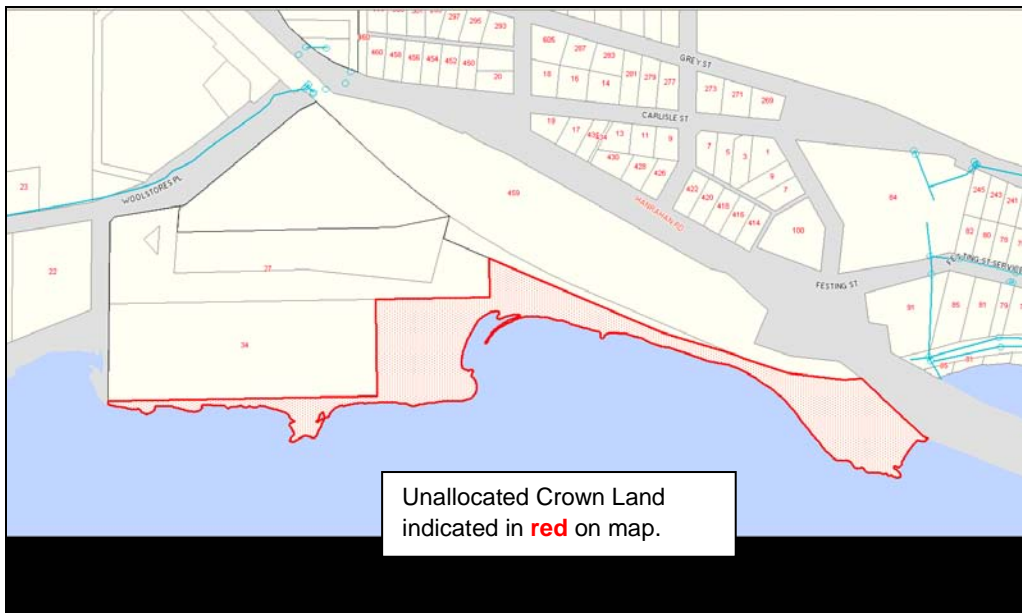
WORKS & SERVICES REPORTS

ITEM NUMBER: 15.3.4
ITEM TITLE: DEDICATION OF UNALLOCATED CROWN LAND AS A RESERVE
– PORTION OF PRINCESS ROYAL DRIVE, FORESHORE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

File Number or Name of Ward	: <i>PRO132 (Frederickstown)</i>
Summary of Key Points	: Dedicate unallocated crown land as a Reserve
Land Description	: Unallocated Crown Land – Princess Royal Drive Foreshore
Proponent	: City of Albany
Owner	: Crown
Reporting Officer(s)	: Manager City Projects (S Pepper)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Bulletin Attachment(s)	: Nil
Maps and Diagrams	: Refer below



WORKS & SERVICES REPORTS

Item 15.3.4 continued.

BACKGROUND

1. Staff identified a route for a dual use pathway which would connect the foreshore area with the existing Frenchman Bay extension. The owners of the Albany Woolstores – Mainbeam Pty Ltd were contacted to seek their approval for a 7 metre easement along the northern boundary of their property, which could not only facilitate this extension, but also allow Grange Resources an access route for their underground slurry pipeline to the Albany Port.
2. Discussions between the parties highlighted an opportunity to have the underground infrastructure, namely a slurry pipe, being incorporated in the pathway area, hence ensuring minimal disruption to both projects and any affected landowners.

DISCUSSION

3. Negotiations between all parties, promoted the idea of a joint right of carriageway easement that would benefit Council for its path, Grange resources for the slurry pipeline, and provide Mainbeam with an acknowledgement that the easement agreement would be considered part of the private open space contribution for any proposed development of the land.
4. Various concerns have been raised by Mainbeam throughout the ongoing discussions with either Council and/or Grange resources, which have included possible restrictions in any potential future development. As Mainbeam have not provided staff with any development proposals, only advising they were concerned about possible restrictions on development, other options have been explored to facilitate the pathway/pipeline options.
5. Grange Resources have sought access along Frenchman Bay Road, but Main Roads have declined the proposal as it may impact on their proposed highway extension intersection works. Access was sought along the Woolstores Road reserve, but agreement could not be reached with Mainbeam as to any other access route required across their land.
6. A final option has been identified, that would not include any requirement to access Mainbeam property, but would allow the path /pipeline projects to be developed. Along the foreshore, there is a road reserve to the south west of the Albany Woolstores, and a strip of vacant crown land along the southern boundary of the Albany Woolstores land.
7. It is recommended Council seek the Minister for Lands' approval to have the vacant crown land along the foreshore south of the Albany Woolstores, created as a reserve, with a management order in the City of Albany's name, with a purpose of "Foreshore and Utilities". This purpose would allow for the connection of the pathway and Grange resources pipeline access from Frenchman Bay area to the Albany Foreshore.

PUBLIC CONSULTATION / ENGAGEMENT

8. Staff have been in protracted negotiations with the owners of the Albany Woolstores, in an effort to secure a joint easement across the rear of 34 Woolstores Road (next to the railway line), to facilitate an access path from Frenchman Bay area to the Albany Foreshore, and to assist Grange resources Pty Ltd in providing a route for their slurry pipeline to the Albany Port.

WORKS & SERVICES REPORTS

Item 15.3.4 Continued

9. Unfortunately the negotiations which commenced in August 2007 and involved representatives from Grange Resources Pty Ltd, Council and Mainbeam Pty Ltd (Albany Woolstores owners) have repeatedly stalled.

GOVERNMENT CONSULTATION

10. Originally, there was no requirement for referral to government agencies, as the matter related to arrangements on private property. As the current proposal involves vacant crown land, the Department of Lands will be consulted, in accordance with the provisions of the Land Administration Act.

STATUTORY IMPLICATIONS

11. Section 41 of the Land Administration Act allows the Minister to reserve Crown Land for one or more purposes in the public interest, while section 46 allows the Minister to place the care, control and management of a reserve for that same purpose which is deemed beneficial or ancillary to that public purpose.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

12. 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

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

14. Council has the following options in relation to the proposal:
 - a. Support the request to seek Ministerial approval to have the vacant crown land to the south of the Albany Woolstores amended to create a reserve, management order in the City of Albany’s name, with a purpose of “Foreshore and Utilities”; or
 - b. Decline the request and ask staff to continue to explore other options.

SUMMARY CONCLUSION

15. To resolve the impasse, Council resolves to seek Ministerial approval to have the vacant crown land south of the Albany Woolstores created as a reserve, with a management order in the City of Albany’s name, and a purpose of “Foreshore and Utilities”, in accordance with sections 41 and 46 of the Land Administration Act.

WORKS & SERVICES REPORTS

Item 15.3.4 Continued

ITEM 15.3.4 - OFFICER RECOMMENDATION

VOTING REQUIREMENTS: SIMPLE MAJORITY

THAT Council resolves to SEEK Ministerial approval to have the vacant crown land south of the Albany Woolstores created as a Reserve, with a management order in the City of Albany's name, and a purpose of "Foreshore and Utilities", in accordance with sections 41 and 46 of the Land Administration Act.

[9:47:21 PM](#) Councillor Wolfe moved that this item lay on the table.

ITEM 15.3.4 – AMENDED MOTION BY COUNCILLOR WOLFE

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR LEAVESLEY

THAT this item lay on the table.

MOTION CARRIED 12-0

Councillors Reason:

Councillor Wolfe did not give a reason for his Amended Motion.

WORKS & SERVICES REPORTS

15.4 WORKS & SERVICES COMMITTEES

ITEM NUMBER: 15.4.1
ITEM TITLE: BUSHCARERS ADVISORY COMMITTEE

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Reserves (Bush & Coastal) Officer (S Maciejewski)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the Bushcarers Advisory Committee meeting held on 25th November 2009 and 24th February 2010.
Councillors Lounge : Nil

ITEM 15.4.1 – MOTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR SUTTON

THAT committee recommendations 1, 2 and 3 be carried EN BLOC.

MOTION CARRIED 12-0
ABSOLUTE MAJORITY

COMMITTEE RECOMMENDATION 1

THAT the minutes of the Bushcarers Advisory Committee meeting held on Wednesday 2nd September 2009 as detailed in the Bulletin, be RECEIVED

COMMITTEE RECOMMENDATION 2

THAT all new and renewed lease agreements over City of Albany managed land contain a clause requiring the control of invasive species by the lease holder or allowing the City of Albany to access the land to control invasive species.

COMMITTEE RECOMMENDATION 3

THAT the Committee request that Works and Services consider budgeting for a dedicated team to work on the control of Declared Species.

WORKS & SERVICES REPORTS

ITEM NUMBER: 15.4.2
ITEM TITLE: BUSHCARERS ADVISORY COMMITTEE

File Number or Name of Ward : MAN 235 (All Wards)
Summary of Key Points : Committee Items for Council Consideration.
Reporting Officer(s) : Reserves (Bush & Coastal) Officer (S Maciejewski)
Disclosure of Interest : Nil
Bulletin Attachment(s) : Minutes of the Bushcarers Advisory Committee meeting held on 24th February 2010.
Councillors Lounge : Nil

COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR MATLA

THAT the UNCONFIRMED minutes of the meeting of the 25th November 2009 be RECEIVED (copy of the minutes are in the Elected Members Report/Information Bulletin).

CARRIED 11-1

Record of Vote

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

Against the Vote: Councillor D Bostock

[9:50:39 PM](#) Councillor Leavesley requested a Point of Clarification. Do we have any idea of the cost of eradication.

[9:51:00 PM](#) Through the Mayor, Mr Ketterer replied that the motion did not commit the City to anything, that it was a recommendation that all agencies focus on the control of this weed, and when monies do become available, they would be applied to this program as a first choice. Mr Ketterer said that there was no direct cost implication with this motion.

WORKS & SERVICES REPORTS

Item 15.4.2 continued.

[9:53:04 PM](#) Councillor Sutton requested a Point of Clarification. Councillor Sutton wanted to know if Sydney Golden Wattle was a declared noxious weed.

[9:53:18 PM](#) Through the Mayor, Mr Ketterer replied that yes, it is a declared weed.

**COMMITTEE RECOMMENDATION 2
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

THAT Council endorse Sydney Golden Wattle as the major environmental weed of the region, and support multiagency efforts to control this weed in the Great Southern Region.

MOTION CARRIED 11-1

Record of Vote

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

Against the Motion: Councillor D Bostock

**COMMITTEE RECOMMENDATION 3
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council investigate an alternate model to the current green waste disposal system used in the City of Albany to address the problem of illegal dumping of weeds and garden waste in bushland areas.

**ITEM 15.4.2 ALTERNATIVE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Bush Carers Committee conduct further research into illegal dumping of green waste, with specific reference to

- 1 Prevalence of and statistical analysis relating to illegal dumping of green waste in Albany
- 2 Current practices of comparable local authorities in WA
- 3 Suggested incentives and disincentives structures as applicable
- 4 Community involvement and education

Item 15.4.2 continued.

ITEM 15.4.2 ALTERNATIVE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA

SECONDED: COUNCILLOR SUTTON

THAT the Bush Carers Committee conduct further research into illegal dumping of green waste, with specific reference to:

- (1) Prevalence of and statistical analysis relating to illegal dumping of green waste in Albany**
- (2) Current practices of comparable local authorities in WA**
- (3) Suggested incentives and disincentives structures as applicable**
- (4) Community involvement and education**

MOTION CARRIED 10-2

Record of Vote

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

Against the Motion: Crs D Bostock and J Bostock

Officers Comment (K Ketterer EDWS)

The above recommendation is extremely difficult to execute, as the time, cost and technical issues would render the process impossible. The disposal of green waste is an extremely complex issue with legislative, financial and environmental consideration, and cannot be summarily “investigated” The illegal dumping of green waste is considered a social issue best addressed through community involvement and education, and through the strengthening of the Australian social conscience.

An alternative and more pragmatic approach would be for the Bush Carers Committee to conduct research on the root causes and statistics relating to illegal dumping together with the considerations around green waste management, for example the current practices of other local authorities, current scales of charges, comparisons to other green waste dealers, incentives for the correct management of green waste, and disincentives relating to illegal dumping, and community involvement and education.

**GENERAL MANAGEMENT
SERVICES
Reports**

16.0 REPORTS GENERAL MANAGEMENT SERVICES

16.1 STRATEGIC DEVELOPMENT

Nil

16.2 ORGANISATION DEVELOPMENT

ITEM NUMBER: 16.2.1

ITEM TITLE: APPOINTMENT OF ADDITIONAL COUNCILLORS TO THE AUDIT, CEO APPRAISAL COMMITTEE, RECEIVE THE DRAFT AUDIT COMMITTEE CHARTER AND REVIEW VACANCIES ON OTHER COMMITTEES.

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

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

File Number (Name of Ward)	: FIN057 (All Wards) – Audit Committee PER040 – Recruitment Process Chief Executive Officer
Summary of Key Points	: Call for nominations and appoint additional members to the CEO Performance Appraisal Committee and additional members to the AUDIT Committee
Land Description	: City of Albany
Owner	: Not applicable.
Reporting Officer(s)	: Executive Manager Business Governance (S Jamieson)
Disclosure of Interest	: Nil
Business Entity Name	: Nil
Previous Reference	: OCM 16/03/2010 Item 19.1
Bulletin Attachment(s)	: Nil
Consulted References	: Local Government Act 1995 Local Government (Audit) Regulations 1996
Councillor Lounge	: Nil

BACKGROUND

1. Council advised the Minister that additional elected members will be appointed to the audit committee and the audit committee will work with the external appointed consultants and the Best Practice Review Team.
2. As the elected group is considering extending the membership of the Audit Committee it is considered appropriate that vacancies on other committees are reviewed, in particular the membership of the Appraisal Committee.

Item 16.2.1 continued.

3. One vacancy exists on the following committees:
 - a. The Albany Central Area Master Plan Steering Committee
 - b. Albany Cultural Development Committee
 - c. Chief Executive Officer Performance Appraisal Committee
 - d. Finance Strategy Committee
 - e. Service Complaint Internal Review Committee
 - f. 2014/15 ANZAC Centenary Commemorations Guide Committee
 - g. South Coast Resource Management Group

DISCUSSION

4. A proposed AUDIT Committee charter for the audit committee follows this report for review by Council.
5. The objective of the Audit Committee (Committee) is to provide independent assurance and assistance to the City of Albany on risk management, control, governance, and external accountability responsibilities.
6. It is believed this charter would complement the best practice review and address concerns raised by the Minister, by:
 - Review whether management has adequate internal controls in place, including over external parties such as contractors and advisors;
 - Review whether management has in place relevant policies and procedures and these are periodically reviewed and updated;
 - Progressively review whether appropriate processes are in place to assess whether policies and procedures are complied with;
 - Review whether appropriate policies and procedures are in place for the management and exercise of delegations; and
 - Review whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.
7. Council needs to determine the number of elected members to be appointed to the committees carrying vacancies and ascertain if the membership of the CEO Performance Appraisal Committee and AUDIT Committee should be extended.

Item 16.2.1 continued.

PUBLIC CONSULTATION / ENGAGEMENT

8. Nil.

GOVERNMENT CONSULTATION

9. Department of Local Government, Operational Guidelines Number 09, Audit Committees in Local Government, Their appointment, function and responsibilities.

10. Department of Local Government NSW, source of sample audit committee charter: <http://www.dlg.nsw.gov.au>

STATUTORY IMPLICATIONS

11. Section 5.10 of the Local Government Act 1995, Appointment of committee members:
(1) A committee is to have as its members —
(a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and

(b) persons who are appointed to be members of the committee under subsection (4) or (5). * *Absolute majority required.*

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

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

POLICY IMPLICATIONS

13. If committee membership is expanded, the terms of reference will have to be amended.

14. If Council chose to adopt an Audit Committee Charter in the future this should be referenced in the Governance and Meeting framework policy and be cross referenced against current Enterprise Risk Management Practices.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. Nil

Item 16.2.1 continued.

RECOMMENDATIONS

[9:58:00 PM](#) Councillor Leavesley and Councillor Hammond nominated for the committee.

ITEM 16.2.1 – MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

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

THAT Councillor Leavesley and Councillor Hammond be appointed to the Audit Committee.

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

ITEM 16.2.1 – DRAFT RECOMMENDATION 1

VOTING REQUIREMENT: ABSOLUTE MAJORITY

AUDIT COMMITTEE

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

THAT Council:

- (1) THAT Council modify the terms of reference to extend the number of elected members on the AUDIT Committee to 5.**
- (2) APPOINT Councillor Leavesley and Councillor Hammond to the AUDIT Committee.**
- (3) RECEIVE the DRAFT Audit Committee Charter.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

Note: Current membership: Mayor Evans, Cr Wellington and Cr Matla.

Item 16.2.1 continued.

ITEM 16.2.1 – DRAFT RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

CEO PERFORMANCE APPRAISAL COMMITTEE

THAT Council:

- (1) THAT Council modify the terms of reference to extend the opportunity for all elected members, to be a member of the CEO Performance Appraisal Committee.
- (2) APPOINT _____ to the Chief Executive Officer Performance Appraisal Committee.

Note: Current membership: Mayor Evans, Crs Wellington, Leavesley, and Matla.

ITEM 16.2.1 - AMENDED OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY
CEO PERFORMANCE APPRAISAL COMMITTEE

- (i) THAT Council modify the terms of reference in order that all elected members are members of the CEO Performance Appraisal Committee

ITEM 16.2.1 - AMENDED OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY

CEO PERFORMANCE APPRAISAL COMMITTEE

MOVED: COUNCILLOR PAVER
SECONDED: MAYOR EVANS

- (i) THAT Council modify the terms of reference in order that all elected members are members of the CEO Performance Appraisal Committee

MOTION CARRIED 12-0
ABSOLUTE MAJORITY

Item 16.2.1 continued.

[10:03:27 PM](#) Councillor Matla said that the Albany Central Area Masterplan Steering Committee was not really meeting anymore.

ITEM 16.2.1 – DRAFT RECOMMENDATION 3
VOTING REQUIREMENT: ABSOLUTE MAJORITY

VACANT COMMITTEE POSITIONS

THAT Council:

APPOINT _____ to the Albany Central Area Master Plan Steering Committee.

APPOINT _____ to the Albany Cultural Development Committee.

APPOINT _____ to the Finance Strategy Committee.

APPOINT _____ to the Service Complaint Internal Review Committee.

APPOINT _____ 2014/15 ANZAC Centenary Commemorations Guide Committee.

APPOINT _____ to the South Coast Resource Management Group.

Note: Current membership:

- Albany Central Area Master Plan Steering Committee. Cr Matla
- Albany Cultural Development Committee. Mayor Evans, Cr Dufty
- Finance Strategy Committee. Mayor Evans, Cr Leavesley – Chair, Vacant - Deputy Chair, Cr Matla, Cr Wellington, and Cr Hammond
- Service Complaint Internal Review Committee. Cr Wolfe, Cr Matla
- 2014/15 ANZAC Centenary Commemorations Guide Committee. Mayor Evans, Cr Wolfe, Cr Dufty
- South Coast Resource Management Group. Cr Sutton.

Item 16.2.1 continued.

The following motions were moved unanimously:

THAT Councillor Holden be appointed to the Albany Cultural Development Committee.

CARRIED 12-0

THAT Councillor D Bostock be appointed to the Finance Strategy Committee.

CARRIED 12-0

THAT Councillor D Bostock be appointed to the Service Complaint Internal Review Committee.

CARRIED 12-0

THAT Councillor D Bostock be appointed to the South Coast Resource Management Group.

CARRIED 12-0

ITEM 16.2.1 – MOTION 3
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR WOLFE
SECONDED: COUNCILLOR SUTTON

THAT Council adopts these appointments to committees.

MOTION CARRIED 12-0
ABSOLUTE MAJORITY

Item 16.2.1 continued.

DRAFT AUDIT COMMITTEE CHARTER

1. Objective

The objective of the Audit Committee (Committee) is to provide independent assurance and assistance to the City of Albany on risk management, control, governance, and external accountability responsibilities.

2. Authority

The Council authorises the Committee, within the scope of its role and responsibilities, to:

- Obtain any information it needs from any employee or external party (subject to their legal obligations to protect information).
- Discuss any matters with the external auditor or other external parties (subject to confidentiality considerations).
- Request the attendance of any employee or councillor at Committee meetings.
- Obtain external legal or other professional advice considered necessary to meet its responsibilities.

3. Composition and Tenure

The Committee will consist of:

3.1 Members (voting)

A local government is to establish an audit committee of at least 3 or more persons to exercise the powers and discharge the duties conferred on it.

It is recommended that no less than 5 members are appointed.

The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members. * Absolute majority required.

A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.

4. An employee is not to be a member of an audit committee

- Mayor
- Councillor
- Independent external member (not a member of the Council)
- Independent external member (an independent to be the chairperson)

Item 16.2.1 continued.

3.2 Attendee (non-voting)

- Chief Executive Officer
- Head of Internal Audit - Executive Manager Business Governance
- Chief Financial Officer – Manager Finance

3.3 Invitees (non-voting) for specific Agenda items

- Representatives of the external auditor.
- Other officers may attend by invitation as requested by the Committee.

The independent external member will be appointed for the term of council, after which they will be eligible for extension or re-appointment following a formal review of their performance.

The members of the Committee, taken collectively, will have a broad range of skills and experience relevant to the operations of the City of Albany. At least one member of the Committee shall have accounting or related financial management experience, with understanding of accounting and auditing standards in a public sector environment.

4. Role and Responsibilities

The Committee has no executive powers, except those expressly provided by the Council.

In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of Council rests with the Council and the Chief Executive Officer as defined by the Local Government Act.

The responsibilities of the Committee may be revised or expanded by the Council from time to time. The Committee's responsibilities are:

4.1 Risk Management

Review whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.

Review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings;

Review the impact of the risk management framework on its control environment and insurance arrangements; and

Review whether a sound and effective approach has been followed in establishing business continuity planning arrangements, including whether plans have been tested periodically.

Item 16.2.1 continued.

4.2 Control Framework

Review whether management has adequate internal controls in place, including over external parties such as contractors and advisors;

Review whether management has in place relevant policies and procedures and these are periodically reviewed and updated;

Progressively review whether appropriate processes are in place to assess whether policies and procedures are complied with;

Review whether appropriate policies and procedures are in place for the management and exercise of delegations; and

Review whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.

4.3 External Accountability

Satisfy itself the annual financial reports comply with applicable Australian Accounting Standards and supported by appropriate management sign-off on the statements and the adequacy of internal controls.

Review the external audit opinion, including whether appropriate action has been taken in response to audit recommendations and adjustments.

To consider contentious financial reporting matters in conjunction with council's management and external auditors.

Review the processes in place designed to ensure financial information included in the annual report is consistent with the signed financial statements.

Satisfy itself there are appropriate mechanisms in place to review and implement, where appropriate, relevant State Government reports and recommendations.

Satisfy itself there is a performance management framework linked to organisational objectives and outcomes.

4.4 Legislative Compliance

Determine whether management has appropriately considered legal and compliance risks as part of risk assessment and management arrangements.

Review the effectiveness of the system for monitoring compliance with relevant laws, regulations and associated government policies.

Item 16.2.1 continued.

4.5 Internal Audit

Act as a forum for communication between the Council, Chief Executive Officer, senior management, internal audit and external audit.

Review the internal audit coverage and Internal Audit Plan, ensure the plan has considered the Risk Management Plan, and approve the plan.

Consider the adequacy of internal audit resources to carry out its responsibilities, including completion of the approved Internal Audit Plan.

Review all audit reports and consider significant issues identified in audit reports and action taken on issues raised, including identification and dissemination of better practices.

Monitor the implementation of internal audit recommendations by management.

Periodically review the Internal Audit Charter to ensure appropriate organisational structures, authority, access and reporting arrangements are in place.

Periodically review the performance of Internal Audit.

4.6 External Audit

Act as a forum for communication between the Council, Chief Executive Officer, senior management, internal audit and external audit.

Provide input and feedback on the financial statement and performance audit coverage proposed by external audit, and provide feedback on the external audit services provided.

Review all external plans and reports in respect of planned or completed external audits, and monitor the implementation of audit recommendations by management.

Consider significant issues raised in relevant external audit reports and better practice guides, and ensure appropriate action is taken.

4.7 Responsibilities of Members

Members of the Committee are expected to:

- Understand the relevant legislative and regulatory requirements appropriate to the City of Albany.
- Contribute the time needed to study and understand the papers provided.
- Apply good analytical skills, objectivity and good judgment.
- Express opinions frankly, ask questions that go to the fundamental core of issues, and pursue independent lines of enquiry.

Item 16.2.1 continued.

4.8 Reporting

At the first Committee meeting after 30 June each year, Internal Audit will provide a performance report of:

- The performance of Internal Audit for the financial year as measured against agreed key performance indicators.
- The approved Internal Audit Plan of work for the previous financial year showing the current status of each audit.

The Committee may, at any time, consider any other matter it deems of sufficient importance to do so. In addition, at any time an individual Committee member may request a meeting with the Chair of the Committee.

6. Administrative arrangements

6.1 Meetings

The Committee will meet at least four times per year, with one of these meetings to include review and endorsement of the annual audited financial reports and external audit opinion.

The need for any additional meetings will be decided by the Chair of the Committee, though other Committee members may make requests to the Chair for additional meetings.

A forward meeting plan, including meeting dates and agenda items, will be agreed by the Committee each year. The forward meeting plan will cover all Committee responsibilities as detailed in this Audit Committee Charter.

6.2 Attendance at Meetings and Quorums

A quorum will consist of a majority of Committee members, including at least one independent member. Meetings can be held in person, by telephone or by video conference.

The Head of Internal Audit will be invited to attend each meeting unless requested not to do so by the Chair of the Committee. The Committee may also request the Chief Finance Officer (Manager Finance) or any other employees to participate for certain agenda items, as well as the external auditor.

Item 16.2.1 continued.

6.3 Secretariat

The Committee has appointed the Head of Internal Audit to provide secretariat support to the Committee. The Secretariat will ensure the agenda for each meeting and supporting papers are circulated, at least one week before the meeting, and ensure minutes of the meetings are prepared and maintained. Minutes shall be approved by the Chair and circulated to each member within three weeks of the meeting being held.

6.4 Conflicts of Interest

Committee members must declare any conflicts of interest at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.

Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

6.5 Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

6.6 Assessment Arrangements

The Chair of the Committee will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Chair), with appropriate input from management and any other relevant stakeholders, as determined by the Chair.

6.7 Review of Audit Committee Charter

At least once every two years the Audit Committee will review this Audit Committee Charter.

Item 16.2.1 continued.

COMMITTEE TERMS OF REFERENCE

Albany Central Area Master Plan Steering Committee:

- a. Reinforce the Albany CBD as the commercial and cultural hub of the Great Southern Region;
- b. Improve the attractiveness of the Albany CBD through streetscape improvements;
- c. Create a pedestrian friendly environment throughout the CBD;
- d. Promote the redevelopment and/or adaptation of buildings within the CBD through planning incentives/bonuses;
- e. Provide for efficient traffic flows in and around the CBD;
- f. Improve the legibility and efficiency of access ways and parking areas on private land;
- g. Promote an increase in residential and tourism accommodation within the CBD;
- h. Identify cultural and civic land use development options within the CBD;
- i. Ensure there is sufficient and well located parking facilities within or on the periphery of the CBD into the future to cater for residents and visitors demands; and
- j. Provide a planning framework based upon contemporary community standards which acknowledging anticipated changes in transport patterns.

Albany Cultural Development Committee

To focus on the broader strategic direction of arts and culture in Albany including the outcomes of the cultural planning process, the development of new facilities, securing professional leadership for the arts in Albany.

Audit Committee

- To review annual results of the external auditor prior to Council adoption of annual accounts.
- The Act and Regulations prescribe the scope of the external audit of the annual financial statements of a local government.
- Nature of committee: (Statutory). Established under s7.1A of the Local Government Act 1995.

Item 16.2.1 continued.

DIVISION 1A – AUDIT COMMITTEE

1. A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
2. The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members. * Absolute majority required.
3. A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.
4. An employee is not to be a member of an audit committee

Appointment of auditors

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

LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996

Reg 16. Functions of audit committee

An audit committee —

(a) is to provide guidance and assistance to the local government —

(i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and

(ii) as to the development of a process to be used to select and appoint a person to be an auditor;

And

(b) may provide guidance and assistance to the local government as to —

(i) matters to be audited;

(ii) the scope of audits;

(iii) its functions under Part 6 of the Act; and

(iv) the carrying out of its functions relating to other audits and other matters related to financial management.

Item 16.2.1 continued.

Chief Executive Officer Performance Appraisal Committee

To review the performance of the CEO after summarising individual Councillor feedback.

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

Nature of committee: Statutory. In accordance with the LGA, s.5.38 Annual review of certain employees' performances.

Finance Strategy Committee

To oversee the preparation of the 5 Year Business Plan and Long Term Financial Sustainability Plan.

Service Complaint Internal Review Committee

To review unresolved service complaints, in accordance with the City of Albany, Service Complaints Policy.

South Coast Resource Management Group

Vision: To bring together people, organisations and information, so that communities in the South Coast Region are able to work in partnership, to improve the quality of the coastal and marine environment, resulting in environmental, social and economic sustainability.

Preparing a regional strategy between Denmark and Esperance for Coastal issues. Focus on local government and Community groups.

2014/15 ANZAC Centenary Commemorations Guide Committee

To guide the City's ANZAC Centenary commemorations with the terms of reference being to:

To establish a framework to guide Council's role in the 2014/15 ANZAC commemorations

To prepare a draft business plan outlining a program of activities for 2014/15; and

To recommend a process to engage other stakeholders that may have an interest in commemorating the Centenary:

To develop a strategy for the official opening of the Anzac Peace Park event in 2010;

To develop a strategy and funding plan for the gradual upgrading of facilities at Mt Clarence as outlined in the City Mounts Management Plan;

To develop a strategy to ensure annual ANZAC Day events are continuously improved from year to year culminating in a major event in 2014/15; and

To facilitate the continual development of Anzac Day events beyond the proposed major event in 2014/15.

ITEM NUMBER: 16.2.2
ITEM TITLE: BRIEFING SESSIONS – AMENDMENT TO THE GOVERNANCE
AND MEETING FRAMEWORK POLICY

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number (Name of Ward) : MAN238(All Wards)
MAN189(All Wards)
Summary of Key Points : Abolish the Strategy and Policy Committees
Amend Governance and meeting framework policy
to add more rigour to the conduct of briefing
sessions.
Reporting Officer(s) : Executive Manager Business Governance
(S Jamieson)
Disclosure of Interest : Nil
Business Entity Name : Nil
Previous Reference : Enter previous reference
Bulletin Attachment(s) : Nil
Consulted References : Local Government Act 1995, Local Government
Administrative Regulations 1996

BACKGROUND

1. A Governance and meeting framework policy was adopted on the 19 February 2008.
2. The objective of this policy was to provide a functional, transparent and legally compliant meetings framework that serves to:
 - Engage elected members in policy and strategy development from concept through to adoption.
 - Facilitate opportunity for elected members to drive Council’s policy and strategy agenda with the assistance and collaboration of Council officers.
 - Provide elected members with accurate, relevant and topical information upon which to make decisions and undertake their roles.
 - Provide Council officers with a robust, contemporary and effective suite of Council management documents upon which to exercise delegated function or present advice and recommendation to Council for their determination.
 - Capitalise upon the skills, knowledge and enthusiasm of community members who sit on Council advisory committees.
3. Recently a number of concept briefings have been held to exchange information on major issues and complex matters.
4. These concept briefings have proved to be valuable.

Item 16.2.2 continued.

DISCUSSION

5. It is Council's role in consultation with staff to determine the relevance of current policy and review the way we do business.
6. There is a need for Council to meet and discuss matters relating to the operation and affairs of the City outside the formal council meeting framework prescribed by the Local Government Act 1995 which sets out the formal procedures that apply to such meetings.
7. However, Council may determine from time to time to conduct Agenda Briefings, Concept Forums or Workshops to which the provisions of the Local Government Act 1995 do not apply.
8. A number of other local governments have policies in place to address the conduct of briefings.
9. An important aspect of managing a rapidly developing authority such as the City of Albany is establishing and maintaining an identifiable nexus between the Decision making (elected members) and the Administration (Executive) areas of Council.
10. The communication link needs to be clearly understood and highlighted as a vital organisational mechanism upon which a consistent and efficient system of information dissemination and decision making can be based.
11. Concern has been raised in the past that concept briefings can be viewed as problematic and clear rules and procedures need to be applied to address:
 - Accountability;
 - Openness and Transparency;
 - Probity & Integrity;
 - Authority of the Chair; and
 - Meeting Notification.
12. The intent of the formulation of Strategy and Policy committees was:

“A committee of 6 councillors, each representing a different ward and the Mayor, who make recommendations to Council on policies, strategies, business plans, local laws and other corporate and strategic documents relevant to their demarcated responsibilities. “
13. The Strategy and Policy committees have not been functioning as intended as not all Councillors and Wards are represented on these committees and could be replaced by concept forums.

Item 16.2.2 continued.

PUBLIC CONSULTATION / ENGAGEMENT

14. Policies from across the sector have been reviewed.
15. From this review it was determined that the Communication and Dissemination Policy adopted by the City of Cockburn and the City of South Perth Policy that guides the conduct of Agenda Briefings, Concept Forums and Workshops would provide an appropriate guide to amend our current Governance and Meeting Framework Policy.

GOVERNMENT CONSULTATION

16. Advice has been sought by the Department of Local Government, (Guidelines No. 5 – Council Forums)

STATUTORY IMPLICATIONS

17. Provisions of the Local Government Act 1995 do not apply to concept briefing forums.

FINANCIAL IMPLICATIONS

18. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

POLICY IMPLICATIONS

20. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

21. **Option One.** Amend the Governance and Meeting Framework Policy to remove the Strategy and Policy Committees and imbed the proposed briefing session policy.
22. **Option Two.** No change to current processes and policies.

Item 16.2.2 continued.

SUMMARY CONCLUSION

23. Regardless of what option or course of action Council resolves, it is recommended that briefing sessions are conducted in accordance with an agreed framework.

[10:08:32 PM](#) Councillor J Bostock read an address, detailed at Appendix D.

[10:09:04 PM](#) Councillor Leavesley requested a Point of Clarification. Councillor Leavesley said that as a new councillor, he was introduced to the committee system, and it seems that the way the committees were running is contrary to the guidelines. Councillor Leavesley asked why this was not pointed out to him as a new councillor.

[10:09:32 PM](#) Through the Mayor, Mr Madigan replied that terms of reference for the committees refers specifically to the formation of policy and strategy. In the majority of cases, that was what the committees considered. However, there were instances where there were other items which were outside policy and strategy which were being considered by the committees, and were then made as recommendations to council. Committees were not being attended by all councillors, and it was felt that the reintroduction of concept briefings with set guidelines on how they would operate would provide a better information forum.

**ITEM 16.2.2 OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR J BOSTOCK**

THAT Council AMEND the Governance and Meeting Framework Policy by:

- a. **Dissolving the Strategy and Policy Committee System; and**
- b. **Embed the proposed policy that addresses Agenda Briefings, Concept Forums and Workshops as detailed in the report.**

**MOTION CARRIED 12-0
ABSOLUTE MAJORITY**

Item 16.2.2 continued.

AMENDMENT TO GOVERNANCE MEETING FRAMEWORK POLICY

Rationale

There is a need for Council to meet and discuss matters relating to the operation and affairs of the City outside the formal council meeting framework prescribed by the Local Government Act 1995 which sets out the formal procedures that apply to such meetings. Council may from time to time wish to conduct Agenda Briefings, Concept Forums or Workshops to which the provisions of the Local Government Act 1995 do not apply.

This policy sets out the procedure which is intended to apply to the conduct of these informal (i.e. non-statutory) meetings of Council.

POLICY (AGENDA BRIEFINGS, CONCEPT FORUMS, WORKSHOPS)

Procedural Guidelines

The following Procedural Guidelines shall apply to the conduct of Agenda Briefings, Concept Forums and Workshops.

Calling Agenda Briefings, Concept Forums and Workshops

The Mayor or Chief Executive Officer may call an Agenda Briefing, Concept Forum or Workshop.

Presentations

In consultation with the Mayor, the CEO may approve a request for a presentation to an Agenda Briefing, Concept Forum or Workshop on issues considered of special significance to the City.

Agenda

The CEO shall prepare an agenda for each Agenda Briefing, Concept Forum or Workshop.

Notice

The CEO shall give members at least two weeks written notice of an Agenda Briefing, Concept Forum or Workshop unless the CEO in consultation with the Mayor agrees to provide a lesser period of notice in urgent or exceptional circumstances. Notice may be given to members by fax, phone, e-mail or courier.

Presiding Person

The Mayor shall preside at Agenda Briefings, Concept Forums or Workshops. The Mayor may nominate another person to be the presiding person.

Item 16.2.2 continued.

Disclosure of Interests

Those provisions in the Code of Conduct dealing with Conflict of Interests shall apply to Agenda Briefings, Concept Forums and Workshops.

Notes of Meetings

The CEO will cause notes to be kept of each Agenda Briefing, Concept Forum and Workshop. These notes will include the date, attendance and title of the subjects addressed. These notes will be included on the agenda of the next council meeting.

Decisions

As these meetings are outside the statutory framework of the LGA and are not intended to replace ordinary council meetings, Council cannot make decisions at Agenda Briefings, Concept Forums or Workshops.

Voting Intentions

Members must not indicate their voting intentions at an Agenda Briefing, Concept Forum or Workshop.

Agenda Briefings

Agenda Briefings provide an opportunity for members to be briefed on items that are on the agenda of the immediately following ordinary council meeting. They provide information to members on agenda items and provide the opportunity for members to ask questions of relevant staff

Procedure

Members may ask questions of relevant staff concerning items on the agenda. Members must address their questions through the presiding person. Members must not express an opinion or enter into debate on an agenda item.

Public Attendance

Agenda briefings are generally open to the public unless an item is one to which section 5.23 of the LGA may apply.

Concept Forums

Concept Forums provide an opportunity for members to discuss ideas, strategies and concepts for the development of the City or projects that are in the early planning stage and are some time away from being presented to Council for decision. They provide an opportunity for relevant staff or outside consultants to present information to members on the concept or project. They allow members to ask questions of relevant staff or consultants and enable members to discuss aspects of the concept or project.

Item 16.2.2 continued.

Procedure

Members may ask questions of relevant staff or consultants and must address their questions and all discussion through the presiding person.

Members must limit their discussion about issues arising in the Concept Forum to brief statements on relevant matters. Members must not enter into debate.

Public Attendance

Concept Forums are generally closed to the public.

Workshops

Workshops provide an opportunity for members to have input into the development of a concept. They allow members to explore different options with relevant staff and to participate more fully in the development of a concept.

Procedure

Members may ask questions of relevant staff and may address their questions through the presiding person or directly to the person concerned.

Members must not debate their voting intentions at a Workshop.

Public Attendance

Workshops are generally closed to the public.

Other Relevant Policies

Standing Orders Local Law 2009

Code of Conduct

16.3 CORPORATE DEVELOPMENT

Nil

16.4 CORPORATE GOVERNANCE

ITEM NUMBER: 16.4.1
ITEM TITLE: AMENDMENT TO PURCHASING POLICY FOR TENDERS AND QUOTATIONS

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER

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

File Number or Name of Ward : MAN 186(All Wards)
Summary of Key Points : Adopt amendment to Purchasing Policy for Tenders and Quotations
Land Description : N/A
Proponent : City of Albany
Owner : City of Albany
Reporting Officer(s) : Procurement Officer (J Ferry)
Disclosure of Interest : Nil
Previous Reference : OCM 20/05/08 Item 12.2.1
OCM 15/04/08 Item 13.8.1
OCM 19/01/10 Item 16.5.1
Bulletin Attachment(s) : Quotation Process
Consulted References : Local Government (Functions and General) Regulations 1996
Local Government Act 1995

BACKGROUND

1. At the OCM 19 January 2010 council adopted an amended Purchasing Policy.

DISCUSSION

2. To ensure better transparency it is recommended that the Minor Quotation requirements are amended as follows:

From:

Category/Requirements	Value (Ex GST)	Minimum Protocol
Minor Purchase	\$0 to \$5,000	Purchase Order

To:

Category/Requirements	Value (Ex GST)	Minimum Protocol
Minor Purchase	\$0 to \$5,000	One written quote

Item 16.4.1 continued.

GOVERNMENT CONSULTATION

3. Nil

STATUTORY IMPLICATIONS

4. Local Government (Functions and General) Regulations 1996, reg. 11A.

FINANCIAL IMPLICATIONS

5. Nil

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

Priority Goals and Objectives: *Goal 4: Governance ... The City of Albany will be an industry leader in good governance and service delivery. Objective 4.2: The City of Albany will manage our municipal assets to ensure they are capable of supporting our growing community.*

City of Albany Mission Statement: *At the City of Albany we develop our people and provide best value in applying council and community resources.*

POLICY IMPLICATIONS

7. Amendment to Purchasing Policy for Tenders and Quotations.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

8. Nil

SUMMARY CONCLUSION

9. This minor change to the Policy will formalise the process ensuring proper recourse and record keeping.

Item 16.4.1 continued.

PUBLIC CONSULTATION / ENGAGEMENT

10. Nil

RECOMMENDATION

[10:16:14 PM](#) Councillor Sutton requested a Point of Clarification. How many staff can write out Purchase Orders up to \$5,000?

[10:16:32 PM](#) Through the Mayor, Mr Ketterer replied that up to 20 people would have this authority.

[10:16:37 PM](#) Councillor Sutton then asked if there was a restriction on the number of Purchase Orders to be written in any certain period.

[10:16:52 PM](#) Through the Mayor, Mr Ketterer replied that there was no restriction on the number of Purchase Orders written in a day, but what could not be done was to split one purchase into bundles, also called parcelling, for ordering separately. This requirement was subject to checking by senior officers. This system was subject to checks and audits.

[10:17:24 PM](#) Councillor Sutton said that the only problem he could see with this, was with so many people being able to write Purchase Orders in a short time, it may be a danger to overspending.

[10:17:46 PM](#) Through the Mayor, Mr Ketterer replied that there was rigour being embedded in the policy now before council.

ITEM 16.4.1 OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MATLA
SECONDED: COUNCILLOR DUFTY

THAT the Council ADOPT the REVISED Purchasing Policy for Tenders and Quotations.

MOTION CARRIED 12-0

17.0 ADOPTION OF THE INFORMATION BULLETIN

ITEM 17.0 – DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR DUFTY

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

MOTION CARRIED 12-0

18.0 MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING

ITEM NUMBER: 18.1

ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR R PAVER- THAT COUNCIL REQUEST WALGA TO PROVIDE TO ALL COUNCILS A WRITTEN REPORT ON ADEQUATE RECOMPENSE FOR COUNCILLORS

**ITEM: 18.1-NOTICE OF MOTION BY COUNCILLOR R PAVER
VOTING REQUIREMENT: SIMPLE MAJORITY**

MOVED: COUNCILLOR PAVER

SECONDED: COUNCILLOR J BOSTOCK

THAT Council request WALGA to provide to all Councils a written report on the steps it has taken since 2004 to ensure that Councillors in Western Australia are adequately recompensed for the work they do, and the response it received from the Western Australian Government to any representations it has made in regard to this matter.

MOTION CARRIED 11-1

Record of Vote

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

Against the Motion: Mayor Evans

Councillor's Reason:

Councillor Paver raised this matter before WALGA at their AGM in 2008, and to date has heard nothing from WALGA.

19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING**ITEM NUMBER:** 19.1**ITEM TITLE:** CITY OF ALBANY PARKING AND PARKING FACILITIES LOCAL LAW 2009 – JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER****Legislative Function:** Council making and reviewing the legislation it requires to perform its function as Local Government.

File Number or Name of Ward	:	MAN191
Summary of Key Points	:	Undertake a written undertaking to comply with request from Legislative Committee Office
Proponent	:	City of Albany
Reporting Officer(s)	:	Manager Building & Health Services (K Barnett)
Disclosure of Interest	:	Nil
Previous Reference	:	<i>Government Gazette</i> , Friday 12 February 2010 No. 22 Special. Ordinary Council Meeting – 18 August 2009, Item 13.5.1 (Item 4)
Bulletin Attachment(s)	:	Nil
Consulted References	:	<i>Local Government Act 1995</i> <i>City of Albany Parking and Parking Facilities Local Law 2009</i>
Councillor Lounge	:	Nil.

ITEM 19.1 DRAFT MOTION**VOTING REQUIREMENT: ABSOLUTE MAJORITY****MOVED: COUNCILLOR HAMMOND****SECONDED: COUNCILLOR WOLFE****THAT Report Item 19.1 –City of Albany Parking and Parking Facilities Local Law 2009- Joint Standing Committee on Delegated Legislation be accepted as an URGENT item.****MOTION CARRIED 12-0
ABSOLUTE MAJORITY****Officer's Reason (K Barnett)**

As the Committee required Council to consider the above undertakings and respond no later than 5pm on Wednesday, 12 May 2010, this item has been brought before Council as an urgent late item. The reporting officer has contacted the Legislative Council representative and sought an extension to the 19 May 2010 to allow the matter to be considered at this Ordinary Council Meeting.

Item 19.1 continued.

BACKGROUND

1. The *City of Albany Parking and Parking Facilities Local Law 2009* (the Local law) was adopted by Council at its ordinary meeting held on 18th August 2009, published in the *Government Gazette* on 12th February 2010 and took effect from 26th February 2010.
2. On the 4th May 2010 correspondence was received from the Joint Standing Committee on Delegated Legislation (the Committee) in relation to the Local Law.
4. The Committee has identified the following typographical errors which require amendment:
 - clause 1.4(1) – “taxi” has the meaning given to by the *Taxi Act 1994*. The word “it” should be inserted after the word “to”;
 - clause 3.11(1)(a) and (2)(a) – “...unless that vehicle is an bus taking up or setting down passengers;”. The word “an’ should read “a”;
 - clause 3.12 – “A person parks a vehicle in a thoroughfare where parking is restricted as to time, that person shall not....”. the word “Where” should be inserted at the beginning of the clause.
5. In addition, the Committee considers clause 2.9 of the Local Law, dealing with “Special event parking” to be problematic.
6. The Committee is of the view that clause 2.9 is a determination device as the City of Albany is attempting to sub-delegate the exercise of power under the *Local Government Act 1995* to a mere resolution of a simple majority of the Council whereas local laws must be by an absolute majority of Council members under section 3.12(4) of the *Local Government Act 1995*.
7. Determination devices by-pass Parliamentary scrutiny in the following ways:
 - The mandatory procedure for making a local law under section 3.12 of the *Local Government act 1995* is not required to be followed; and
 - The determination device also by-passes the requirements of section 42 of the *Interpretation Act 1984* in relation to publication of the determination in the *Gazette*, tabling in both Houses of Parliament and disallowance.
8. The Committee has therefore requested an undertaking from the City that it will:
 - (a) make the typographical amendments;
 - (b) amend clause 2.9(4) to include some reasonable, defined limit to the possible dates that may be used for special events;
 - (c) amend clause 2.9 to include a provision whereby sufficient local public notice of the special event and the amount of fee payable for special event parking is to be given;
 - (d) not rely on clause 2.9 in the interim; and
 - (e) make the amendments requested within two years from the date of the Committee letter
9. As the Committee required Council to consider the above undertakings and respond no later than 5pm on Wednesday, 12 May 2010, the reporting officer has contacted the Legislative Council representative and sought an extension to the 19 May 2010 to allow the matter to be considered at the Ordinary Council Meeting scheduled for 18 May 2010.

Item 19.1 continued.

10. The “special event parking” clause was inserted into the Local Law to allow temporary parking areas to be set-up and, if required, to charge a parking fee for large special events requiring overflow- parking areas.
11. However, the City is unable to comply with the Committee’s requirement at 8(b) as “special events” requiring additional parking are infrequent and could occur at any time. The City is not in a position to include “fixed dates” in the Local Law.
12. To allow the continuation of the Local Law, it is therefore recommended that clause 2.9 and the associated modified penalty contained in Schedule 2 be deleted.
13. The amended undertaking from the City would then read:
 - (a) make the typographical amendments;
 - (b) delete clause 2.9;
 - (c) delete item 10 in Schedule 2;
 - (d) not rely on clause 2.9 or item 10 in Schedule 2 in the interim; and
 - (e) make the amendments requested within two years from the date of the Committee letter
14. A copy of the *City of Albany Parking and Parking Facilities Local Law 2009* is attached.

PUBLIC CONSULTATION / ENGAGEMENT

15. Nil.

GOVERNMENT CONSULTATION

16. Nil.

STATUTORY IMPLICATIONS

17. If the City does not agree to undertake amendments to the Local Law, the Committee is almost certain to move a notice of motion in the Legislative Council to disallow the Local Law.
18. Council may vote by SIMPLE MAJORITY to affect the requested amendments.

FINANCIAL IMPLICATIONS

19. Should Council commit to amending the Local Law there will be statutory advertising costs associated with implementing the recommended changes, which will be funded from the 2010/2011 budget.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

20. Nil

POLICY IMPLICATIONS

21. Nil

Item 19.1 continued.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

22. Option One. Accept the amended undertaking.

23. Option Two. Not accept the requested amendments; however this is likely to result in the Committee disallowing the Local Law.

SUMMARY CONCLUSION

24. The recommended option is Option One, which would have the following effect:

Amend:

The following typographicals:

- *clause 1.4(1) – “taxi” has the meaning given to by the Taxi Act 1994. The word “it” should be inserted after the word “to”;*
- *clause 3.11(1)(a) and (2)(a) – “...unless that vehicle is an bus taking up or setting down passengers;”. The word “an’ should read “a”;*
- *clause 3.12 – “A person parks a vehicle in a thoroughfare where parking is restricted as to time, that person shall not....”. the word “Where” should be inserted at the beginning of the clause.*

Delete:

Clause 2.9 Special event parking;

Delete:

Item 10 of Schedule 2

RECOMMENDATION

ITEM NUMBER 19.1 – OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR MATLA

THAT Council GIVE A WRITTEN UNDERTAKING to the Joint Standing Committee on Delegated Legislation that the City of Albany will:

- a) make the typographical amendments;**
- b) delete clause 2.9;**
- c) delete Item 10 in Schedule 2;**
- d) not rely on clause 2.9 or Item 10 in Schedule 2 in the interim; and**
- e) make the amendments within two years from the date of the Committee letter**

MOTION CARRIED 12-0

ITEM NUMBER: 19.2
ITEM TITLE: PROPOSAL TO FORMALLY NAME A HERITAGE PRECINCT – ALBANY HERITAGE PARK

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number (Name of Ward) : MAN268 – (Frederickstown Ward)
Summary of Key Points : Proposal to formally name a heritage precinct – Albany Heritage Park
Land Description : Mount Clarence /Mount Adelaide Reserves
Proponent : City of Albany
Owner : Crown Land vested in the City of Albany
Reporting Officer(s) : Project Officer, Melissa Organ
Disclosure of Interest : Nil
Business Entity Name : Nil
Previous Reference : OCM 20/04/10 Item 19.3
Bulletin Attachment(s) : Nil
Consulted References : Nil
Councillor Lounge : Nil
Maps and Diagrams : Aerials included at rear of report

ITEM 19.2 DRAFT MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED:COUNCILLOR WOLFE

SECONDED: COUNCILLOR MATLA

THAT Item 19.2 – Proposal to formally name a Heritage Precinct-Albany Heritage Park, be accepted as an URGENT item.

**MOTION CARRIED 9-3
ABSOLUTE MAJORITY**

Record of Vote

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

Against the Motion: Crs D Bostock, R Paver and M Leavesley

Officer’s Reason (M Organ)

This item is deemed urgent as the appointed consultant who is completing the detailed design finish their contract with us on the 16th of June. It was therefore going to be too late to incorporate a name for the precinct into the design if this item was not presented at the May Council meeting.

Item 19.2 continued.

BACKGROUND

1. As part of Phase II detailed design for the ANZAC Centenary – Mount Clarence Infrastructure Improvement Project, a key element of this Phase is the design of the Precinct Entry Statements on the corner of Marine Drive.
2. The purpose of this report is therefore to seek Council approval to formally name the Heritage Precinct encompassing Mount Clarence the Forts and Mount Adelaide, as Albany Heritage Park.

DISCUSSION

3. The City of Albany has appointed AECOM to complete detailed design of the Entry Statements for this Precinct as part of the Phase II contract. Should the name not be approved by Council, the entry statement shall comprise of only a structure as the Phase II contract ceases on the 16th June 2010.
4. The formal naming of this precinct would encompass the whole heritage area, emphasising important historical sites to Albany.
5. Historically, the name Albany Heritage Park has been generically used, dating back to 1987 but no record of this being formally adopted by Council (either Town or City) has been identified.
6. Previous consultants have referred to this specific name in both Town and City Of Albany documents. The Town of Albany – Albany Heritage Park Management Plan – February 1992 states the following;

Page 1 Introduction – ‘Albany Town Council in 1989 made application for a study grant from the W.A. Heritage Committee to develop a management plan for the crown land of Mt Melville, Mt Clarence and Mt Adelaide. The total area of which is approximately 360 hectares (100ha on Mt Melville, 260 ha Mt Adelaide/Clarence). The Council accepted the provisional name of Heritage Park for the Mt Clarence/Adelaide area.’

FINANCIALS

7. There are no financial implications associated with this Item

PUBLIC CONSULTATION / ENGAGEMENT

8. Local community groups, The RSL and Apex Club were consulted regarding the Mount Clarence precinct proposal and are in full support of the project. These groups have advised they have no issues associated with the entry statement design or precinct naming.

GOVERNMENT CONSULTATION

9. Historical records show that the then Town of Albany provided the Heritage Council of WA with a document titled ‘Albany Heritage Park Draft Management Plan – 1987’. This is recorded on their database.

Item 19.2 continued.

STATUTORY IMPLICATIONS

10. There are no statutory implications relating to this Item.

FINANCIAL IMPLICATIONS

11. There are no financial implications relating to this Item.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

12. *“Priority Goals and Objectives:*

Goal 2: Economic Development...

Albany will be Western Australia’s first choice for regional investment offering a wide range of development, employment and learning opportunities with a robust economy.

Objective 2.5...

Our unique cultural heritage attractions deliver world class tourism experiences.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

14. There are no alternative options or legal implications relating to this item. Should Council chose not to approve the formal naming of this Precinct, only a military structure will be designed.

SUMMARY CONCLUSION

15. It is recommended that Council approve the formal naming of the Precinct as Albany Heritage Park, for the purpose of the ANZAC Centenary – Mount Clarence Infrastructure Improvement project.

ITEM NUMBER – 19.2 OFFICER RECOMMENDATION

VOTING REQUIREMENT:SIMPLE MAJORITY

THAT Council AGREE to formally name the Heritage Precinct, encompassing Mount Clarence, Mt Adelaide and the Forts, Albany Heritage Park.

ITEM 19.2 - AMENDED OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

1. AGREE to formally name the Heritage Precinct encompassing Mount Clarence, Mount Adelaide and the Forts, Albany Heritage Park; and
2. APPROVE the registration of the name with the Geographic Naming Committee

ITEM 19.2 - AMENDED OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WOLFE

SECONDED: COUNCILLOR SUTTON

THAT Council:

1. **AGREE to formally name the Heritage Precinct encompassing Mount Clarence, Mount Adelaide and the Forts, Albany Heritage Park; and**
2. **APPROVE the registration of the name with the Geographic Naming Committee**

MOTION CARRIED 9-3

Record of Vote

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

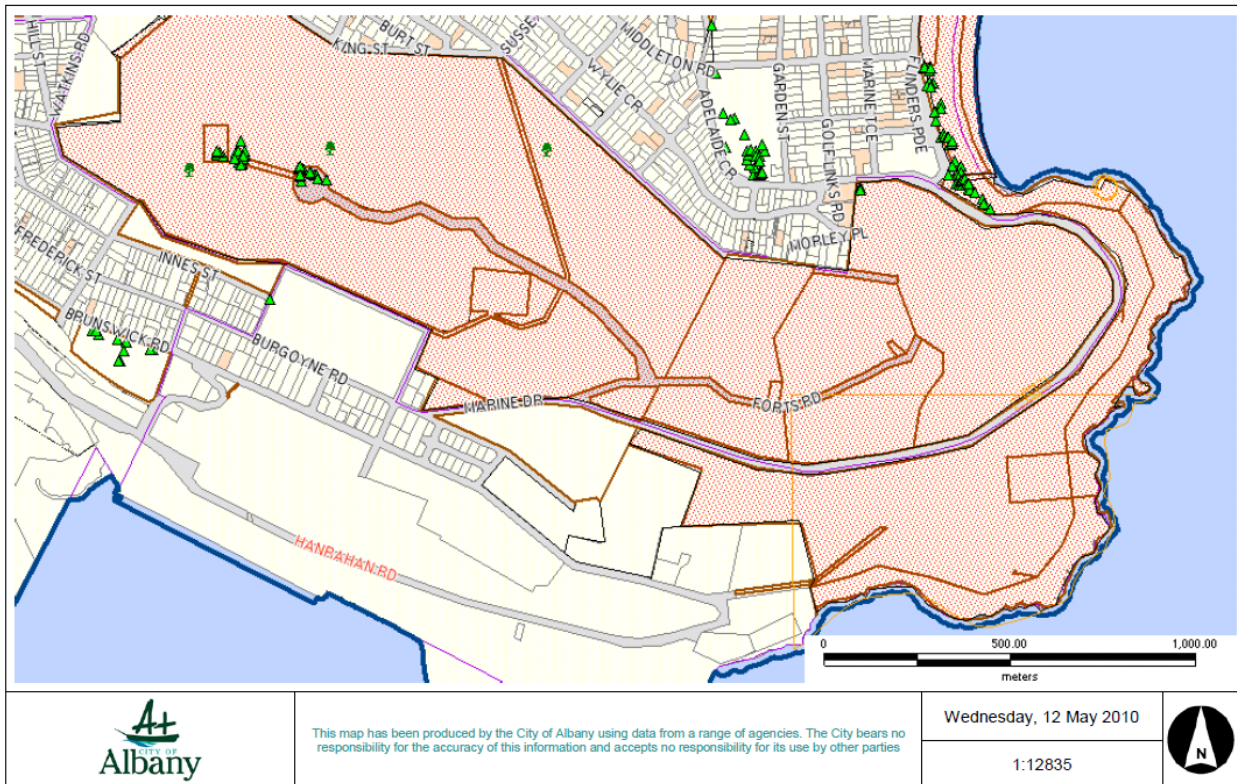
Against the Motion: Crs J Bostock, R Paver and M Leavesley

Item 19.2 continued.

Diagram 1 – Location for Entry Statement, corner of Marine Drive and Forts Road



Diagram 2 – Area encompassing Mt Clarence/Mt Adelaide & Forts to be named



ITEM NUMBER: 19.3
ITEM TITLE: URGENT BUSINESS BY DECISION OF THE MEETING – SPECIAL MEETING OF ELECTOR’S MEETING

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:

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

File Number or Name of Ward : MAN 089 (All Wards)
Summary of Key Points : Receive the resolutions passed at the Special Meeting of Electors held on the 13th May 2010 and determine a course of action.
Reporting Officer(s) : Executive Manger Business Governance (S Jamieson)
Disclosure of Interest : Nil
Previous Reference : Special Meeting of Electors 13/05/10
Bulletin Attachment(s) : Nil
Consulted References : Local Government Act 1995
Maps and Diagrams : N/A

ITEM 19.3 – OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR PAVER
SECONDED: COUNCILLOR J BOSTOCK

THAT Council ACCEPT Item 19.3 as an urgent item.

MOTION CARRIED 12-0
ABSOLUTE MAJORITY

Reason for Urgent Item (S Jamieson):

It is deemed appropriate and practicable to bring this item forward to Council to allow Council to determine an appropriate course of action.

Cr Paver at the same time has requested a Notice of Motion be presented on the same subject; therefore it is considered due process to deal with both motions at the same time, with the elected members motion being debated prior to the officers recommendation.

Item 19.3 continued.

BACKGROUND

1. A special meeting of electors was held on 13 May 10.
2. The meeting resolved:

*“**Motion 1.** The electors of Albany direct the Mayor and Councillors to have convened an enquiry pursuant to Part 8, Division 1 of the Local Government Act 1995 into the affairs of the City of Albany relating to:*

- *Mayor and Councillors*
- *Staff*
- *Governance/Planning/Development*
- *Finance*
- *Dismissal of the CEO*

This enquiry to be convened no later than 3 months from the 13th May 2010 Special Electors Meeting.”

*“**Motion 2.** The electors of Albany direct the Mayor and Councillors to support the electors in urging the Minister for Local Government to convene a Part 8, Division 1 enquiry into the affairs of the City of Albany relating to:*

- *Mayor and Councillors*
- *Staff*
- *Governance/Planning/Development*
- *Finance*
- *Dismissal of the CEO”*

3. On 14th May 2010 at 11.11am, Cr Paver contacted staff and advised that he wished to present a Notice of Motion to address the request as a matter of priority.

DISCUSSION

4. **Financial.** Part 8, Division 1, s8.14 of the Local Government Act 1995, Scrutiny of the affairs of local governments, Inquiries by the Minister or an authorised person, states:

“8.15A. Local government may have to meet inquiry costs

If —

(a) an authorised person makes findings adverse to a local government, or to its council or any member, or to any of its employees; or

(b) an inquiry by an authorised person was instituted at the request of a local government,

the Minister may order the local government to pay all or part of the costs of the inquiry and the local government is to comply with that order.”

Item 19.3 continued.

5. As this inquiry is being instigated at the request of the Local Government (City of Albany) the Minister may order the local government to pay all or part of the cost of the inquiry.
6. **Protocol.** In accordance with s5.33 (1) of the Local Government Act 1995, being:
 - (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
 - (a) *at the first ordinary council meeting after that meeting; or*
 - (b) *at a special meeting called for that purpose,**whichever happens first.*
 - (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*
7. The resolution passed at the electors meeting has left that decision to the Minister to define the scope of the investigation.
8. It can only be assumed that the Minister would then define that decision based on:
 - a. The findings of the Best Practice Review; and
 - b. The findings and recommendation of the Standards Panel.
9. The report from the Best Practice Review has not been finalised and no formal feedback received.
10. No feedback or determinations have been made by the Standards Panel.
11. It is assumed based on the questions asked by the Best Practice Review team, that feedback maybe received on the following:
 - a. **Strategic Planning** (involvement of electors, staff, consultation methods, review of land use plans, social & community plans, time frames, priorities, resourcing, how it is measured & communicated, how we planned for the future);
 - b. **Governance** (Values & Ethics, integrated approach to protecting agency integrity, do we adhere to our corporate plan & are these plans integrated, review of the organisational structure, human resources strategic plan, adherence to the Code of Conduct, declaration of interests, Business Ethics, Risk Management, Fraud Control, Business Continuity, Emergency Management, Internal Audit, Legislative Compliance, Legal Services, Privacy Management, Records Management, Access to information by the public, Executive management meetings, Delegations, Policy Register, elected member induction and ongoing training, complaints handling, public interest disclosure, strategic alliances, information technology).
 - c. **Annual Report** (Contents, financial report, external auditors report, overview of plan for the future, disability access plan, minor breaches, record keeping plan, information statement, competitive neutrality).

Item 19.3 continued.

- d. **Planning & Regulatory** (Strategic land use planning instruments, development applications process, environmental/health/ enforcement, monitoring & compliance, management, local laws).
- e. **Assets & Finance** (Asset management, land assets, financial management, annual budget, audit committee, rates and charges, payment of accounts, national competition policy, local governments involvement in companies, partnerships, corporations, co-operatives, procurement, disposal and tendering processes, investments).
- f. **Community.** (Social and community planning, ageing population, community participation, how was the annual report communicated, cultural planning, multicultural interests, tourism, economic development, voter participation).
- g. **Workforce.** (Human Resources Strategy, Workforce planning issues, employee surveys, performance reviews, recruitment and selection, job description and evaluation, employee remuneration, employee employment opportunity, staff development, grievance management, occupational health and safety, secondary employment policies, workforce relations i.e. exit of staff).

PUBLIC CONSULTATION/ENGAGEMENT

- 12. Public consultation was facilitated through the Special meeting of electors held on the 13th May 2010.

GOVERNMENT CONSULTATION

- 13. The Department has been contacted; however formal feedback on the findings and recommendations of the Best Practice Review and Standards Panel have not been received at the time of writing this report.
- 14. *The Best Practice Review is authorised under s8.3 (1) of the Local Government Act 1995, being: (1) The Departmental CEO has authority to inquire into all local governments and their operations and affairs. **(This statement is incorrect)***
- 15. ***(Note: The best practice review is not an authorised inquiry; it was entered into voluntarily by the City of Albany, through Council resolution).***
- 16. The Cost of conducting a Part 8, Division 1 inquiry cannot be defined as the scope of the inquiry if initiated is not known.

Item 19.3 continued.

STATUTORY IMPLICATIONS

17. Part 8, Division 1, s8.14 of the Local Government Act 1995 (Act), detailed previously in the discussion.
18. In accordance with s5.33 (1) of the Act, detailed previously in the discussion.
19. s8.3 of the Act, Inquiries by, or authorised by, the Departmental CEO:
 - (1) *The Departmental CEO has authority to inquire into all local governments and their operations and affairs.*
 - (2) *The Departmental CEO may, by written authorisation, authorise a person to inquire into and report on any aspect of a local government or its operations or affairs.*
 - (3) *The Minister may direct the Departmental CEO to authorise an inquiry under this section.*
 - (4) *The Departmental CEO is to advise the Minister if and when an inquiry is authorised under this section.*
 - (5) *An election (within the meaning of Part 4) is not to be the subject of an inquiry under this section if the Electoral Commissioner was responsible for the conduct of the election.*
 - (6) *If 2 or more people are authorised to conduct an inquiry —*
 - (a) *a reference in section 8.4, 8.12, 8.13, 8.14 or 8.15A to the authorised person or an authorised person is a reference to those people; and*
 - (b) *a reference in section 8.5, 8.6, 8.8, 8.9, 8.10 or 8.11 to an authorised person is a reference to any of those people.*

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

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

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

POLICY IMPLICATIONS

21. Nil

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

22. Nil. It is a statutory obligation of Council that IF the City of Albany makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

Item 19.3 continued.

FINANCIAL IMPLICATIONS

23. The cost of conducting a Part 8, Division 1 of the Local Government Act 1995 enquiry would be defined by the scope. Therefore the cost of an inquiry is unknown.
24. As this inquiry is being instigated at the request of the Local Government (City of Albany) the Minister may order the local government to pay all or part of the cost of the inquiry.

OFFICER'S RECOMMENDATIONS

ITEM 19.3 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

- (i) THAT Council RECEIVE the following resolutions presented at the Special Meeting of Electors held on 13 May 10:

“The electors of Albany direct the Mayor and Councillors to have convened an enquiry pursuant to Part 8, Division 1 of the Local Government Act 1995 into the affairs of the City of Albany relating to:

- *Mayor and Councillors*
- *Staff*
- *Governance/Planning/Development*
- *Finance*
- *Dismissal of the CEO*

This enquiry to be convened no later than 3 months from the 13th May 2010 Special Electors Meeting.”

“The electors of Albany direct the Mayor and Councillors to support the electors in urging the Minister for Local Government to convene a Part 8, Division 1 enquiry into the affairs of the City of Albany relating to:

- *Mayor and Councillors*
- *Staff*
- *Governance/Planning/Development*
- *Finance*
- *Dismissal of the CEO”*

- (ii) THAT Council liaise with the Minister's Office and Department and determine a course of action at the June 2010 ordinary meeting of Council based on the Best Practice Review Report and Standards Panel findings.

Item 19.3 continued

[10:47:41 PM](#) Councillor Holden requested a Point of Clarification regarding the two motions passed at the meeting, which seemed to be very similar. Councillor Holden said the first motion was passed very quickly with little discussion and the second motion was passed after discussion. Councillor Holden felt that the second motion was not nearly so well supported.

Through the Mayor, Mr Madigan replied that two motions were put. The first motion was that the electors directed the Mayor and councillors to have an enquiry convened. The second motion was that subsequent to that, the Mayor and councillors then asked for that enquiry to be set up. Mr Madigan said that his reading of the motions was that it was not the intention of the electors that the council would conduct its own enquiry, but there would be an external enquiry.

NOTICE OF MOTION BY COUNCILLOR PAVER

ITEM 19.3 - NOTICE OF MOTION BY COUNCILLOR PAVER

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED:COUNCILLOR PAVER

SECONDED:COUNCILLOR J BOSTOCK

THAT Council URGE the Minister for Local Government to convene a Part 8 Division 1, Local Government Act 1995 enquiry into the affairs of the City of Albany, relating to:

- 1. Mayor and Councillors;**
- 2. Staff;**
- 3. Governance/Planning/Development**
- 4. Finance; and**
- 5. Dismissal of the CEO;**

and this enquiry to be convened no later than 3 months from the 13th May 2010 Special Electors meeting.

MOTION CARRIED 8-4

Record of Vote

For the Motion: Councillors J Bostock, R Hammond, D Wellington, C Holden,
M Leavesley, R Paver, D Bostock and R Sutton

Against the Motion: Mayor Evans, Crs J Matla, D Dufty and D Wolfe

Item 19.3 continued.

Councillor’s Reason (R Paver):

The electors of Albany at a properly convened Special Electors Meeting of 13th May 2010 have, by way of a motion adopted by majority vote, unequivocally directed the Mayor and Councillors to support their wish for the Minister to have convened the aforementioned enquiry. The above motion gives effect to their direction.

The following recommendation lapsed due to no mover. This recommendation was not brought before council by the Mayor.

ITEM 19.3 - OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

- (i) THAT Council RECEIVE the following resolutions presented at the Special Meeting of Electors held on 13 May 10:

“The electors of Albany direct the Mayor and Councillors to have convened an enquiry pursuant to Part 8, Division 1 of the Local Government Act 1995 into the affairs of the City of Albany relating to:

- Mayor and Councillors
- Staff
- Governance/Planning/Development
- Finance
- Dismissal of the CEO

This enquiry to be convened no later than 3 months from the 13th May 2010 Special Electors Meeting.”

“The electors of Albany direct the Mayor and Councillors to support the electors in urging the Minister for Local Government to convene a Part 8, Division 1 enquiry into the affairs of the City of Albany relating to:

- Mayor and Councillors
- Staff
- Governance/Planning/Development
- Finance
- Dismissal of the CEO”

- (ii) THAT Council liaise with the Minister’s Office and Department and determine a course of action at the June 2010 ordinary meeting of Council based on the Best Practice Review Report and Standards Panel findings.

Note: The electors cannot direct Council; However, Council can chose to comply with this motion by requesting the Minister to instigate

20.0 REQUEST FOR REPORTS FOR FUTURE CONSIDERATION

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

ITEM NUMBER: 21.1

ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR PAVER - REVIEW OF LICENSED PREMISES GUIDELINES

ITEM 21.1 NOTICE OF MOTION BY COUNCILLOR PAVER

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

1. REVIEW it's 'Licensed Premises-Guidelines' to make it clear that it will not entertain requests for support from a proponent in relation to liquor licensing applications to the Department of Racing, Gaming and Liquor. With Councils role being restricted to its obligations under Section 40 of the Liquor Licensing Act 1988; that it determine whether a liquor licensing application is consistent with planning/laws approvals that are in place on the subject land: and
2. REQUIRE the review to be presented to the July meeting for consideration.

Councillors Reason:

Council have received requests for support from proponents in relation to their liquor licence application, which has not yet been subject to consultation with surrounding property owners. Rather than expressing support or otherwise for an application which will be lodged with the Department of Racing, Gaming and Liquor, which may be misconstrued as community support for the application (based on Council being representative of the community), the issue should be confined to whether the liquor licence proposal is consistent with any planning approvals in place on the subject land and whether conditions should be imposed on the Section 40 Certificate.

Excerpt from Liquor Licensing Act 1988:

“40. Certificate of local planning authority

(1) *An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises shall be accompanied by a certificate from the authority responsible for planning matters in the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines.*

(2) *A certificate referred to in subsection (1) shall state that the proposed use of the premises —*

(a) will comply with the requirements of the written laws relating to planning specified;

(b) would comply with the requirements specified if consent were to be given by a specified authority, if it is known whether that authority will give the consent, and what specified conditions or specifications should be, or are likely to be, imposed; or

(c) will not comply with the requirements specified for the reasons specified.

(3) *In this section —*

specified means specified in the planning certificate.

(4) *The licensing authority may, where it is satisfied that it is desirable to do so, impose a condition on a licence relating to the submission, or further submission, to the licensing authority of a certificate referred to in subsection (1).”*

ITEM NUMBER: 21.2
ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR PAVER - REVIEW STANDING ORDERS LOCAL LAW 2009

DATE & TIME RECEIVED: Friday, 14/05/2010 at 11.00am

ITEM 21.1 NOTICE OF MOTION BY COUNCILLOR PAVER
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council REVIEW the Standing Orders Local Law 2009 before the December 2010 Council meeting.

Councillors Reason:

The current Standing Orders, clause 5.2 Alternate Motions and other clauses has proved to be problematic in regards to interpretation and application and it is considered appropriate that this clause is reviewed.

ITEM NUMBER: 21.3
ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK – ESTABLISHMENT OF A COUNCILLOR COMMITTEE

DATE & TIME RECEIVED: Tuesday 18th May at 7.00PM

ITEM 21.1 NOTICE OF MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ESTABLISH a councillor committee under s.5.9(2)(a) of the Local Government Act, to include all councillors, chaired by the Mayor and meeting on a monthly basis. The committee to be non decision making, held in private and working to a councillor generated agenda.

Councillors Reason:

There is a need for councillors to discuss matters affecting the longer term policies of the City, without staff input, and where councillors are not constrained by the requirement to follow Standing Orders. These discussions would not involve items on the agenda for ordinary council meetings, but consider issues which require more detailed debate than can be afforded by a four minute formal speech.

Some examples of possible topics include ways of attracting more jobs to the City, potential sites for the Albany equivalent of Kings Park and how we can balance our books while maintaining essential services, including roads and footpaths.

At present the very considerable expertise represented in our governing body is not being adequately exploited due to the lack of a suitable forum, which this committee would provide.

ITEM NUMBER: 21.4

ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR DUFTY-RESCISSION MOTION

DATE & TIME RECEIVED: Tuesday 18th May at 10.30PM

ITEM 21.1 NOTICE OF MOTION BY COUNCILLOR WOLFE

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council, in accordance with Standing Orders Local Law 2007, advise that it will consider revoking the motion of the Council Meeting of the 18th November 2009, Item 11.1.2, which states;

“THAT Council resolves to advise the State Administrative Tribunal that council AFFIRMS the decision to issue a Notice of Planning Scheme Consent Refusal for the outbuilding at Lot 150 (previously Lot 9001) Henty Road, Kalgan and the issuing of Notices under Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 and Sections 214(2) and (3) of the Planning and Development Act 2005 requiring the removal of the unauthorised structure”.

Councillors Reason:

To consider the recommendations of staff to accept a mediated outcome through the State Administrative Tribunal process.

[11:09:30 PM](#) Councillor Paver left the chamber.

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

[11:09:52 PM](#)

22.0 MOTION 1

VOTING REQUIREMENT:SIMPLE MAJORITY

MOVED:COUNCILLOR WOLFE

SECONDED:COUNCILLOR J BOSTOCK

THAT Council go behind closed doors to consider CONFIDENTIAL items:

22.1 Lease of Septage Waste Facility

22.2 Authorisation of expenditure for replacement boiler at ALAC.

In accordance with Section 5.23 (2) (c), a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

MOTION CARRIED 10-1

Record of Vote

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

Against the Motion: Cr D Bostock

Members of the public and media vacated the Council Chambers at [11:10:26 PM](#)

In accordance with Section 5.23 (2)(c) of the Local Government Act 1995; the following items will be dealt with while the meeting is closed to members of the public.

22.1 Lease of Septage Waste Facility

22.2 Authorisation of expenditure for replacement boiler at ALAC.

ITEM 22.0 MOTION 2

VOTING REQUIREMENT:SIMPLE MAJORITY

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR WOLFE

THAT Council come out from behind closed doors.

MOTION CARRIED 11-0

The meeting was re opened to the public at

No members of the public or media returned to the Chamber.

Item 22.0 continued.

ITEM 22.0 MOTION 3

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR WELLINGTON

SECONDED: COUNCILLOR WOLFE

THAT Council announce the resolutions of council made behind closed doors.

CARRIED 11-0

The following resolutions were made behind closed doors.

ITEM NUMBER - 22.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT:SIMPLE MAJORITY

MOVED:COUNCILLOR WELLINGTON

SECONDED:MAYOR EVANS

THAT Council:

- 1. AGREE to the advertising of the lease of the facility through an invited tender process**
- 2. AUTHORISE the JV Manager Water Corp to facilitate this tender and award process**
- 3. REQUIRE that the tender include the following items as pre-requisites for tender**
 - Capital costs of \$45 500 pa**
 - Land lease costs of \$500 pa**
 - Contract management fee of \$5000 pa**

MOTION CARRIED 12-0

Councillor Matla left the chamber prior to the discussion and vote on Item 22.2, after declaring a financial interest.

ITEM 22.2 - OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED:COUNCILLOR WELLINGTON

SECONDED:COUNCILLOR WOLFE

That Council AUTHORISE expenditure of up to \$35,000 for replacement of the leisure pool gas heater at ALAC in accordance with the Architect/ System Designers recommendation detailed in this report and relevant standards.

**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

23.0 NEXT ORDINARY MEETING DATE

Tuesday 15th June 2010, 7.00pm

ITEM: 23.0 - DRAFT MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED:COUNCILLOR SUTTON

SECONDED:COUNCILLOR WELLINGTON

THAT Council resume Standing Order 3.1 - Recording of Proceedings, to stop recording of proceedings.

**MOTION CARRIED 11-0
ABSOLUTE MAJORITY**

24.0 CLOSURE OF MEETING

There being no further business the Mayor declared the meeting closed at [11:31:16 PM](#)

Confirmed as a true and accurate record of proceedings.

(Unconfirmed minutes)

Mayor MJ Evans, JP
MAYOR

APPENDIX A

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

Meeting Date	Item Number	Details/Status
18/05/2010	15.3.4	That Council Seek Ministerial approval to have the vacant crown land south of the Albany Woolstores created as a Reserve. LAI D ON THE TABLE.
16/03/2010	13.1.1	Development Application-Oversize Outbuildings-3 Stephen St Milpara. A Procedural Motion by Councillor J Bostock was carried that the motion be deferred, as Council is currently reviewing and debating the Outbuilding Policy which may impact upon the decision. OUTSTANDING. THE OUTBUILDING POLICY IS CURRENTLY BEING ADVERTISED FOR PUBLIC COMMENT.
16/03/2010	13.5.1(2)	Second Draft of the City of Albany Tourism Accommodation Planning Strategy was referred back to Committee. OUTSTANDING-COMMITTEE HAS NOT MET. TO BE PRESENTED AT JUNE 2010 OCM.
16/03/2010	16.3.1	Albany Entertainment Centre (AEC) Business Planning Advisory Committee. Laid on the table for a period of one month. AWAITING RESPONSE FROM GSDC. TO BE CONSIDERED AT JUNE 2010 OCM.
19/01/2010	14.6.1	Lease of Albany Leisure and Aquatic Centre Cafe. Laid on the table until a Special Council Meeting is convened by Council. OUTSTANDING. TO BE PRESENTED AT JUNE 2010 OCM AS PART OF BUDGET CONSIDERATIONS.

APPENDIX B

NOTICES OF DISCLOSURE

Name	Item Number	Nature of Interest
Councillor D Wellington	13.2.2	Impartiality. The nature of Cr Wellington's interest is that the owner of the land included contributed to Cr Wellington's 2007 mayoral campaign. Cr Wellington remained in the chamber and participated in the debate and vote.
Councillor D Wellington	13.2.2	Impartiality. The nature of Cr Wellington's interest is that he is a retailer in the city. Cr Wellington remained in the chamber and participated in the debate and vote.
Councillor R Hammond	13.1.1	Impartiality. The nature of Cr Hammond's interest is that he is an owner of property and has expressed an interest in registering the property with the Albany Visitor Centre. Expression of interest only. Cr Hammond remained in the chamber and participated in the debate and vote.
Councillor D Dufty	14.12.3	Financial. The nature of Cr Dufty's interest is that he has a sign which he uses at market days. Cr Dufty left the chamber and did not participate in the debate or vote.
Cr M Leavesley	14.12.3	Impartiality. The nature of Cr Leavesley's interest being that he derives an income from tourism. Cr Leavesley remained in the chamber and participated in the debate and vote.
Cr R Paver	14.12.3	Financial. The nature of Cr Paver's interest being that he supplies marketing services to the City of Albany. Cr Paver left the chamber and did not participate in the debate or vote.
Cr R Hammond	14.12.3	Impartiality. The nature of Cr Hammond's interest being that he is a business proprietor within the tourism sector. Cr Hammond remained in the chamber and participated in the debate and vote. <i>Note: Cr Hammond lodged his disclosure of interest after Mr Madigan had read the disclosures to the meeting.</i>

NOTICES OF DISCLOSURE cont.

Name	Item Number	Nature of Interest
Cr J Matla	22.2	Financial. The nature of Cr Matla's interest being that her business supplies electrical services to the Albany Leisure and Aquatic Centre. Cr Matla left the chamber and did not participate in the debate or vote.

APPENDIX C**RESPONSE TO PREVIOUS UNANSWERED QUESTIONS
FROM PUBLIC QUESTION TIME**

Nil.

APPENDIX D**TABLED DOCUMENTS**

Document Tabled By	Subject	Page No
Trish Cleeve	Tabled Address re: Rate Rises and Departure of CEO	236
David Hughes	Request for Support-‘Concert for a Cause’	237- 241
Richard Vogwill	Tabled Address	242
Paul Lionetti on behalf of Mark Dyson	Tabled Email from Mr Dyson to Mr Lionetti regarding Item 15.3.4	243

ELECTED MEMBER TABLED DOCUMENTS

Document Tabled By	Subject	Page No
Mayor Evans	Mayors Report	4-5
Cr J Bostock	Tabled Address re: Item 3.0	246
Cr C Holden	Tabled Address re: Item 3.0	247
Cr J Bostock	Tabled Address re: Item 16.2.2-Briefing Sessions	248

STAFF TABLED DOCUMENTS

Document Tabled By	Subject	Page No
	Nil	

Trish Cleeve
Stirling Terrace
Albany

18th May 2010

Mayor Evans and Councillors.

Many ratepayers are concerned about the possibility of unexpected future rate rises m Albany.

We have already had a 9% increase in 2009/10 and we know that two further 9% increase are locked in as they were voted on last year which should take us through to June 2012

Can you assure the ratepayers that we are not going to have levies and further "emergency" rate rises to cover the numerous financial debacles of the last few months. It would appear that already monies are moving around in numerous directions and many residents are concerned and not convinced that all the necessary work to repair storm damage has been covered and completed but it was stated that the \$250000 required for Mr Paul Richards payout was left over as all works had been completed.

I would appreciate if some definitive answers can be given on both these issues as they are clearly linked.

Request for Support: City of Albany***"Concert for a Cause"*****Community Support Request**

Request for use of the City of Albany Town Hall facility on Saturday 14th August 2010 for a fund raising concert incorporating the following:

- Town Hall hire charges including
 - Rehearsal Hire fee & Rehearsal Hire Hourly fee
 - Sound & Lighting Hire fee
 - Front of House Manager costs
 - Technical staff costs – rehearsal & performance
 - Cleaning costs – performance
 - Piano hire
 - Data projector hire
 - Website inclusion
 - E-Newsletter inclusion
- Ticket commissions
- Use of the refreshments kiosk
- Display of posters
- No requirement to paid the \$500 bond secure the Town Hall venue.

Background

International Children's Care Australia (ICC) is a Christian development organization, which has been in operation for seventeen years, as part of the larger global family of the International Children's Care group, providing support to children and families for twenty three years.

ICC provides holistic care for:

- Orphaned
- Abandoned
- Destitute Children

Across the world without regard to ethnic, political or religious association or persuasion seeking to empower them to integrate back into their communities as self sufficient adults.

ICC Australia works closely within the Asia region for geographical and strategic reasons providing family support in:

- Sri Lanka
- Myanmar (Burma)
- India
- Thailand
- Cambodia
- Philippines

Working with local partners ICC seeks to empower entire communities by increasing health, education, microfinance, agriculture and micro-enterprise. Strong families are able to care for their children. When the breakdown of family occurs through extreme poverty death or abandonment ICC works with the nuclear and extended families to ensure that children suffering the loss of their parents are in the best possible environment.

Support for children and their family is provided through:

- Vocational training
- Education
- Life skills programs
- Family healthcare
- Micro-enterprise
- Microfinance

- Integrated agricultural training programs
- Orphaned Children's Housing

Facts

- Today a child dies every 3 seconds mostly from preventable causes
- Today over 3,300 will be sold or trafficked into slavery
- Today 72 million children still don't attend school
- Today 132 million orphans still live in abject poverty around the world

Where does the money go?

- Approximately 83 cents in every dollar will be used to directly benefit destitute children:
 - 83% International Development Relief Programs
 - 8% Project Management
 - 3.2% Fundraising
 - 5.8% Administration
- ICC is a member of and signatory to Australian Council for International Development Code of Conduct (ACFID)
- ICC is audited annually in accordance with ICC's own high standard of delivery excellence

ICC is dedicated to improving the effectiveness of its programs delivery and to be accountable to destitute children and families who trust ICC for care. ICC strives to maintain a high level of transparency to donors and fund raisers, annual reports are available on request or can be viewed online.

Detail

- Use of the Town Hall facilities to deliver a variety concert using local acts to raise funds for ICC projects in Cambodia.
- All funds raised from the concert including ticket sales, refreshments and donations will be forwarded directly to ICC Australia.
- All work undertaken in organizing and staging the concert will be provided by volunteers, no wages or payments will be made from funds raised.
- We are seeking sponsorship from a number of local businesses to provide financial support for;
 - Advertising
 - Costs associated with the concert
 - Refreshments
- At this stage Schweppes Australia have agreed to provide support.
- All advertising for the concert will incorporate a banner at the base of the ad nominating all contributors as proud supporters of the concert.

Summary

In providing support through the use of the Town Hall facility, staff and equipment the City will add significant value to the performance increasing the fund raising potential. We hope that the City will consider this request favorably and make it possible to have a huge impact for some of the poorest families and communities in Asia.

Contact Details

International Children's Care Ambassador
 David Hughes
 17 Lucas Road
 TORBAY WA 6330
 Phone (H): 9845 1252
 Phone (W): 9841 9310
 Email: d.shughes@aussiebroadband.com.au

April 22, 2010

To whom it may concern

This letter is to verify that International Children's Care - Australia Incorporated (ICCA) is authorising David Hughes to undertake official fundraising activities on our behalf. David is a volunteer who has a passion for helping ICCA to provide holistic care for orphaned, destitute and abandoned children around the world.

ICCA has specific responsibility for fundraising and providing project management for orphan centres in developing countries in the Asia-Pacific region. Some of these countries are Thailand, Cambodia, Philippines, India and Sri Lanka.

ICC International (ICCI) has been in operation in the USA since 1978 and ICCA in Australia since 1996, with other ICCI offices in the UK, Holland and Germany. ICCA is an international, not-for-profit, Charitable Institution with Deductible Gift Recipient status and is able to provide tax-deductible receipts for donations of \$2 and over.

The presence of ICCA partners in the Asia-Pacific region is contributing to a better world not only for the children in ICCA's care but also villagers living in close proximity to our campuses. ICCA partners offer education, food, vocational training and micro-industry assistance to the children and families of those in the villages.

ICCA would be grateful if you would take time to consider how your organisation or business may be able to contribute towards alleviating poverty. Donations can be made via our website www.iccaustralia.org.au by putting '*Albany Care*' in the "area of support" dialogue box of the payment page. This will ensure that your tax-deductible donation will go towards the ICCA supported care project in the Philippines that David is supporting through fund raising events. Donations can also be made over the phone by calling our office on (02) 9987 1136.

Thank you for your time and attention.

Yours sincerely,

David Caukill - Marketing & Donor Relations
International Children's Care

Building a brighter future for destitute children

International Children's Care (Australia) Inc.

PO Box 2087 Hornsby Westfield NSW 1635

Ph: (02) 9987 1136 Fax: (02) 9987 1920

Email: info@iccaustralia.org.au

Website: www.iccaustralia.org.au

Registered Number: 522711622 - 01/05



CITY OF ALBANY - Albany Town Hall Theatre - ABN 94 717 875 167	
Recipient Created Tax Invoice	
Reconciliation Issued:	
Producer:	David Hughes
Address:	17 Lucas Road Torbay WA
Company ABN:	
Event Name:	Concert for a Cause
Time:	7pm - 9.30pm
Event Date:	14th August 2010

EXPENSES**Theatre Charges**

Performance Hire	10%	of Gross Box Office		\$	450.00
OR (whichever is the greater)					
Hourly Rate	2.50	hours	@	\$ 100.00	per hour \$ 250.00

Rehearsal Hire Fee (on days other than bump-in)	1.00	@	\$ 110.00	per	session	\$ 110.00
Rehearsal Hire Hourly Fee	2.00	hrs @	\$ 20.00	per	hour	\$ 40.00
						\$ 150.00

Sound and Lighting Hire	2.50	hours	@	\$ 35.00	per hour	\$ 87.50
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Front of House Manager (Minimum Call 4 Hours)

Doors	5.00	hours	@	\$ 35.00	per hour	\$ 175.00
Performance	2.50	hours	@	\$ 35.00	per hour	\$ 87.50
Closing	1.00	hours	@	\$ 35.00	per hour	\$ 35.00
						\$ 297.50

Technical Staff (Minimum Call 4 Hours)

Pre-Rig	1.00	hours	@	\$ 35.00	per hour	\$ 35.00
Bump-In	1.00	hours	@	\$ 35.00	per hour	\$ 35.00
Rehearsals	2.00	hours	@	\$ 35.00	per hour	\$ 70.00
Performance	2.50	hours	@	\$ 35.00	per hour	\$ 87.50
Bump-Out	1.00	hours	@	\$ 35.00	per hour	\$ 35.00
						\$ 262.50

Loading Staff

Bump-In		hours	@	\$ -	per hour	\$ -
Bump-Out		hours	@	\$ -	per hour	\$ -
						\$ -

Cleaning (Minimum Call 3 Hours)

Monday - Friday		hours	@	\$ 35.00	per hour	\$ -
Saturday	1.50	hours	@	\$ 45.00	per hour	\$ 67.50
Sunday		hours	@	\$ 45.00	per hour	\$ -
Public Holiday		hours	@	\$ 60.00	per hour	\$ -
						\$ 67.50

Piano, Stage Extension, Sundries

Piano Hire Rehearsal		hrs @	\$ -	per	hour	\$ -
Piano Hire Performance	3	@	\$ 30.00	per	perf.	\$ 75.00
Piano Tuning (A=440hz)		@	\$ 120.00	per	item	\$ -
Stage Extension (Per Booking)		@	\$ 150.00	per	booking	\$ -
Data Projector	1	@	\$ 100.00	per	item	\$ 100.00
Sundries (define)		@	\$ -	per	item	\$ -
Sundries (define)		@	\$ -	per	item	\$ -
						\$ 175.00

Royalties

Royalties		of GBO less commissions		\$	-
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Marketing

Poster Distribution		@	\$ 35.00	per	run	\$ -
Newspaper - Albany Advertiser		@	\$ -	per	week	\$ -
Newspaper - Weekender		@	\$ -	per	week	\$ -
Website Inclusion	1	@	\$ 40.00	per	edit	\$ 40.00
Printed &/or E-Newsletter	2	@	\$ 60.00	per	inclusion	\$ 120.00
Direct Mail Campaign		@	\$ -	per	letter	\$ -
						\$ 160.00

Box Office

Ticket Commissions	300	@	\$ 2.00	per	ticket	\$ 600.00
Credit Card Fees 3% of Visa/Mastercard Sales						\$ -
						\$ 600.00

INCOME

Ticket Sales

Full Price	300	tickets	@	\$ 15.00	each	\$ 4,500.00
Pension Card		tickets	@	\$ -	each	\$ -
Seniors Card		tickets	@	\$ -	each	\$ -
Student Card		tickets	@	\$ -	each	\$ -
Child <17		tickets	@	\$ -	each	\$ -
Group		tickets	@	\$ -	each	\$ -
Carer (Companion Card)		tickets	@	\$ -	each	\$ -
Complimentary		tickets	@	\$ -	each	\$ -
Other (define)		tickets	@	\$ -	each	\$ -
						\$ 4,500.00
Total Income						\$ 4,500.00

Payment Methods

	Cash	
	Master Card	
	Visa Card	
	EFTPOS	
	Cheque	
	Exchange	

RECONCILIATION

	Grand Total Income	\$ 4,500.00
	Grand Total Expenses	\$ 2,500.00
	Deposit	\$ -
	Reconciliation	\$ 2,000.00

Tabled Address from Mr Richard Vogwill.

Date: 18/05/2010

To: Mayor, Councillors and Acting CEO, City of Albany

From: Richard Vogwill, President, Frenchman Bay Association

Re: Positive Comments About Councillors

Mr Mayor,

Amidst all the negativity and Council/Councillor bashing at the Special Electors' Meeting recently, I had a Senior's Moment during my presentation and forgot to mention some positive aspects of Councillors' work. I'd like to rectify that tonight.

I live in Vancouver Ward and have done for the last three years. During this time, I and other members of the Frenchman Bay Association (FBA) have been very impressed and very happy with the performance of the Councillors that have represented us (Councillors Paver, Stanton and D. Bostock). Another two Councillors who have impressed us and who we consider to be star performers are Councillors J. Bostock and Leavesley.

As most of you would know by now, the FBA is interested in sustainable development for Albany's future. To us, sustainable development means that we all should be satisfied with the environmental, social, and financial aspects of a project before it is approved. This is referred to as the "Triple Bottom Line" and while many of you may not agree with this approach, believe me when I tell you that this is now a standard requirement for project approval throughout the modern business community, including State and Federal Governments.

Development that takes into account the **long-term needs** of the community and the environment is the best way to secure Albany's future and it shows that we're switched on to modern business practices.

It must be said that the above Councillors appear to have a social and moral conscience in their approach to project approval and development that fits in well with modern business standards. We commend them for the way they represent us. I wonder why the Council cannot follow their lead in developing our community?

I would like to suggest that we modify the Deputy Mayor's election motto to:

"If it's good for Albany, let's do it sustainably"

Thank you for the opportunity to present our Association's views on these matters.
Richard Vogwill, 53 La Perouse Road, Goode Beach

Tabled Address by Mr Paul Lionetti on behalf of Mr Mark Dyson

Tuesday, May 18, 2010

Attention: Mr. Paul Leonetti
 From: Mr. Mark Dyson
 Principal, Mainbeam Pty Ltd

SUBJECT: City of Albany, Ordinary Council Meeting, to be held Tuesday 18th May, 2010

Good afternoon Paul,

Further to our phone conversation of earlier today, please see bullet points listed below which I would like you to table verbally, on my behalf during our 4 minute time allocation at tonight's meeting.

Firstly, I Mark Dyson, being the Principal of Mainbeam Pty Ltd (official name has been changed to Rural Logistics (WA) Pty Ltd) hereby authorise Mr. Paul Leonetti to speak on behalf of myself and my Company, Mainbeam Pty Ltd, at tonight's Ordinary Council Meeting of the City of Albany, WA.

Secondly, I make the comment that I was first made aware of tonight's meeting via an email which passed over my desk only today, Tuesday 18th May, 2010. For the Council to state that this was an oversight it is not accepted. I was dismayed to read the contents listing allegations made towards me and my Company, Mainbeam Pty Ltd, that I was uncooperative in negotiations between Grange Resources Pty Ltd and the Albany Town Council. During the last 16 mths, I have not received either verbal or written communication from the Council in relation to the slurry pipeline through my property. I endeavoured to assist Grange Resources as much as I could and without doubt the greatest hindrance to finalizing the pipeline route lays at the feet of the Department of Transport which oversees both Main Roads and the Railways departments which have both refused Grange access to their respective road and railway reserves for exactly the same reasons we present.

Refer Item 15.3.4 – BACKGROUND

Paragraph 1:

I take this opportunity to correct this comment, and highlight that it was not the staff of the Albany Town Council who identified the pathway route, but rather me, (Mark Dyson) who was responsible for the identification of the said route. It was also suggested to Council representatives that the pathway could in fact proceed along the foreshore area immediately in front of the existing buildings, rather than along the eastern edge of the property as this would complement the proposed developments envisaged for the site.

This however does not mean also that it would be suitable for a slurry pipeline to proceed along this route, in fact totally opposite is the case, which should be the opinion of anyone that has anything to do with this issue. At this stage of the negotiations it was only ever envisaged that the pipeline would run alongside the rail reserve and it was only after Grange Resources revealed to us that they intended to run their pipeline along the entire of the road surface of Woolstores Place, effectively dissecting our future development site that I withdrew my verbal consent for the granting of an easement along the

eastern edge of my property. I then proposed that the pipe route follow the Frenchman's Bay Road until it met the railway whereby it would then follow an existing easement along the rail reserve and I would then grant the remaining easement at the south eastern boundary of my property to permit the pipe to continue on into the Port. Grange then met with opposition from Main Roads and the owners of neighbouring properties also advised Grange that they would not grant the easements that they required should the pipeline run alongside Frenchman's Bay Road.

Refer Item 15.3.4 – DISCUSSION

Paragraph 3:

Agreed as correct.

Paragraph 4:

I make the comment that Mainbeam Pty Ltd have at no time provided Council staff with any development or potential development proposals, as neither myself or my Company felt it necessary or believed we were required to provide any such details at that time.

Paragraph 5:

Agreed, however I make this point; I refer to the words "may impact" on our proposed highway extension intersection works. As a land owner I also have the same rights as Main Roads. As per above I did offer alternatives and it was not me that stood in the way of the alternative suggested.

Paragraph 6:

In relation to this paragraph, I advise I have only ever received written or verbal communications from Mr. Brendan Corey of Grange Resources Pty Ltd earlier this year, threatening that if I failed to agree to the pipeline location in Woolstores Place (hence splitting my property in half with an easement) he would "have no choice but to use the crown land located to the harbour side of my property".

Paragraph 7:

Total objection.

Refer Item 15.3.4 – PUBLIC CONSULTATION / ENGAGEMENT

Paragraph 9:

I object to the statement made, that Council has had limited communications with myself or my Company, Mainbeam Pty Ltd. Discussions over the last 16 mths have only ever been ongoing between my Company and Grange Resources Pty Ltd. Council has not bothered to get involved.

In summary, I strongly object that communications with Council have been open and amicable. There has been limited correspondence with Council since Grange Resources Pty Ltd indicated their requirement to continue the pipeline past my property. Since it became clear that Council were keen to support the Grange proposal without regard to the impact on other landowners then the relationship

with Council ceased to be exactly that. It is unacceptable that the Council would allow these items to be presented tonight when it is plainly obvious that the impact on my land will be enormous. Grange has been totally negligent in their approach to addressing the issue of their ore to the Port and now acknowledging their own incompetence are becoming extremely desperate in their approach. Whilst their project will be good for Albany the Council should not agree to their requests to the detriment of other ratepayers. I deserve the same consideration you are about to give Grange and my site will eventually also have a significant positive impact on Albany.

I re-iterate that I was in full support of the pipeline being located on the northern end of the property, against the railway line. Negotiations stalled however when Main Roads objected due to the possible future development of the Frenchman Bay Rd intersection.

I also require the Council to have the respective land area fully surveyed to accurately delineate this apparent crown land reserve as in my opinion the required land area that Grange is seeking doesn't exist. To carry out their proposed works they would need to enter my land, for which permission is unlikely to be given. Their works would cause significant disruption to the enjoyment of my land by my tenants and the same for neighbouring property owners along the length of Woolstore Place.

Regards

A handwritten signature in black ink, appearing to read 'M. Dyson', with a long horizontal flourish extending to the right.

MARK DYSON

Principal, Mainbeam Pty Ltd

OCM 18 May 2010

Item 3 Announcements by Mayor and Councillors without discussion.

I have found it difficult to consider routine decisions of our agenda this evening, when there remain much greater and more fundamental issues outstanding and unresolved.

The very foundation and integrity of this Council is in question. The public announcement concerning the CEOs departure, the huge pay out of ratepayers' funds and the blame for the loss being apportioned to minority Councillors, must be explained. The current innuendo and supposition is not acceptable or responsible and can only lead to fuelling the widespread misunderstandings and distrust within the community.

Honest, open, accountable governance is our legal responsibility, our electors are absolutely right to demand that it is properly delivered. It is a sad indictment on each of us individually and the governing body as a whole that it has been necessary for our community to call for an inquiry.

If we are to salvage any semblance of honour in this whole sorry affair, Council must demonstrate some humility, properly examine the facts, be open about the realities of the situation, however unpalatable they may be and apologise to those who have been so severely wronged.

To continue oblivious or ignoring the truth is to condemn this City to "governance" built on sand, shaky at best but at severe risk of total collapse.

Councillor Jill Bostock

Tabled address from Councillor Chris Holden

From Councillor Chris Holden

Thank you Mayor. I should like to bring to your attention an article in the Albany Advertiser on Thursday 29th April by Phoebe Wearne in which she interviewed world renowned architect Ivan Rijavec. The comments in the article were also echoed in the Editorial in the same paper and the cartoon by Slaven.

Mr Rijavec' who was brought up in Albany, is quoted as saying, "The town is held back by a lack of creativity". He goes on, "Urban fear contradicted urban realities. Instead of being wracked by urban fear and overdosing on the placebo of sprawl, we should embrace the possibilities of urbanism by creating a thriving heart of higher density. "

He also said: "The best way of squandering natural resources was to have a low density population across long stretches of land", an exact description of the results of our current policy.

The editorial endorsed Ivan's comments, suggesting that we need to do a little thinking "outside the box". Even Slaven's cartoon in the same edition illustrated our boring and pathetic future if we do not consider options.

Some ratepayers have discussed with me the general planning and development strategy of Albany saying it is; extremely bland and boring in visual impact and, greedy in land usage. They feel we must take action to change this and I agree.

It is becoming apparent that the suburban sprawl creeping over the beautiful land in our suburbs is a fungus growing and smothering any semblance of beauty.

We should be encouraging developers to think in terms of more multi storied houses, terrace housing, town houses and apartment buildings.

If we take a look at what has happened in Bunbury and Geraldton we see suitably sited apartment blocks. This type of accommodation is in demand and apartments in those cities have been selling for well over a million dollars. There are people who prefer to live in such accommodation instead of a five by two in a suburban sprawl.

Also this type of accommodation means many more people can live on less land.

The careful siting of such developments can be accommodated in Albany without spoiling our basic charm.

Such development would also be of financial benefit to the rate payers as the horrendous cost of infrastructure would be greatly reduced.

Local developers should be encouraged to present exciting and innovative concepts and not be battered into a dreary uniformity.

We have a central hub in our city that we can embrace and love as we do – but this does not prevent us from being imaginative and progressive in how we develop.

Attached:

Article by Phoebe Wearne.

Editorial.

Cartoon by Slaven.

All from "The Albany Advertiser" Thursday 29th April 2010

OCM 18 May 2010

Item 16.2.2 Briefing Sessions, amendment to the Governance and Meeting Framework Policy.

Mayor and Councillors I am bemused at the introduction of this item. When I became a Councillor briefing sessions were the order of the day, but they were abolished as they were at the time deemed to be unlawful in their execution.

The Strategy and Policy Committees were designed and delivered by the CEO Andrew Hammond. The committees were hailed as “Governance” committees and I was initially encouraged that this would represent an opportunity for Council to truly govern.

However I was quickly disappointed and it is no secret that I have been arguing that these meetings have little to do with governance but are staff generated and controlled to such an extent that I was refused permission to place an item on the agenda.

The review of these committees therefore has my absolute approval and I support the concept of a briefing session. There are always issues where Councillors require more detailed information, but briefing sessions I maintain should be an adjunct, an addition at the request of Council, to the more essential provision of a regular “governance committee” of full Council.

The real need for this governing body to operate effectively is first and foremost, a forum outside the confines of the OCM where the job of governance can be deliberated. We should not wait to be led, it is for Council to set up the governance regime, to be independent of staff and address its own responsibilities. I believe that this independence of thought and evidence of governance responsibility is precisely what Minister Castrilli is looking for.

Whilst I appreciate staff tackling the job of devising, appropriate and workable governance structure, this policy is incomplete and is actually the responsibility of the governing body.

For fear of being criticized for slowing progress I can support this motion, in that briefing sessions conducted within the confines of procedural guidelines can be useful, but governance is about more than being informed and a priority must be given to establishing an independent, regular, full council governance committee which should be formally written into this policy.

Mayor and Councillors unless we take the lead and organise our own work, we cannot be truly effective.

Councillor Jill Bostock.