



# **MINUTES**

## **ORDINARY MEETING OF COUNCIL**

**on  
Tuesday, 18<sup>th</sup> September 2001  
7.30pm**

# City of Albany - Mercer Road Office

## City of Albany

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Signed \_\_\_\_\_

Date: 24th September 2001

***Andrew Hammond***  
Chief Executive Officer

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## 1.0 DECLARATION OF OPENING

Mayor Goode declared the meeting open at 7.30pm and extended a welcome to all present. The Mayor thanked Ms Caroline Dempster from The Weekender as this will be her last Council meeting before leaving Albany.

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

### Attendance:

Her Worship the Mayor  
Councillors

A.E. Goode JP  
-M.J. Evans JP  
-E.A. Barton  
-S.M. Bojcun  
-J.A. Cecil  
-A.H.M. Demarteau  
-R.H. Emery  
-D.M. Evers  
-G.J. Sankey  
-D.W. Wellington  
-I.A. West  
-I.W. Wilson  
-D.J. Wolfe

Chief Executive Officer  
Executive Director  
-Development Services  
Executive Director  
-Corporate & Community Services  
Manager Operations  
PA to Chief Executive Officer

-A.C. Hammond  
-R.J. Fenn  
-W.P. Madigan  
-G.D. Steel  
-D.G. Warren

Approximately 40 members of the public  
4 media representatives

### Apologies/Leave of Absence:

Councillors

-J.M. Walker  
-J.D. Williams

## 3.0 OPENING PRAYER

The Opening prayer was read by Her Worship the Mayor.

“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.”

At the conclusion of the prayer the Mayor asked the audience to remain standing for one minute to remember the tragedy of the people killed in the New York bombing attack.

A Book of Hope will be placed in the front offices of the City of Albany at both York Street and Mercer Road for the people of Albany to record their personal message. This will then be forwarded to the U.S. Embassy from the City of Albany.

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

Nil

#### **5.0 PUBLIC QUESTION TIME**

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

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

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

##### **\* A Champion**

Mrs Champion referred to Item 11.3.4. Mrs Champion asked Council to support the proposal and allow development of the Frenchman Bay Caravan Park for tourism purposes. She asked two questions relating to Park Homes.

The Executive Director Development Services stated under the Caravan and Camping Act a percentage of a caravan park can be used for park homes with special Council approval a site can be declared as a Park Home Park and used 100%.

##### **\*A Valley**

Mr Valley spoke to Item 13.2.1. Mr Valley stated that as Council recognised the uniqueness of Robinson Road and has recommended that the design reflects a low speed environment, what action will it take to ensure the character and road alignment remain unchanged and residents concerns acted upon.

The Manager of Operations responded that the Manager of Assets and Client Services had revised the design brief which is still in draft format pending the result of Council's decision at the meeting.

Before the design is finalised the Consultant will meet with residents to discuss construction options.

**\*K Prince**

Mr Prince spoke to Item 13.2.1 stating that he was satisfied with Council's offer so far and asked the following question of Council.

What powers has Council and what powers can Council acquire to enable it to declare the Robinson Estate and Aylemore Park precinct an equestrian/tourist friendly area with the results desired – Maximum speed of 40kilometres per hour, fast track development approval and suitable signs erected.

The Executive Director Development Services stated that he was unaware of any mechanism to ensure that this could happen. Entrance statements, road standards, visual treatments, bridle paths etc could be developed to create a suitable environment for equestrian and tourism activity.

**\*A Davis**

Mr Davis spoke to Item 13.2.1 and requested if the speed limit and winding road signs will be erected at entry points to Robinson Road as the roadworks are undertaken.

The Manager of Operations stated that Regulating Signs would be subject to Main Roads of Western Australia evaluation and occur after completion of works(6-8 weeks). Advisory signage would be incorporated as part of the design process and installed as part of the project.

**\*M Paynter**

Mr Paynter spoke to Item 13.2.1 and thanked Council for their consideration and response to residents' concerns, noting the preservation of the karri trees lining Robinson Road.

Mr Paynter expressed concerns there was nothing in the recommendation to Council which would ensure a 40-60kmh speed limit is implemented.

The Manager of Operations took the questions on notice.

**\*M Bennett**

Ms Bennett spoke to Item 13.2.1 stating she was pleased to see the new direction taken by Council Officers as outlined in the Chief Executive Officer's letter of 11<sup>th</sup> September 2001. Ms Bennet was concerned that the City had not included the Gledhow South Road in its upgrade of the Robinson Road project.

The Manager of Operations advised that Robinson Road was considered to have a higher priority for upgrading. Subject to Council approval, Gledhow South Road would be included in the upgraded plans for 2002/03.

**\*N Ayton**

Mr Ayton represented E and A Champion and spoke to Item 11.3.4. Mr Ayton stated that the park is a valuable holiday site, providing basic services and a sense of community in the Goode Beach area.

Mr Ayton felt that the residential enclave did not meet the Local Planning Strategy/Residential Expansion Strategy. He asked Council for support to overturn the Officers Recommendation.



**\*S Shuttleworth**

Mr Shuttleworth spoke to Item 12.2.6 stating that he has owned the caravan park for five years and in this time had doubled the turnover and made the park into an asset for the City of Albany, as well as contributing to tourism promotion. Confirmation was sought from Council that, if another person was awarded the lease, he would be entitled to ask for reimbursement from Council for the capital investment he put into developing the lease and caravan park.

**\*A Oates**

Mr Oats spoke to Item 11.1 expressing concerns about the high number of submissions received and the agenda items suggesting the submissions be dismissed.

The Executive Director Development Services responded that in considering submissions Council is required to dismiss note or uphold submissions. Mr Fenn stated that the Officer's recommendation would be considered by Council.

**\*A Cotton**

Mr Cotton spoke to Item 11.1.4 and expressed concerns that Council was not listening to ratepayers and appeal rights should be retained.

The Councillors elected at this time to extend the Public Open Forum session for a period of 15 minutes.

Councillor Evers left the chamber at 8.05pm after declaring a disclosure of interest in the question asked by Mr Waugh. Councillor Evers property lies within the boundary of the South Coast Water Reserve

**\*G Waugh**

Mr Waugh referred to Item 11.3.3 and spoke against the proposed changes to the strategy. He objected to his property being described as a public drinking water source, ignoring the land and water rights of land owners. He implored Council to reject the policy in its present form.

Councillor Evers returned to the chamber at 8.09pm.

**\*P Smith**

Mr Smith is a member of the Albany Apex Club and spoke to item 12.2.5. Mr Smith expressed concern that the Apex Club originally had a peppercorn 99 year lease with the Shire of Albany and unfortunately this cannot be located. If the club has to pay for the new lease they will be considerably out of pocket and the request was made to Council to consider the ramifications to the club.

The Executive Director Corporate & Community Services advised that neither party had been able to locate the lease and it was illegal for the club to occupy the land without a lease deliberation to provide tenure for the club. A 10 year lease has been prepared for Council.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

6.1 Ordinary Council Meeting Minutes (as previously distributed).

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 21<sup>st</sup> August, 2001

as previously distributed be confirmed as a true and accurate record of proceedings.

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR BARTON**

**THAT the following minutes:**

- **Ordinary Council meeting held on 21<sup>st</sup> August, 2001**

**as previously distributed be confirmed as a true and accurate record of proceedings.**

**MOTION CARRIED 13-0**

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**8.0 DISCLOSURE OF FINANCIAL INTERESTS**

Councillor Evers – Item 11.3.3 Change Policy Provisions – Local Rural Strategy (South coast Water Reserve)

Nature of Interest - Councillor Evers property lies within the boundary of the South Coast Water Reserve.

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

Nil

**10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

# **Development Services**

## **REPORTS**

DEVELOPMENT SERVICES REPORTS

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

**11.1 DEVELOPMENT**

**11.1.1 Ancillary Accommodation – Lot 15 Ballard Heights, Spencer Park**

**File/Ward** : A132885 (Breaksea Ward)

**Proposal/Issue** : Ancillary Accommodation

**Subject Land/Locality** : Lot 15 (17) Ballard Heights, Spencer Park

**Proponent** : BA Spry

**Owner** : BA & WJ Spry

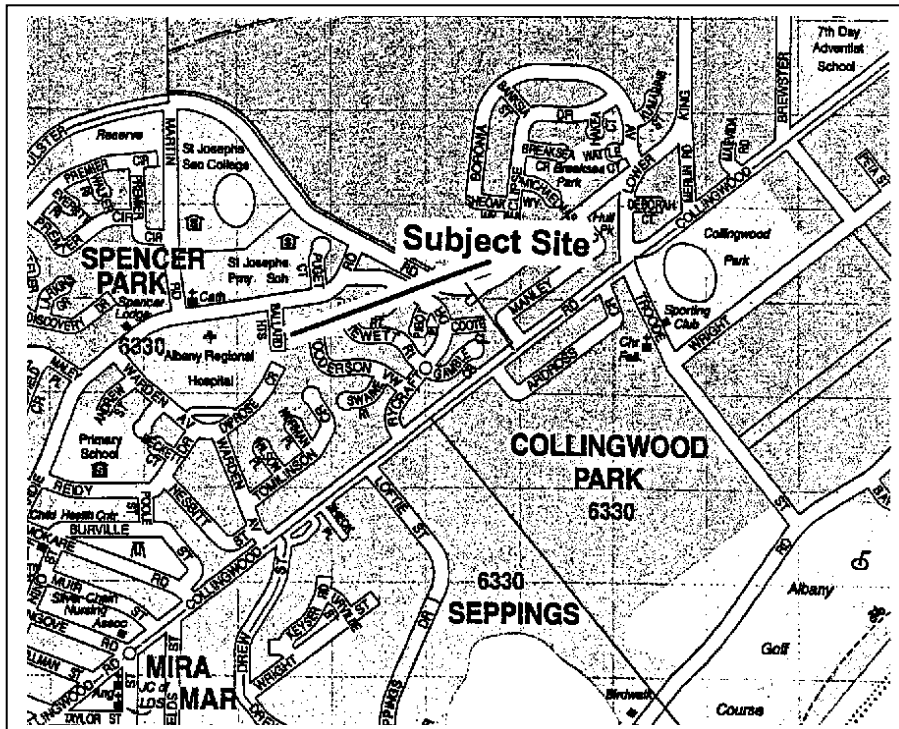
**Reporting Officer(s)** : Planning Officer (R Hindley)

**Disclosure of Interest** : Nil

**Previous Reference** : Nil

**Summary Recommendation:** Support subject to conditions

**Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**BACKGROUND**

1. An application has been received from BA Spry to construct an ‘Ancillary Accommodation Unit’ on Lot 15 (17) Ballard Heights, Spencer Park. The proposed unit has a living area of 67m<sup>2</sup> and is to be clad with Colorbond steel with a Heritage Red roof and Caufield Green walls.
2. The subject lot is 1192m<sup>2</sup> in area and is zoned ‘Residential R20’ under Town Planning Scheme 1A.
3. Two grouped dwellings occupy the subject lot. The proposed ancillary accommodation unit will be ancillary to one of these dwellings.
4. It is proposed that the ‘Ancillary Accommodation’ unit will be occupied by the applicant’s mother.

**STATUTORY REQUIREMENTS**

5. Clause 7.21.4 of the Scheme States:

*“A Town Planning Scheme policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.”*

6. ‘Ancillary Accommodation’ is an ‘IP’ use in a ‘Residential’ Zone, thus making the proposed development permissible if in compliance with Council Guidelines.

**POLICY IMPLICATIONS**

7. The proposed dwelling complies with all aspects of Guideline 2.8 – Ancillary Accommodation, with the exception of it falling outside of the definition of Ancillary Accommodation which states:

*“Ancillary Accommodation means self contained living accommodation on the same site as a single house...”*

8. The approval and construction of ‘Ancillary Accommodation’ on a site with an existing grouped dwelling is not dealt with in the Guideline and requires determination by Council.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**COMMENT/DISCUSSION**

11. Water Corporation have advised (see attached) that they will not support the proposal until the owner has either:
  - a) Relocated the proposed building in order to utilise the existing sewerage main and connection points; or
  - b) Cut back the existing sewer main and installed two new junction points.
  
12. The external wall of the proposed ‘Ancillary Accommodation’ unit is located, at its closest point, 1.04m from the wall of an existing dwelling. The eaves of both units will extend into this area and result in a further reduction of separation. The applicant has advised that whilst the proposed siting does not comply with the Building Code of Australia’s requirements for fire separation, performance standards should apply as non-combustible materials are to be utilised (see attached).
  
13. The proposed unit is well screened from the road being located to the rear of one of the existing dwellings.
  
14. The proposed unit will be ancillary to one of the existing dwellings on the lot thereby being incidental to the predominant residential use.

**RECOMMENDATION**

THAT Council grants Planning Scheme Consent for an Ancillary Accommodation unit upon Lot 15 (17) Ballard Heights, Spencer Park subject, but not limited to, the following conditions:

- i) relocating the proposed building in order to utilise the existing sewerage main or cutting back the existing sewer main and installing two new junction points; and
  
- ii) adequate separation between units being maintained either through relocating the dwelling or utilising fire rated materials.

*Voting Requirement Simple Majority*

.....

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**MOVED COUNCILLOR DEMARTEAU  
SECONDED MAYOR A GOODE**

**THAT Council grants Planning Scheme Consent for an Ancillary Accommodation unit upon Lot 15 (17) Ballard Heights, Spencer Park subject, but not limited to, the following conditions:**

- i) relocating the proposed building in order to utilise the existing sewerage main or cutting back the existing sewer main and installing two new junction points; and**
- ii) adequate separation between units being maintained either through relocating the dwelling or utilising fire rated materials.**

**MOTION CARRIED 13-0**

DEVELOPMENT SERVICES REPORTS

610898425780 LARRY BOSTON DESIGNS

416 P01 03.09.01 16:31

ATTENTION DAVID MEXOM



Larry  
Boston  
Design

PHONE (08) 98 415618 FAX (08) 98 425780  
35 FESTING STREET. design@omninet.net.au  
ALBANY, 6330 WESTERN AUSTRALIA

3 September 2001

Chief Executive Officer  
Albany City Council  
York Street  
Albany 6330 W.A.

CITY OF ALBANY RECEIVED		
03-Sep-01		
File	Corro. No.	Officer
Received Y / N	Acknow. Sent / /	CNL / BLTN

Dear Sir,

Reference:

Proposed Ancillary Accommodation for Mr & Mrs B. Spry lot 15 Ballard Heights, Albany.

I would like to request the Building Department to look at the set back in relation to the proposed carport corner and the existing residence as shown on the site plan sheet 6 of 6 as drawn up by Larry Boston Design dated 28 June 01.

As the B.C.A. requires the adjacent buildings to be minimum of 460mm between combustible units although my drawing shows it is less than this dimension the new building is going to be constructed of steel posts, steel trusses & battens and lined with villa board or hardiflex and should be checked under the performance provisions for non combustible material and have the set back relaxed. Please note that this set back distance only occurs at one point as the two buildings are not parallel and therefore the set back gets further apart along the common walls.

Would appreciate your immediate attention to this matter as it will be going before the next council meeting in two weeks.

Regards

Larry Boston



ORDINARY COUNCIL MEETING MINUTES – 18/09/01

\*\* REFER DISCLAIMER \*\*

DEVELOPMENT SERVICES REPORTS



ABN: 28 003 434 917

Our Ref: cc1022245  
Enquiries: Sophie Kolanek  
Phone: 9842 4271

20 August 2001

City of Albany  
Chief Executive Officer  
PO Box 484  
ALBANY 6331

CITY OF ALBANY RECEIVED		
21 AUG 2001		
FILE A132885	CORRO No. I113843	OFFICER Diana Plan4
REPLY Y(2)	ACKNOW SENT	CNL/BLTN



Quality Endorsed Company ISO 9002 LG 12615



Certified Environmental Management ISO 14001 LG 10217

Great Southern  
Regional Office

63 Serpentine Road  
Albany 6330  
Western Australia

P.O. Box 915  
Albany W.A. 6331

Tel: (08) 9842 4211  
Fax: (08) 9842 4255

www.  
watercorporation.com.au

Dear Sir,

RE: LOT 15 (17) BALLARD HEIGHTS, SPENCER PARK

Reference is made to your letter of 8<sup>th</sup> August 2001 regarding Planning Consent for the above mentioned property.

Please be advised that the Water Corporation *has not given approval* for ancillary accommodation. We are waiting on certain conditions to be met.

The owner has the options of either:

(a) Relocating the proposed building in order to utilise the existing sewerage main and connection points.

or

(b) Cutting back the existing sewer main and installing two new junction points.

It was advised that the owner refers the matter to a surveyor for further investigation.

When plans were submitted to the Water Corporation on 25<sup>th</sup> July 2001, the applicant was given details of our conditions and to date we have had no response.

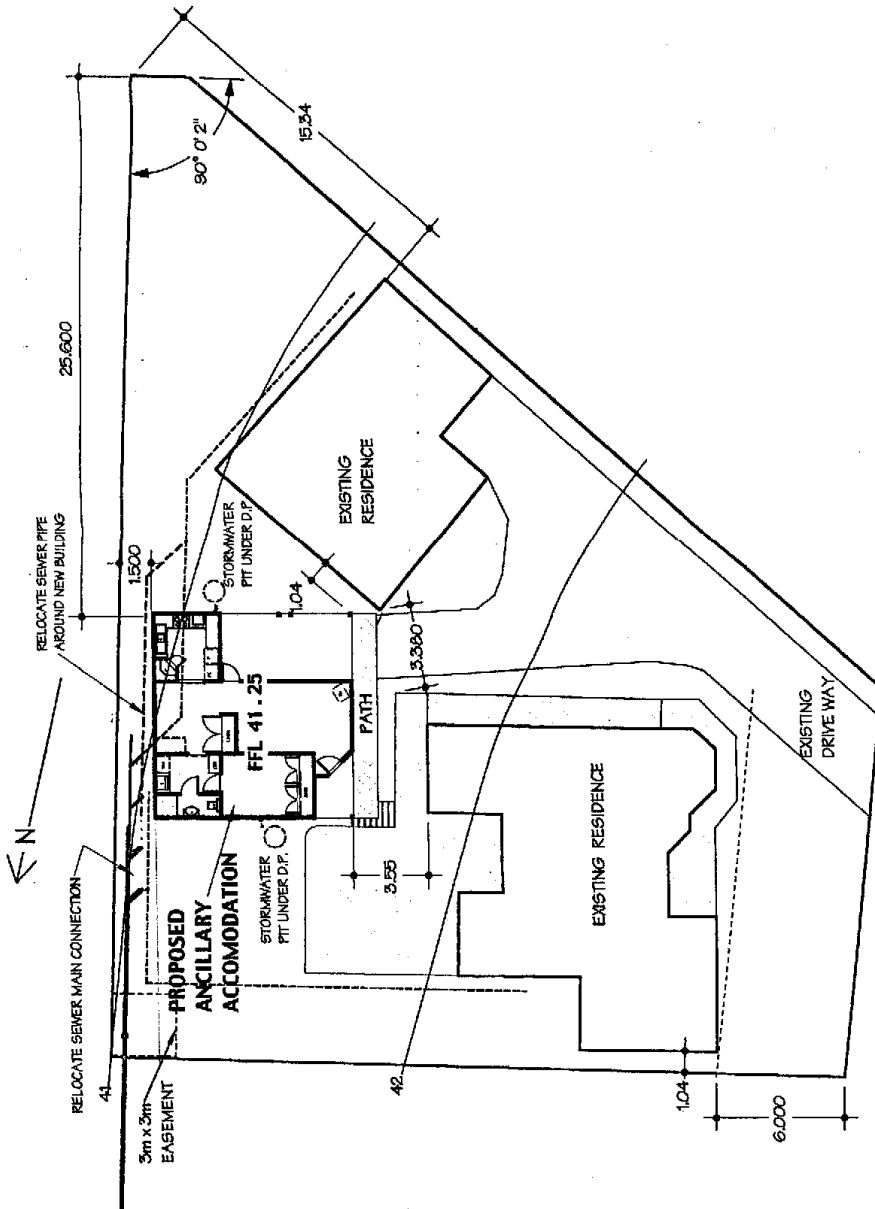
In the meantime we will not give approval until an amended plan is received meeting our requirements. We would appreciate if you would convey the conditions above to the owner and also not issue a building license until you are in receipt of a stamped approved plan from the Corporation (as is our agreed procedure with C of A).

Thankyou for the opportunity to comment and should you have any further enquiries please do not hesitate to our Land Development Officer on 9842 4240 or myself on 9842 4271.

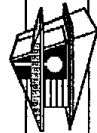
Yours sincerely

S. Kolanek  
MANAGER CUSTOMER SERVICES

DEVELOPMENT SERVICES REPORTS



SITE PLAN SCALE 1:100



Lacey PHONE (08) 98 41 56 18 FAX (08) 98 42 57 80  
 Boston 35 FEESTING STREET. design@lacedesign.com.au  
 Design ALBANY, 6530 WESTERN AUSTRALIA

DATE 28 JUNE '01  
 DRAWN L.L.P.  
 UNIT 28 JUNE '01

PROPOSED VENEER ANCILLARY ACCOMMODATION  
 FOR MR & MRS B. SPRY  
 LOT 15 BALLARD HTS, ALBANY

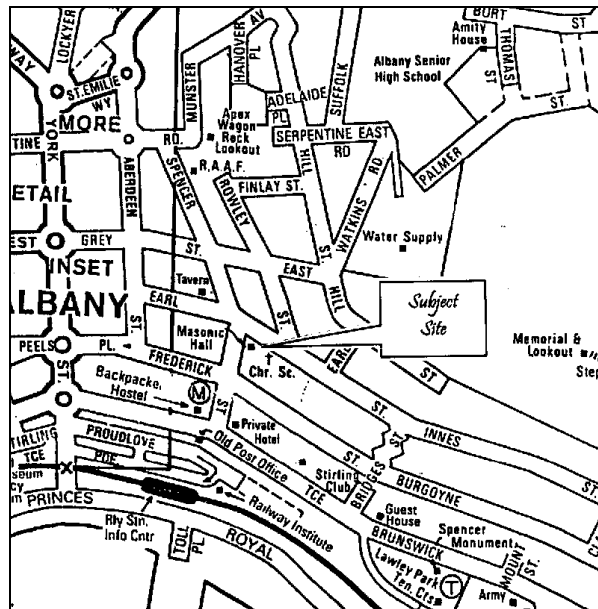
SITE PLAN 1:200

SHEET 6 OF 6

**DEVELOPMENT SERVICES REPORTS**

**11.1.2 Initiate Rezoning – 58–60 Spencer Street, Albany**

- File/Ward** : A151134/AMD135 (Frederickstown Ward)
- Proposal/Issue** : Rezone Lot 21 (58 - 60) Spencer Street from “Private Clubs and Institutions” to “Special Site ” Zones.
- Subject Land/Locality** : Lot 21 (58 – 60) Spencer Street, Albany
- Proponent** : Ayton Taylor & Burrell
- Owner** : Albany Masonic Hall Co. Pty Ltd
- Reporting Officer(s)** : Planning Officer Policy (P Tvermoes)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 01/05/01 Item 11.1.6
- Summary Recommendation:** Initiate Amendment
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**BACKGROUND**

1. Council is requested to amend Town Planning Scheme 1A by rezoning Lot 21 (58-60) Spencer Street, which has an area of 2,266m<sup>2</sup>, from “Private Clubs and Institutions” to “Residential” and “Special Site”. A base zoning of “Residential R30” is proposed, with additional uses including Holiday Accommodation, Office and Residential (R60) to be added to the Schedule of Special Sites.
2. The Masonic Hall is situated in the north-western corner of the lot. The balance of the lot is vacant and is used for parking associated with the hall. Access to the parking area is from Spencer Street and there is limited access opportunities to the site from Earl Street, along the northern boundary of the lot.
3. Council has received Scheme Amendment documentation (included in the Elected Members’ Report/Information Bulletin) and the proponent seeks approval from Council to initiate the rezoning.
4. Council previously received a demolition request for the structure and resolved that:
  - i) *the proponent be advised Council is NOT PREPARED to approve the application to demolish the Masonic Hall on Lot 21 Spencer Street, Albany, for the following reasons:*
    - a) *the hall is listed on the Municipal Inventory as Management Category B that requires a high level of protection;*
    - b) *the Heritage Council of WA has advised Council that the place may be eligible for entry in the State Register of Heritage Places and has been added to the Heritage Council’s current assessment program - demolition now would pre-empt such assessment; and*
    - c) *the application is in conflict with Council’s “Interim Guidelines for the Assessment of Development Applications for Redeveloping Sites (Including Demolition)” particularly those paragraphs relating to a report of the place in accordance with the principles of the Burra Charter, details of development that would replace the place, and that the Council will generally not support total demolition of a place listed on the Municipal Inventory.*
  - ii) *the proponents be invited with their advisors to work with the City’s staff and the Regional Heritage Adviser to identify a preferred rezoning of the land for a redevelopment that incorporates the hall. Council acknowledges that an application for rezoning may eventuate, but does not give any undertaking that any application will automatically be supported.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

5. The rezoning documentation puts in place mechanisms to assist in the retention of the Masonic Hall, while allowing for the hall's conservation and reuse.
6. The proponent contends that the building does not satisfactorily meet the requirements of its current users, which is a reflection, in many ways of the age of the structure. The structure also partially accommodates the senior and disabled members of the community who use it and the structure requires periodic maintenance which is greater than the returns the Albany Masonic Hall Co. Pty Ltd receive from the site.
7. The Heritage Council of WA (HCWA) is assessing the heritage significance of the hall for entry into the State Register of Heritage Places. The HCWA also advises that conservation of the hall and reuse of the site is feasible. Planning incentives are to be applied by the amending clauses to ensure retention and conservation of the structure.
8. The proponent feels that the current zoning of the site " Private Clubs and institutions" is too restrictive for reuse of the structure. It is suggested the site be rezoned to allow a range of mixed-use development options. Potential uses include day care centre, consulting rooms, holiday accommodation, house of worship, motel, office, restaurant and residential (R60).

**STATUTORY REQUIREMENTS**

9. Council is now required to formally initiate the amendment. Council's resolution under the Town Planning Regulations 1967 is required to amend the Scheme. This is the action which will commence the legal process pursuant to the Act.
10. The documents will be forwarded to the Department of Environmental Protection (DEP) upon passing the resolution to initiate the amendment. The DEP has the capacity to require a formal assessment of the proposal at this stage. Following receipt of the DEP's advice, staff will advertise the proposal for 42 days for public comment. The document will then be referred back to the Council for final approval.
11. A resolution to amend a Town Planning Scheme is not to be construed to mean that final approval will be granted to the amendment.

**POLICY IMPLICATIONS**

12. TPS 1A describes Special Sites in the following manner:

*3.6 In addition to the zones mentioned in Clause 3.1 there are hereby created Special Sites as specified in the Schedule contained in Appendix II and delineated on the Scheme Map according to the legend thereon.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

14. Objectives of TPS 1A:

*1.6 The general objects of the Scheme are:*

- (a) to control, regulate and co-ordinate public and private development, the use of land and buildings, the erection of buildings and the carrying out of works in order to improve the welfare of the residents of and visitors to the District of the Town of Albany in relation to amenity, convenience, economy and attractiveness of the environment;*
- (b) to reinforce the existing pattern of land uses within the District having regard to the present and future circumstances and to define by zoning the future land use and development types permitted and to guide investment decisions of intending developers, public authorities, residents and business people;*

*1.7 The particular objects of the Scheme are:*

- (a) to promote development in the Central Area within a framework of guidelines to consolidate central area functions, rehabilitate and revitalise existing premises and enhance the environment;*
- (b) to protect historic buildings and precincts and other places of heritage value from inappropriate development;*

**COMMENT/DISCUSSION**

15. Council previously considered the request to demolish the Masonic Hall and recommended the landowners pursue a rezoning of the site. The submitted documents reflect the earlier decision and they are in a form which will allow them to be placed on public exhibition.

16. The review of the heritage status of this site by the HCWA may result in some of the future decision making on conversion and adaptation of the hall being removed from Council control. If the registration of the site does not eventuate, advice from heritage architects will still be sought as part of the decision making process on development applications.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

17. The amending documents do not clearly describe the form and context of future developments and that position is understandable, given that the Albany Masonic Hall Co. Pty. Ltd. do not intend to redevelop the site. New development will need to respect the form, scale and character of the Masonic Hall and clearly present itself as being new; because of the discetionary decision making arrangements to be written into the scheme, Council will be in a position to reject a “mock federation” addition or similar and to determine the likely impacts of a new development on the locality.
18. Several of the additional uses (eg. House of Worship) also have the potential to be unacceptable to adjoining residential lots if they are the primary land use on the redeveloped site, due to traffic requirements, noise, etc. Stringent control could be written into the scheme to either prevent or restrict the percentages of the site used for these land uses however staff suggest that Council simply rely upon the discretionary provisions of the Scheme and good planning principles to control aspects of a future development when the application is before Council. In all probability, the value of the land will preclude some of these land uses from occurring and being overly prescriptive with a new developer may hinder a good design outcome.

**RECOMMENDATION**

THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended), resolve to amend City of Albany Town Planning Scheme 1A by:

- i) rezoning Lot 21 (58-60) Spencer Street, Albany from “Private Clubs and Institutions” to “Residential R30” and “Special Site”; and
- ii) adding a “Special Site” in Appendix II.

*Voting Requirement Simple Majority*

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**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WILSON**

**THAT Council in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended), resolve to amend City of Albany Town Planning Scheme 1A by:**

- i) rezoning Lot 21 (58-60) Spencer Street, Albany from “Private Clubs and Institutions” to “Residential R30” and “Special Site”; and**
- ii) adding a “Special Site” in Appendix II.**

**MOTION CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.1.3 Town Planning Scheme No. 1A - Applications for Planning Approval**

<b>File/Ward</b>	:	MAN057 (Former Town of Albany Wards)
<b>Proposal/Issue</b>	:	To amend provisions of the Scheme relating to applications for planning approval
<b>Subject Land/Locality</b>	:	Applies to the whole of the land in the Scheme Area of Town Planning Scheme No.1A
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Planning Consultant (D Gray)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 23/01/01 Item 11.1.11 OCM 25/07/00 Item 11.3.1
<b>Summary Recommendation:</b>		Recommend final approval to Amendment
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Amendment No. 131 to Town Planning Scheme No. 1A (TPS1A) was initiated by Council at its meeting on 23<sup>rd</sup> January 2001 and has been advertised for public inspection. The Amendment is to amend provisions of the Scheme relating to applications for planning approval.
2. The amendment was assessed by the Environmental Protection Authority (EPA) as “Scheme Not Assessed” and was advertised for public inspection until 19<sup>th</sup> July 2001. At the close of the advertising period one submission had been received.
3. Amendment No. 221 Town Planning Scheme No. 3 is to amend provisions of that Scheme relating to residential development, applications for planning approval and appeals and has been advertised concurrently with this Amendment. Amendment No. 221 is the subject of Item No. 11.1.4.

**STATUTORY REQUIREMENTS**

4. Council must now consider the submission, make a recommendation on it and forward the submission and Council’s recommendation to the Western Australian Planning Commission (WAPC).



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

5. The WAPC is to report to the Minister for Planning and Infrastructure who is to consider the submission and the recommendation made by Council and the WAPC. The Minister will decide whether to approve the Amendment, refuse to approve the Amendment, or require Council to modify the Amendment before approval is given.

**POLICY IMPLICATIONS**

6. There are various policies and strategies that have relevance to this proposal. They include:
  - The State Planning Strategy
  - The Western Australian Planning Commission Statement of Planning Policy No. 8 (SPP 8).
  - The Albany Regional Strategy (1994)
  - The Residential Expansion Strategy for Albany (1994)
7. The purpose of SPP 8 is to bring together State and regional policies that apply to land use and development in Western Australia. When preparing a Town Planning Scheme or Town Planning Scheme Amendment, local government is to have regard for Statements of Planning Policy that are made under the Town Planning & Development Act 1928.

**FINANCIAL IMPLICATIONS**

8. There are no financial implications relating to the recommendation for this item. It should be noted that appeals lodged with the Planning Appeals Tribunal incur legal expenses in excess of \$10,000 for each appeal. Appeals to the Minister are less costly to Council.

**STRATEGIC IMPLICATIONS**

9. There are no strategic implications relating to the recommendation for this item.

**COMMENT/DISCUSSION**

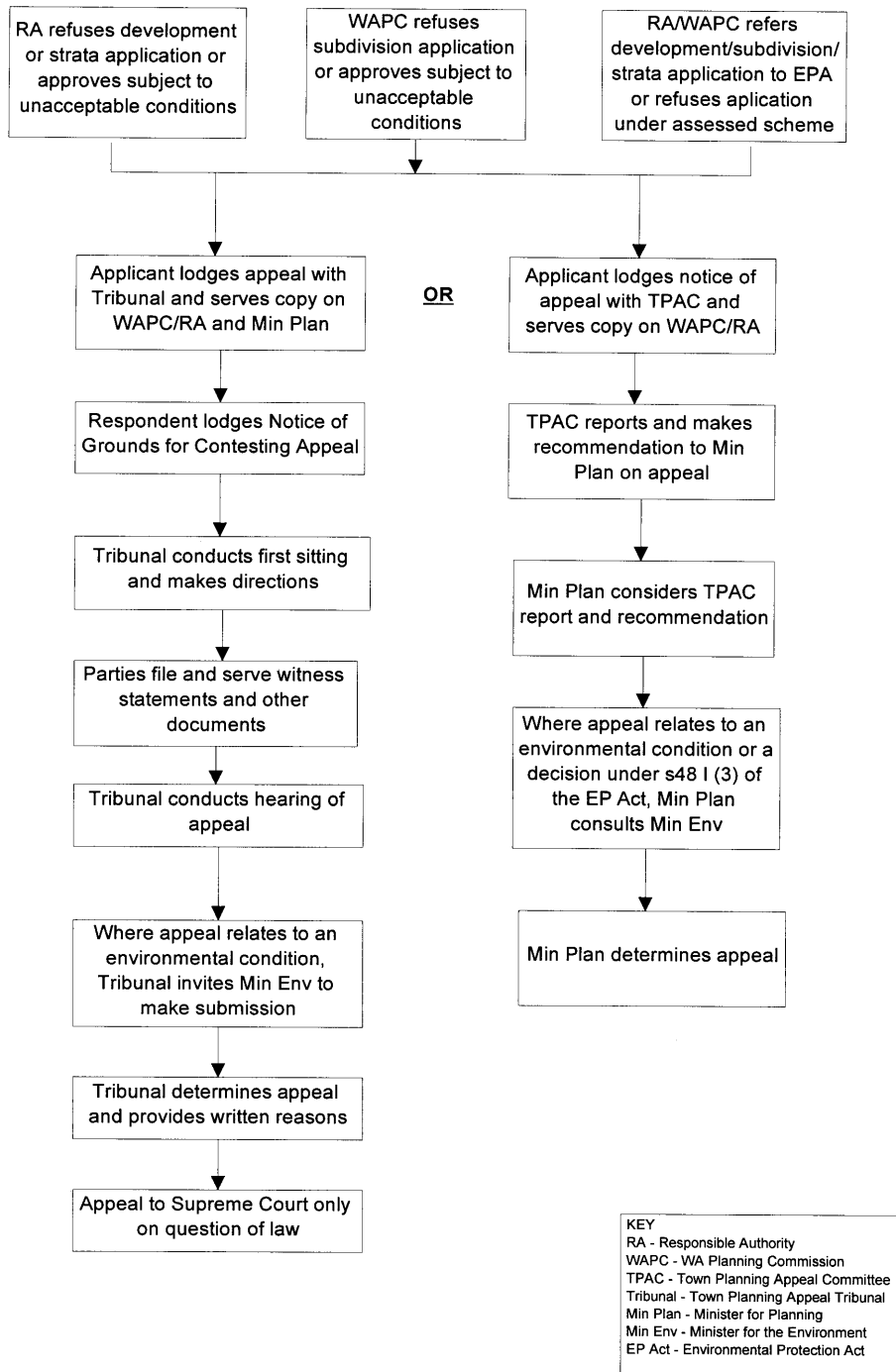
10. At the close of advertising Amendment No. 131 on 19<sup>th</sup> July 2001, one (1) submission had been received. A Schedule of Submissions and recommendations has been prepared, as required by the Town Planning Regulations 1967, and is attached to this report. A copy of the submission is to be tabled at the Council meeting. (As noted in paragraph 4, a copy of the submission is to be sent to the WAPC and will also be available to the Minister for Planning and Infrastructure.)
11. The submission requests Council amend TPS1A so that the appeal provisions are the same as those existing in TPS3 (i.e. there are third party appeal rights).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

12. The submission to this Amendment and submissions to Amendment No. 221 to TPS3 have highlighted the issue of third party appeals against local government planning decisions. The existing appeal process is summarised in the following flow diagram taken from “*Planning for People – An Introduction to the Planning System in Western Australia*” WAPC August 1996.

**11. Appeals process (see page 15)**



*(The reference in the heading to page 15 is to a page in the WAPC publication)*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

13. The Town Planning and Development Act (Appeal) Regulations 1979 apply to appeals to the Minister for Planning. The Town Planning Appeal Tribunal Rules 1979 apply to appeals to the Tribunal. Both the Regulations and the Rules provide that notice of appeal shall be lodged within 60 days of the date of the decision against which the appeal is being made.
14. The Minister for Planning and Infrastructure has presented the Planning Appeals Amendment Bill 2001 to the Parliament. The Bill is to remove the Minister for Planning as an appeal body, and to direct all planning appeals to an expanded Town Planning Appeal Tribunal. The Bill does not provide for third party appeal rights.
15. Any local government will face difficulty in unilaterally providing third party appeal rights. For TPS1A these difficulties are summarised as follows:
  - Council makes discretionary decisions on a wide range of planning applications all of which would have to be conditioned so that they did not have effect until the period for lodging a third party appeal had expired. These decisions include:
    - ❑ Some development on a Local Reserve under the Scheme.
    - ❑ Approval of a use not listed in the Zoning Table.
    - ❑ Any exercise of discretion in relation to a use listed in the Zoning Table as a discretionary use, i.e. where the symbol AA, SA, or IP appears.
    - ❑ Any change to a non-conforming use.
    - ❑ Any variation to a development standard.
    - ❑ Any variation to a requirement of the Residential Planning Codes for residential development.
    - ❑ A parapet wall for residential development.
  - A planning appeal is to be lodged within 60 days as prescribed in the planning appeal Rules and Regulations. There is considerable doubt that a local government Town Planning Scheme could vary the period for lodging a third party appeal.
  - Council would need to make a budget allocation for third party appeals in response to the awakened interest in the community and the prospect of further such appeals.
  - If Council does not adjust its procedures in anticipation of third party appeals and a proponent has acted on a planning approval where Council's decision is subsequently set aside on a third party appeal, the proponent could make a claim for compensation.
16. Subdivision applications and final approval of a Town Planning Scheme or Town Planning Scheme Amendment are not determined by local government and would not be affected by local government third party appeal rights.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

17. If third party appeals are to apply they should be part of the state planning process that will set out the rules including the period within which such appeals are to be made – possibly 21 days – and the persons to whom the right of appeal would apply such as only those who made a submission during the advertising of an application. There is considerable doubt that a local government acting on its own could vary the current Rules and Regulations under which appeals are made and determined.
18. The purpose of this report is to determine Council’s recommendation on the submission on Amendment No. 131. In the context of the Amendment it should be noted the Amendment is not proposing to introduce an appeal right; it is recommended that Council not support an Amendment to TPS 1A to provide for third party appeals. However, this may be different from Council’s position on third party appeals should they be proposed as a part of the planning appeal system in the state.
19. Having regard for the submission, it is considered that Council may recommend that the Minister for Planning and Infrastructure grant final approval to Amendment No. 131 without modification.
20. If Council supports the introduction of appeal rights into TPS1A the amending process would need to be recommenced or the request included into another amendment to the Scheme.

**RECOMMENDATION**

**THAT:**

- i) Council resolve in accordance with Section 7 of the Town Planning & Development Act 1928 to recommend that final approval be granted to Amendment No. 131 to Town Planning Scheme No. 1A, without modification;
- ii) a copy of the submission, this report and the Schedule of Submissions be forwarded to the Western Australian Planning Commission; and
- iii) the person who made the submission be advised of Council’s recommendation.

*Voting Requirement Simple Majority*

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**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR EMERY**

**THAT:**

- i) Council resolve in accordance with Section 7 of the Town Planning & Development Act 1928 to recommend that final approval be granted to Amendment No. 131 to Town Planning Scheme No. 1A, without modification;**
- ii) a copy of the submission, this report and the Schedule of Submissions be forwarded to the Western Australian Planning Commission; and**
- iii) the person who made the submission be advised of Council's recommendation**

**MOTION LOST 6-7**

**MOVED COUNCILLOR EVERS  
SECONDED COUNCILLOR BARTON**

**THAT**

- i) In response to the submissions received, Council support the introduction of limited third party appeal rights into the City of Albany Town Planning Scheme No. 1A**
- ii) The Minister for Planning and Infrastructure be requested to support the introduction of additional clauses into the amending documents as part of Amendment 131 to the City of Albany Town Planning Scheme No. 1A, after legal advice has been obtained, which would specify the process and limit the time periods and parties who may lodge appeals against Council decisions.**
- iii) Council resolve in accordance with Section 7 of the Town Planning and Development Act 1928 to recommend that final approval be granted to Amendment 131 to Town Planning Scheme 1A subject to the changes outlined in point (ii) above being incorporated into the amending documents.**
- iv) The Schedule of submissions be altered to reflect the decision to introduce limited third party appeal rights.**
- v) A copy of the submission, this report and the Schedule of Submissions be forwarded to the Western Australian Planning Commission; and**

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.3 continued

**vi) the person who made the submission be advised of Council's recommendation**

**MOTION CARRIED 8-5**

Reason:

The introduction of a broader appeal right will provide a recourse for the community where a decision is considered to be unjust.

**DEVELOPMENT SERVICES REPORTS**

**RECOMMENDED  
SCHEDULE OF  
SUBMISSIONS**

**Town Planning & Development Act 1928  
Town Planning Scheme No. 1A  
Proposed Amendment No. 131  
Schedule of Submissions**

No.	Ratepayer/Resident or Agency	Submission	Comment	Local Government's Recommendation
1.	Frances Crowley Corner Lancaster & McGonnell Roads Albany.	Amend clause 7.20 to: <i>“A person aggrieved by a decision of the Council exercising a discretionary power under the Scheme, may appeal in accordance with Part V of the Act.”</i>	<p>The purpose of the proposed modification is to introduce third party appeal rights into Town Planning Scheme No. 1A.</p> <p>The <i>Town Planning and Development Act (Appeal) Regulations 1979</i> apply to appeals to the Minister for Planning. The <i>Town Planning Appeal Tribunal Rules 1979</i> apply for appeals to the Tribunal. Both the Regulations and the Rules provide that notice of appeal shall be lodged within 60 days of the date of the decision against which the appeal is being made.</p> <p>The Minister for Planning and Infrastructure has introduced the <b><i>Planning Appeals Amendment Bill 2001</i></b> to the Parliament. The Bill is to remove the Minister for Planning as an appeal body, and to direct all planning appeals to an expanded Town Planning Appeal Tribunal. The Bill does not provide for third party appeal rights.</p> <p>Local government will face difficulty in unilaterally providing third party appeal rights. These difficulties are summarised as follows:</p> <ul style="list-style-type: none"> <li>○ Council makes discretionary decisions on a wide range of planning applications all of which would have to be conditioned so that they did not have effect until the period for lodging a third party appeal had expired. These decisions include: <ul style="list-style-type: none"> <li>– Some development on a Local Reserve under the Scheme.</li> <li>– Approval of a use not listed in the Zoning Table.</li> <li>– Any exercise of discretion in relation to a use listed in the Zoning Table as a discretionary use, i.e. where the symbol AA, SA, or IP appears.</li> <li>– Any change to a non-conforming use.</li> <li>– Any variation to a development standard.</li> <li>– Any variation to a requirement of the Residential Planning Codes for residential development.</li> </ul> </li> </ul>	The submission be dismissed.

**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/Resident or Agency	Submission	Comment	Local Government's Recommendation
			<ul style="list-style-type: none"> <li>– A parapet wall for residential development.</li> <li>○ A planning appeal is to be lodged within 60 days as prescribed in Rules and Regulations. There is considerable doubt that a local government Town Planning Scheme could vary the period for lodging a third party appeal.</li> <li>○ Council would need to make a budget allocation for third party appeals in response to the awakened interest in the community and the prospect of further such appeals.</li> <li>○ If Council does not adjust its procedures in anticipation of third party appeals and a proponent has acted on a planning approval where Council's decision is subsequently set aside on a third party appeal, the proponent could make a claim for compensation.</li> </ul> <p>If third party appeals are to apply they should be part of the state planning appeal process that will set out the rules including the period within which such appeals are to be made – possibly 21 days – and the persons to whom the right of appeal would apply - such as only those who made a submission during the advertising of an application. There is considerable doubt that local government acting on its own could vary the current Rules and Regulations under which appeals are made and determined.</p> <p>Subdivision applications and final approval of a Town Planning Scheme or Town Planning Scheme Amendment are not determined by local government and would not be affected by local government third party appeal rights.</p>	



**DEVELOPMENT SERVICES REPORTS**

**ADOPTED SCHEDULE OF SUBMISSIONS**

**Town Planning & Development Act 1928  
Town Planning Scheme No. 1A  
Proposed Amendment No. 131  
Schedule of Submissions**

No.	Ratepayer/Resident or Agency	Submission	Comment	Local Government's Recommendation
1.	Frances Crowley Corner Lancaster & McGonnell Roads Albany.	Amend clause 7.20 to: <i>“A person aggrieved by a decision of the Council exercising a discretionary power under the Scheme, may appeal in accordance with Part V of the Act.”</i>	The City of Albany has 2 operative Town Planning Schemes covering the District. Scheme 3 contains the wording proposed in the submission. Council notes that appeal rights against decisions, particularly where a neighbouring landowner is seriously affected, exist in most State legislation but similar rights do not exist in the Town Planning & Development Act or the City’s Scheme 1A. Council considers a method of recourse should be available. For third party appeals to apply they should be part of the state planning appeal process that will set out the rules including the period within which such appeals are to be made (possibly 21 days) and the persons to whom the right of appeal would apply (eg. only those who made a submission during the advertising of an application). As a State mechanism does not exist it is the desire of Council to explore mechanisms within Scheme 1A and introduce, subject to legal advice, appropriate changes to the Scheme text.	The submission be UPHOLD and, subject to legal advice, appropriate clauses be introduced at section 7.20 of the Scheme to specify the process, the time period and the parties who may lodge an appeal against Council decisions. These to be in addition to the existing appeal provisions of the Scheme.
2.	Refer also to submissions 2, 10, 13, 16, 17, 25, 31, 32, 40, 47, 55, 60, 61, 65, 77 & 78 of Amendment 221 of Town Planning Scheme No. 3.			

**DEVELOPMENT SERVICES REPORTS**

**11.1.4 Town Planning Scheme No. 3 - Residential Development, Applications for Planning Approval and Appeals**

<b>File/Ward</b>	:	MAN057 (Former Shire of Albany Wards)
<b>Proposal/Issue</b>	:	To amend provisions of the Scheme relating to residential development, applications for planning approval and appeals
<b>Subject Land/Locality</b>	:	Applies to the whole of the land in the Scheme Area of Town Planning Scheme No.3
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Planning Consultant (D Gray)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 23/01/01 Item 11.1.11 OCM 25/07/00 Item 11.3.1
<b>Summary Recommendation:</b>		Recommend final approval to Amendment
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Amendment No. 221 to Town Planning Scheme No. 3 (TPS3) was initiated by Council at its meeting on 23<sup>rd</sup> January 2001 and has been advertised for public inspection. The Amendment is to amend provisions of the Scheme relating to residential development, applications for planning approval and appeals.
2. The amendment was assessed by the Environmental Protection Authority (EPA) as “Scheme Not Assessed” and was advertised for public inspection until 19<sup>th</sup> July 2001. At the close of the advertising period 78 submissions had been received.
3. Amendment No. 131 Town Planning Scheme No. 1A is to amend provisions of that Scheme relating to applications for planning approval and has been advertised concurrently with this Amendment. Amendment No. 131 is the subject of Item No. 11.1.3.

**STATUTORY REQUIREMENTS**

4. Council must now consider all submissions, make a recommendation on each and forward the submissions and Council’s recommendations to the Western Australian Planning Commission (WAPC).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

5. The WAPC is to report to the Minister for Planning and Infrastructure who is to consider the submissions and the recommendations made by Council and the WAPC. The Minister will decide whether to approve the Amendment, refuse to approve the Amendment, or require Council to modify the Amendment before approval is given.

**POLICY IMPLICATIONS**

6. There are various policies and strategies that have relevance to this proposal. They include:
  - The State Planning Strategy
  - The Western Australian Planning Commission Statement of Planning Policy No. 8 (SPP 8).
  - The Albany Regional Strategy (1994)
  - The Residential Expansion Strategy for Albany (1994)
7. The purpose of SPP 8 is to bring together State and regional policies that apply to land use and development in Western Australia. When preparing a Town Planning Scheme or Town Planning Scheme Amendment local government is to have regard for Statements of Planning Policy that are made under the Town Planning & Development Act 1928.

**FINANCIAL IMPLICATIONS**

8. There are no financial implications relating to the recommendation for this item. It should be noted that appeals lodged with the Planning Appeals Tribunal incur legal expenses in excess of \$10,000 for each appeal. Appeals to the Minister are less costly to Council.

**STRATEGIC IMPLICATIONS**

9. There are no strategic implications relating to the recommendation for this item.

**COMMENT/DISCUSSION**

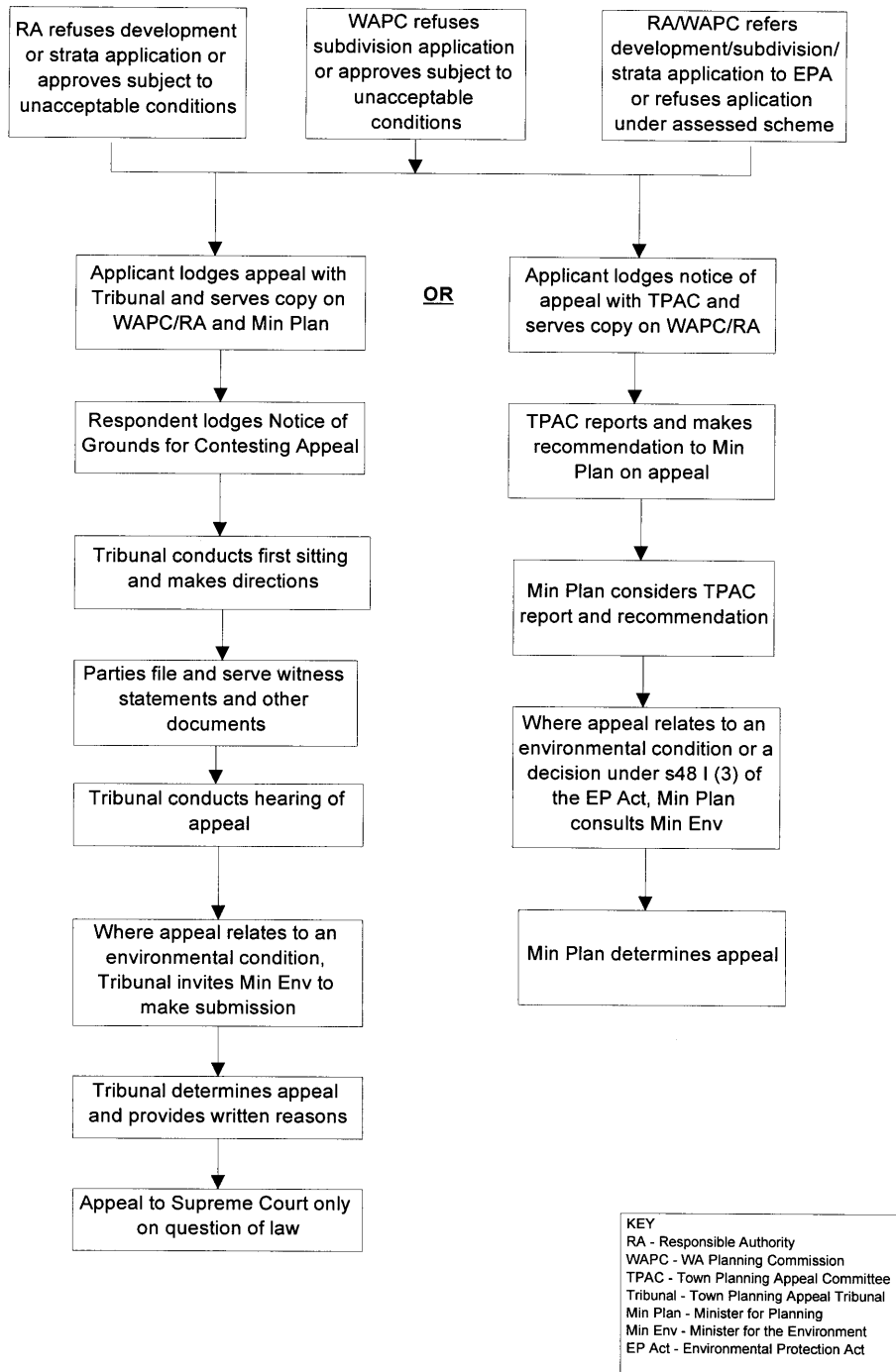
10. At the close of advertising Amendment No. 221 on 19<sup>th</sup> July 2001, seventy eight (78) submissions had been received. The submissions have been numbered 1 to 78 by date order of receipt by the City. A Schedule of Submissions and recommendations has been prepared, as required by the Town Planning Regulations 1967, and is attached to this report. A copy of each submission is to be tabled at the Council meeting. (As noted in paragraph 4, a copy of each submission is to be sent to the WAPC and will also be available to the Minister for Planning and Infrastructure.)
11. All of the submissions are from members of the public (ie. submissions were not received from any of the service providers). The submissions all support third party appeal rights.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

12. Submissions to this Amendment have highlighted the issue of third party appeals against planning decisions by local government. The existing appeal process is summarised in the following flow diagram taken from “*Planning for People – An Introduction to the Planning System in Western Australia*” WAPC August 1996.

**11. Appeals process (see page 15)**



*(The reference in the heading to page 15 is to a page in the WAPC publication)*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

13. The Town Planning and Development Act (Appeal) Regulations 1979 apply to appeals to the Minister for Planning. The Town Planning Appeal Tribunal Rules 1979 apply to appeals to the Tribunal. Both the Regulations and the Rules provide that notice of appeal shall be lodged within 60 days of the date of the decision against which the appeal is being made.
14. The Minister for Planning and Infrastructure has introduced the Planning Appeals Amendment Bill 2001 to the Parliament. The Bill is to remove the Minister for Planning as an appeal body and to direct all planning appeals to an expanded Town Planning Appeal Tribunal. The Bill does not provide for third party appeal rights.
15. Any local government will face difficulty in unilaterally providing third party appeal rights. For TPS3 these difficulties are summarised as follows:
  - Council makes discretionary decisions on a wide range of planning applications all of which would have to be conditioned so that they did not have effect until the period for lodging a third party appeal had expired. These decisions include:
    - Some development on a Local Reserve under the Scheme.
    - Approval of a use not listed in the Zoning Table.
    - Any exercise of discretion in relation to a use listed in the Zoning Table as a discretionary use, i.e. where the symbol A, AA, or IP appears.
    - Any change to a non-conforming use.
    - Any variation to a development standard.
  - A planning appeal is to be lodged within 60 days as prescribed in Rules and Regulations. There is considerable doubt that a local government Town Planning Scheme could vary the period for lodging a third party appeal.
  - Council would need to make a budget allocation for third party appeals in response to the awakened interest in the community and the prospect of further such appeals.
  - If Council does not adjust its procedures in anticipation of third party appeals and a proponent has acted on a planning approval where Council's decision is subsequently set aside on a third party appeal, the proponent could make a claim for compensation against Council.
16. Subdivision applications and final approval of a Town Planning Scheme or Town Planning Scheme Amendment are not determined by local government and would not be affected by local government third party appeal rights.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

17. If third party appeals are to apply they should be part of the State planning appeal system that will set out rules, including the period within which such appeals are to be made – possibly 21 days – and the persons to whom the right of appeal would apply - such as only those who made a submission during the advertising of an application. There is considerable doubt that a local government acting on its own could vary the current Rules and Regulations under which appeals are made and determined.
18. The purpose of this report is to determine Council's recommendation on the submissions on Amendment No. 221. In the context of the amendment it is recommended that Council not support retention of third party appeals in TPS3. However, this may be different from Council's position on third party appeals should they be proposed as a part of the statewide planning appeal system.
19. A submission (N<sup>o</sup>. 59) asserts that the proposed changes to TPS 3 threaten good town planning by:
  - abolition of third party appeals that is based on the assumption that third party submissions on rezoning and development are properly considered.
  - proposing a blanket R20 Code whereas the Residential Planning Codes are about diversity.
20. The Submission goes on to claim that:
  - City officers do not correctly report on submissions and contributions from the public, to enable Council to fully assess and decide on them. (Examples are given of recent TPS 3 Amendments and the Schedules of Submissions.)
  - DEP/EPA and FESA submissions on Amendments are treated with contempt, ridicule and disdain.
  - Introduction of the R Codes is illogical and amending TPS 3 at the end of its life to introduce the R20 code alone is reprehensible and illogical. A Local Planning Strategy should investigate capability and suitability for various densities eg. R5, R10, R12.5, R15, R17.5, R20, R25, R30, R40, R60, R80 etc, so a new Scheme can propose a mix of densities. Local qualification of these Codes can then form part of the new Scheme (eg. height restrictions etc). Instead of following the Local Planning Strategy and new Scheme process it is proposed to colour the whole city R20 and then introduce policies separately. This is ad hoc planning.
21. The realities are somewhat different to the position described in the submission. Third party appeals do not apply to TPS Amendments and this part of the submission is not relevant. Local government does not make the final decision on a TPS or TPS Amendment; it makes recommendations to the WAPC that in turn makes recommendations to the Minister for Planning and Infrastructure who makes the final decision. The submission also totally ignores the practice that all submissions are either included in the Elected Members' Report/Information Bulletin or are tabled at a Council meeting. In either case, Councillors have access to each submission, which becomes a public document. Report agenda are public information and questions on any aspect may be asked at a Council meeting.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

22. The submission comments on the recommendation that a submission “be noted” whereas the effect of the recommendation maybe that the submission is not supported and it would be more correct to recommend that the submission “be dismissed”. The point is accepted and advice was previously sought from the WAPC on this practice. The reference to a submission being noted rather than being dismissed has evolved in response to comments from some members of the public that by it being “dismissed”, their submission is regarded as worthless. The end result is not any different, but in acknowledgement of the point made in the submission, Council can decide that future recommendations be to “uphold”, “uphold in part” or to “dismiss” submissions.
23. The references to recent amendments and submissions from DEP/EPA and FESA do not relate the full story. DEP/EPA advice is just that – advice. It may be taken into account in the framing of appropriate TPS provisions, or in determination of an application for planing approval, or in conditions of subdivision (by the WAPC) where subdivision is involved. An example in the submission of an objection by FESA to TPS 3.2B Amendment No. 6 ignores the fact that the proponent submitted a fire management plan to FESA that then supported the amendment. The end result is that the fire hazard identified by FESA is to be reduced, and this must benefit the whole of that local community.
24. The parts of the submission relating to the Residential Planning Codes do not have regard for the existing provisions of TPS 3. Standards for residential development in TPS 3 are set out in Table II to that Scheme; a copy of the Table is appended to the attached Schedule of Submissions. The proposed amendment is to include all of the unsewered land in the Residential zone in the R5 code, in accordance with Government Sewerage Policy. Subdivision decisions by the WAPC are now being made on the basis of the R5 code, despite any contrary provision in the Scheme. In a similar way, the proposed R20 reflects existing subdivision practice. The R20 code should be compared with the existing TPS 3 provisions that for sewerred land are for a minimum lot size of 680m<sup>2</sup>.
25. The proposed amendment does not apply the R20 code to the whole City. The amendment is to TPS 3, which is for the former Shire area. Density codes in the former Town area are not affected. And it is incorrect to refer to only R20 because the intention is to designate unsewered areas as R5. It should also be noted that the proposed R Codes (R5 and R20) would affect only new subdivisions and development of more than 1 dwelling on a lot. Existing lots in unsewered areas may be developed with a single house subject to satisfying normal Health and Building requirements. The Residential Planning Codes already apply in TPS1A. It is clear that the Codes are to be introduced into TPS 3 as a short-term measure pending the City’s new Scheme, to firstly bring TPS 3 provisions into line with current practice, and secondly to include the Residential Planning Codes as a consistent basis for assessment of residential development (on zoned Residential land) across the whole of the City. The diversity of R Codes that may be considered in the new Scheme will follow on from consideration of the Local Planning Strategy and is not compromised in any way by the proposed amendment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

26. Having regard for the submissions, it is considered that Council may recommend that the Minister for Planning and Infrastructure grant final approval to Amendment No. 221, without modification.

**RECOMMENDATION**

THAT:

- i) Council resolve in accordance with Section 7 of the Town Planning & Development Act 1928, to recommend that final approval be granted to Amendment No. 221 to Town Planning Scheme No. 3, without modification;
- ii) a copy of each Submission, this report and the Schedule of Submissions be forwarded to the Western Australian Planning Commission; and
- iii) each person who made a submission be advised of Council's recommendation on that submission.

*Voting Requirement Simple Majority*

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The Executive Director Development Services stated that on page 42 of the Agenda , Council is requested to change the comment for submission 54 to read “as for submission 5”. Page 46 of the Agenda also requires the comment to be changed for submission 69 to read “as for submission 5”.



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.4 continued

**MOVED COUNCILLOR EVERS  
SECONDED COUNCILLOR BARTON**

**THAT:**

- i) Council support the retention of a clause (currently clause 6.7) within the City of Albany Town Planning Scheme No. 3 which provides a limited 3<sup>rd</sup> party appeal right.**
- ii) The Minister for Planning and Infrastructure be requested to withhold making a final decision on the finalisation of Amendment 221 to the City of Albany Town Planning Scheme No.3 until;**
  - a) the City can obtain legal advice on the appropriate clauses to be introduced into the scheme which specifies the process and limits the time period and the parties who may lodge appeals against Council decisions;**
  - b) draft clauses can be written and subjected to public comment; and**
  - c) the comments on the current schedule of submissions are redrafted and additional submissions are considered.**

**OR**

- d) in the event that suitable clause(s) cannot be drafted the Council would seek the retention of existing clause 6.7.**
- iii) Council resolve in accordance with Section 7 of the Town Planning and Development Act 1928, to recommend that final approval be granted to Amendment No. 221 to Town Planning Scheme No. 3 subject to the changes outlined in point (ii) above being incorporated into the amending documents.**
- iv) The Schedule of Submissions be altered to reflect the decision to retain limited third party appeal rights.**
- v) A copy of each submission, the report and the amended schedule of submissions be forwarded to the West Australian Planning Commission.**
- vi) Each person who lodged a submission be advised of Council's decision on their submission**
- vii) In framing the Council's recommendations on submissions, staff maintain their current practice to "Note" those submissions which contain information which is relevant to the amendment and to "Dismiss" and "Uphold" submissions where appropriate.**

**MOTION CARRIED 9-4**

**Reason:**

This motion put to Council seeks to maintain the rights of landowners and others to appeal a decision of Council where they feel that the decision is unjust. It is not acceptable when a person's property, or livelihood, or environment is seriously affected by a Council decision to have no recourse.

This motion allows Council the opportunity to explore avenues to put some limitations on the appeal right.

Part (vii) allows for submissions to be noted rather than dismissed.

**DEVELOPMENT SERVICES REPORTS**

**RECOMMENDED  
SCHEDULE OF  
SUBMISSIONS**

**Town Planning & Development Act 1928  
Town Planning Scheme No. 3  
Proposed Amendment No. 221  
Schedule of Submissions**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
1.	AR Taylor 14 Frederick Street Albany		The Council should retain third party appeal rights.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
2.	M Taylor 14 Frederick Street Albany		The Council should retain third party appeal rights	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
3.	A & J Oats 40 Golf Links Road Albany		Oppose any changes to TPS 3, as it is the only way residents can appeal a local government decision and would take away the democratic right from a community in a developing city.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
4.	WA & M Green 18 Belfast Street Morley		Request information on third party appeal rights for possible introduction into own local area.	Does not constitute a submission to the Amendment.	The submission be dismissed.
5.	AG Ewen PO Box 5656 Albany		Vehemently oppose changes to TPS 3. Neighbours are still being allowed to erect sheds in residential zones for a business of one kind or another. An example is a shed in Balston Road. Approving such applications often results in bad blood between neighbours or a conflict.	The Minister for Planning and Infrastructure has introduced the <i>Planning Appeals Amendment Bill 2001</i> to the Parliament. The Bill is to remove the Minister for Planning as an appeal body, and to direct all planning appeals to an expanded Town Planning Appeal Tribunal. The Bill does not provide for third party appeal rights. <i>The Town Planning and Development Act (Appeal) Regulations 1979</i> apply to appeals to the Minister for Planning. The <i>Town Planning Appeal Tribunal Rules 1979</i> apply for appeals to the Tribunal. Both the Regulations and the Rules provide that notice of appeal shall be lodged within 60 days of the date of the decision against which the appeal is being made.	The submission be dismissed.

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
5.				<p>Local government will face difficulty in unilaterally providing third party appeal rights. For TPS3 these difficulties are summarised as follows:</p> <ul style="list-style-type: none"> <li>○ Council makes discretionary decisions on a wide range of planning applications all of which would have to be conditioned so that they did not have effect until the period for lodging a third party appeal had expired. These decisions include: <ul style="list-style-type: none"> <li>– Some development on a Local Reserve under the Scheme.</li> <li>– Approval of a use not listed in the Zoning Table.</li> <li>– Any exercise of discretion in relation to a use listed in the Zoning Table as a discretionary use, i.e. where the symbol A, AA, or IP appears.</li> <li>– Any change to a non-conforming use.</li> <li>– Any variation to a development standard.</li> </ul> </li> <li>○ A planning appeal is to be lodged within 60 days as prescribed in Rules and Regulations. There is considerable doubt that a local government Town Planning Scheme could vary the period for lodging a third party appeal.</li> <li>○ Council would need to make a budget allocation for third party appeals in response to the awakened interest in the community and the prospect of further such appeals.</li> <li>○ If Council does not adjust its procedures in anticipation of third party appeals and a proponent has acted on a planning approval where Council's decision is subsequently set aside on a third party appeal, the proponent could make a claim for compensation.</li> </ul> <p>Subdivision applications and final approval of a Town Planning Scheme or Town Planning Scheme Amendment are not determined by local government and would not be affected by local government third party appeal rights.</p>	

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
5.				If third party appeals are to apply they should be part of the state planning appeal process that will set out the rules including the period within which such appeals are to be made – possibly 21 days – and the persons to whom the right of appeal would apply - such as only those who made a submission during the advertising of an application. There is considerable doubt that local government acting on its own could vary the current Rules and Regulations under which appeals are made and determined.	
6.	RG Loe 3 Balston Road Albany		Absolutely against changes to TPS 3. Experiencing many problems with a neighbouring building that has caused unhappiness and misery. Do not let it happen to others.	As for Submission 5.	The submission be dismissed.
7.	JF Tulloch 5 Wakefield Crescent Mira Mar, Albany		Against proposed change to TPS 3. Proud happy and satisfied that Albany plus 2 others still have the democratic right that others have extinguished. It must not be taken from us. Council must support the retention of third party appeal rights and reject this amendment.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
8.	G Hudson RMB 9035 Albany		Ask that the City keeps third party appeal rights in its Town Planning Schemes	As for Submission 5.	The submission be dismissed.
9.	E & M Wisniewski Lot 61 Henry Street Little Grove		Ask that the City keeps third party appeal rights in its Town Planning Schemes.	As for Submission 5.	The submission be dismissed.
10.	D Phillips 200 Stirling Terrace Albany		Right of third party appeals needs to be retained and implemented throughout Western Australia.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
11.	F Crowley Corner Lancaster & McGonnell Roads Albany		Clause 6.7 in TPS 3 (appeals) be retained with no changes.	As for Submission 5.	The submission be dismissed.

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
12.	W & JR Castle 179 Bay View Drive Albany		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As for Submission 5.	The submission be dismissed.
13.	K Saare 200 Stirling Terrace Albany		Third party appeal rights need to be retained as part of the planning process.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
14.	C Lowrie RMB 9570A Willyung Road Albany		Removing third party appeals would be an undemocratic backward step. Bad planning decisions do occur usually due to incorrect information. It is most important for a third party neighbour to have the right of appeal to prove an injustice has occurred.	As for Submission 5.	The submission be dismissed.
15.	NF Eriksen 47 Elizabeth Street Albany		The right of third party appeals should be retained; removing the right denies ratepayers natural justice.	As for Submission 5.	The submission be dismissed.
16.	M James 38 Mira Mar Road Albany		Request the City retain third party appeal rights.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
17.	M Butcher 50-56 Pioneer Road Albany		Request the City retain third party appeal rights.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
18.	M Austin Lot 50 Limeburners Road Albany		Request the City retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
19.	J Holland 1 Grove Street West Little Grove		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As for Submission 5.	The submission be dismissed.
20.	K Holland 1 Grove Street West Little Grove		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As for Submission 5.	The submission be dismissed.

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
21.	SI Austin M Austin Lot 50 Limeburners Road Albany		Request the City retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
22.	S Tracey 748 Frenchman's Bay Road Little Grove Albany		Request the City retain third party appeal rights; feel that individual's rights must be protected.	As for Submission 5.	The submission be dismissed.
23.	D & W Shanks 760 Frenchman's Bay Road Albany		Request the City retain third party appeal rights. This is a democratic society where the people should have the right to appeal decisions that they feel have been wrongly made.	As for Submission 5.	The submission be dismissed.
24.	R Wilkinson 754 Frenchman's Bay Road Albany		Request the City retain third party appeal rights. This is a democratic society where the people should have the right to appeal decisions that they feel have been wrongly made.	As for Submission 5.	The submission be dismissed.
25.	RFC Latham 343 Serpentine Road Albany		That third party appeal rights should be retained for/in a free democratic society.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
26.	E Swift 712 Frenchman's Bay Road Little Grove		Many residents are affected by Council's decisions in which they are not directly involved. Surely it is a basic right for them to be able to request assessment by independent authority	As for Submission 5.	The submission be dismissed.
27.	V MacKay 59 Yatana Road Albany		Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
28.	RA & JM Bell 5 Greeble Street Albany		Disagree with deletion of clause 6.7 from TPS 3. Right of appeal should be allowed as part of a democratic process.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
29.	J Burbidge & T Morgan Lot 82 Spring Street Little Grove		Want to retain third party appeal rights. This is a very important part of democracy.	As for Submission 5.	The submission be dismissed.
30.	R & M Gwynn 19 Norwood Road Lower King		Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
31.	B Hughes 55 Peels Place Albany		Submit that third party appeal rights be retained in Albany.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
32.	G Hughes 55 Peels Place Albany	Duke-Collie intersection and York St – Peels Place	Want right of appeal to be retained, hopefully will not need to use it, but should have the choice. Let Albany set the example by keeping the right to appeal and are a forward looking Council.	The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.	The submission be dismissed.
33.	Lower King & Bayonet Head Progress Association C/- 2 Bushby Road Lower King		Unanimously decided to urge the Council to retain third party appeals pending examination of the longer-term consequences of altering them.	As for Submission 5.	The submission be dismissed.
34.	N Morgan 45 Bedwell Street Emu Point		There will be no taking away third party appeal and rights of ratepayers in other words, no dictatorship.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
35.	J Johnson 176 Bay View Drive Little Grove		Want to retain third party appeal rights. No deleting clause 6.7.	As for Submission 5.	The submission be dismissed.
36.	R Johnson 176 Bay View Drive Little Grove		Third party appeal rights must be retained in TPS 3. No deleting clause 6.7.	As for Submission 5.	The submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
37.	G Orr 84 Bay View Drive Little Grove		This basic right of individual Albany residents must be retained. The official logic for rescinding this right is convoluted. The proposal to limit appeals to developers and deny this right to individual residents is an extremely bad piece of legislation.	As for Submission 5.	The submission be dismissed.
38.	WA & WL Wood Lot 75 Cull Road Albany		Believe residents should have a right to protest against any development that we believe not to be suitable for any part of this city and surrounds.	As for Submission 5.	The submission be dismissed.
39.	H Kane 84 Bay View Drive Little Grove		Important for individuals to have the right of appeals when Council makes bad decisions. As part of the democratic process third party appeal rights should be retained	As for Submission 5.	The submission be dismissed.
40.	Mr & Mrs PR Croney 24 Hofrad Court Albany		Want to retain the right of a third party appeal.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
41.	M Wilkinson PO Box 1681 Albany		Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
42.	EE Sharp 346 Frenchman's Bay Road Albany		The planning strategy (sic) should remain the same, it has worked well for many years and there is no valid reason for change. If it isn't broken don't fix it.	As for Submission 5.	The submission be dismissed.
43.	MH Sharp 346 Frenchman's Bay Road Albany		Want to have the third party appeal rights remain, with no alteration.	As for Submission 5.	The submission be dismissed.
44.	VI Hanna 76 Wylie Crescent Albany		Desire to retain third party appeal rights.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.



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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
45.	IW Squire 700 Frenchman's Bay Road Albany		Want to retain the right to third party appeals against Council's decisions that affect amenity and property value. Without third party appeals will lose the right to appeal a Council decision that may affect self or community. Council may otherwise act without regard for resident's interests.	As for Submission 5.	The submission be dismissed.
46.	BH Gilmore 231 Middleton Road Albany	231 Middleton Road, near Campbell Road.	Want right of appeal as now exists to be retained.	The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.	The submission be dismissed.
47.	EJ Gilmore 231 Middleton Road Albany	231 Middleton Road, near Campbell Road.	Should be a right of appeal against a Council decision that would have any effect on own property and dwelling.	The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.	The submission be dismissed.
48.	EB Webb 14 Redraft Drive Albany		Third party submissions should be retained. Without this option affected neighbours would lose their right of freedom of speech.	The calling for submissions on development applications will not be changed. Affected landowners will still be invited to comment on applications where relevant.	The submission be dismissed.
49.	J Guidera 3 Shepherd Street Lower King		Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
50.	EK Stanton 55 Chipana Drive Little Grove		Request third party appeal rights are preserved in TPS 3 and included in any future Town Planning Schemes. Even though there is no general right of third party appeal in Western Australia, enlightened local governments may create that right through their Town Planning Scheme.	As for Submission 5.	The submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
50.			<p>Third parties (either individuals or community groups) who were heard and objected before the original decision was made should have a right to appeal against a decision to approve a development. Apart from the needs of Albany the WAPC should amend the Model Scheme Text to permit third party appeals in every local government Town Planning Scheme.</p> <p>In other states there are guidelines as to who may lodge an appeal. Similar guidelines (or filters) could be set out in new Town Planning Schemes</p> <p>The Model Scheme Text provisions could be varied to allow for third party appeals. The City should apply for the right to depart from the Model Scheme Text.</p> <p>Appeals from local government decisions on development applications would be reduced if the City's Town Planning Scheme spelt out with certainty and precision how decisions should be made.</p>		
51.	AK Stanton 55 Chipana Drive Little Grove		Wants the City to retain third party appeal rights and requests the City obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As for Submission 5.	The submission be dismissed.
52.	H Weber 89 LeGrande Avenue Albany		Want to retain third party appeal rights.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
53	J Kuyer 742 Frenchman's Bay Road Little Grove	Lot 66 (742) Frenchman's Bay Road Little Grove.	Absolutely no faith in the current planning and development tactics used by the City; appeal by third parties should be retained.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
54.	J Fletcher PO Box 1283 Albany	Location 2537 Lake Sadie Road Albany	Want to retain third party appeal rights.	The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.	The submission be dismissed.
55.	H & N Smith 10 Boongarrie Street Emu Point		Want to retain third party appeals with a voice on issues that may affect own property in the future and issues of importance to the region.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
56.	V Hall 1 Anne Street Bayonet Head	1 Anne Street Bayonet Head	Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
57.	E Corrigan 2 Taylor Street Oyster Harbour		Refers to letter previously submitted.	As for Submission 5.	The submission be dismissed.
58.	P McKail RMB 8629 Lower Kalgan		Want to retain third party appeal rights.	As for Submission 5.	The submission be dismissed.
59.	J O'Keefe 1 Wylie Crescent Albany		Proposed changes to TPS 3 threaten good town planning by: – abolition of third party appeals that is based on the assumption that third party submissions on rezoning and development are properly considered. – blanket R20 Code whereas the Residential Planning Codes are about diversity. Evidence from many recent rezoning and development applications is that City officers do not correctly report on submissions and contributions from the public, to enable Council to fully assess and decide on them.	Local government does not make the final decision on a TPS or TPS Amendment; it makes recommendations to the WAPC that in turn makes recommendations to the Minister for Planning & Infrastructure who makes the final decision. Third party appeals do not apply to TPS Amendments and this part of the submission is not relevant. The references to recent Amendments and submissions from DEP/EPA and FESA do not relate the full story. DEP/EPA advice is just that – advice. It may be taken into account in the framing of appropriate TPS provisions, or in determination of an application for planning approval, or in conditions of subdivision (by the WAPC) where subdivision may follow.	This part of the submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
59.			<p>Examples are given of recent TPS 3 Amendments and the Schedules of Submissions. DEP/EPA and FESA submissions on Amendments are treated with contempt, ridicule, and disdain.</p> <p>Introduction of the R Codes is illogical and amending TPS 3 at the end of its life to introduce the R20 code alone is reprehensible and illogical. A Local Planning Strategy should investigate capability and suitability for various densities eg R5, R10, R12.5, R15, R17.5, R20, R25, R30, R40, R60, R80 etc so a new Scheme can propose a mix of densities. Local qualification of these Codes can then form part of the new Scheme eg height restrictions etc.</p> <p>Instead of following the Local Planning Strategy and new Scheme process it is proposed to colour the whole city R20 and then introduce policies separately. This is ad hoc planning.</p>	<p>The example given of a FESA submission for TPS 3.2B Amendment No. 6 ignores the fact that the proponent submitted a fire management plan to FESA that then supported the Amendment. The end result is that the fire hazard identified by FESA is to be reduced, and this must benefit the whole of that local community.</p> <p>The parts of the submission relating to third party appeals and Amendments (in particular) also totally ignores the practice that all submissions are either included in the Elected Members Report/Information Bulletin or are tabled at a Council meeting. In either case Councillors have access to each Submission, which becomes a public document.</p> <p>Report agenda are public information and questions on any aspect may be asked at a Council meeting. All Submissions on a TPS or TPS Amendment are sent to the WAPC and are available for the Minister for Planning &amp; Infrastructure.</p> <p>The parts of the submission relating to the Residential Planning Codes do not have regard for the existing provisions of TPS 3. Standards for residential development in the Scheme Area of TPS 3 are set out in Table II to that Scheme; a copy of the Table is appended to this Schedule.</p> <p>The proposed Amendment is to include all of the unsewered land in the Residential zone in TPS3 in the R5 code, in accordance with Government Sewerage Policy. Subdivision decisions by the WAPC are now being made on the basis of the R5 code, despite any contrary provision in the Scheme.</p> <p>In a similar way, the proposed R20 reflects existing subdivision practice. The R20 code should be compared with the existing TPS 3 provisions that are for a minimum lot size of 680 m<sup>2</sup> for sewerred land.</p>	<p>This part of the submission be dismissed.</p>

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
59.			<p>In summarizing Submissions the recommendation that a Submission “<i>be noted</i>” whereas the effect of the recommendation maybe that the Submission is not supported is wrong, and should be that the Submission “<i>be dismissed</i>”.</p>	<p>The proposed Amendment <u>does not</u> apply the R20 code to the whole City. The Amendment is to TPS 3, which is for the former Shire area. Density codes in the former Town area are <u>not</u> affected. And it is incorrect to refer to only R20 because the intention is to designate unsewered areas as R5, consistent with Government Sewerage Policy and WAPC practice.</p> <p>The Residential Planning Codes already apply in TPS1A. It is clear that the Codes are to be introduced into TPS 3 as a short-term measure pending the City’ new Scheme, to firstly bring TPS3 provisions into line with current practice, and secondly so that the Residential Planning Codes are a consistent basis for assessment of residential development (on zoned Residential land) across the whole of the City. The diversity of R Codes that may be considered in the new Scheme will follow on from consideration of the Local Planning Strategy and is not in any way compromised by the proposed Amendment.</p> <p>The point is accepted. The reference to a Submission being noted rather than being dismissed has evolved in response to comments from some members of the public that by it being “<i>dismissed</i>”, their Submission is regarded as worthless. The end result is not any different, but in acknowledgement of the point made in the Submission future recommendations will be to “<i>uphold</i>”, “<i>uphold in part</i>” or to “<i>dismiss</i>” Submissions. This will affect reporting format, and not the Amendment.</p>	<p>This part of the Submission be upheld in that recommendations refer to a Submission being to “<i>uphold</i>”, “<i>uphold in part</i>” or to “<i>dismiss</i>”.</p>
60.	F Crugnale 198 Grey Street West Albany	Lot 71 Wylie Crescent Albany	<p>Want to retain third party appeal rights. This is the only way to fair and democratic rights for everyone.</p>	<p>The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.</p>	<p>The submission be dismissed.</p>
61.	W Roth 77-81 Grey Street Albany		<p>Want to retain third party appeal rights. This is the only way to fair and democratic rights for everyone.</p>	<p>There are no third party appeal rights in TPS 1A that applies in the former Town area..</p>	<p>The submission be dismissed.</p>

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
62.	A Cotton Lot 122 Swan Point Road Lower Kalgan		Strongly oppose the proposal to withdraw third party appeal rights. This is a vital protection to property owners and other residents and should not be forfeited.	As for Submission 5.	The submission be dismissed.
63.	J Cotton Lot 122 Swan Point Road Lower Kalgan		Oppose the proposal to withdraw third party appeal right that is necessary to protect residents and property owners.	As for Submission 5.	The submission be dismissed.
64.	W Smallwood Chorkenup Road Redmond		Want to be able to appeal against building sizes etc, and maybe against clearing of verges or similar type of degradation of the countryside.	Any appeal rights apply to a discretionary decision by Council. Depending on the type and the use of a building, it may be that appeal rights do not apply. The clearing of road verges does not require planning approval and is not open to appeal rights.	The submission be dismissed.
65.	C Bales 55 Aberdeen Street and 188 Frenchman's Bay Road Albany	298 Middleton Road Albany 188 Frenchman's Bay Road Albany	For Middleton Road land refers to planning issues regarding Woolworth's building extensions, and for Frenchman's Bay Road land refers to market gardens in vicinity using noxious sprays affecting health/ grape vines/ plant growth. Lost appeal rights on other's development is basically wrong. When developers want to do something Council does not have to inform neighbours, as they cannot appeal the planning permission Council has given and this is wrong.	The affected property off Middleton Road is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme. The matters referred to that are of concern with the Frenchman's Bay Road do not relate to an application for planning approval, and a right of appeal would not arise in the absence of a discretionary decision by Council. The calling for submissions on development applications will not be changed. Affected landowners will still be invited to comment on applications where relevant.	The submission be dismissed.
66.	P & JJ Annison 706 Frenchman's Bay Road Little Grove.	706 Frenchman Bay Road Little Grove.	Want to retain third party appeal rights	As for Submission 5.	The submission be dismissed.
67.	PM Bales 188 Frenchman's Bay Road Albany		Essential to retain right of third party appeal in relation to Council decisions.	As for Submission 5.	The submission be dismissed.

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
68.	B Willoughby Lot 163 Walford Road Lower Kalgan		Want to retain third party appeal rights	As for Submission 5.	The submission be dismissed.
69.	GE Fletcher PO Box 1283 Albany	Lake Sadie North Road.	Want to retain third party appeal rights	The affected property is in the Scheme Area of TPS 1A and there are no third party appeal rights in that Scheme.	The submission be dismissed.
70.	K Argus 596 Frenchman's Bay Road Albany		Want to retain third party appeal rights. No deleting clause 6.7.	As for Submission 5.	The submission be dismissed.
71.	B Hockey 414 Princess Royal Drive Albany		Third party appeal right must be retained. No deleting of clause 6.7.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
72.	J Rosman U1/292 Albany Highway Albany		Third party appeal right must be retained. No deleting of clause 6.7.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
73.	K Teodorowycz 25 Anuaka Road Albany		Third party appeal right must be retained. Clause 6.7 must not be deleted.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
74.	M Quick 181 Bayview Drive Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As for Submission 5.	The submission be dismissed.
75.	P Mitchell 15 O'Connell Street Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As for Submission 5.	The submission be dismissed.
76.	B McCarthy 182 Bayview Drive Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As for Submission 5.	The submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
77.	WR Weedon 59 Adelaide Crescent Albany		The right of third party appeals is a democratic safeguard especially for the sensitive issues and outcomes of planning, environmental, and development matters. All wisdom does not reside in laws or in those who administer them. Maintenance of appeal rights encourages awareness and responsibility and Albany should retain it as a model for re-instatement by others.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.
78.	E Bromilow 22 Edward Street Yakamia		Protest against the proposed removal of third party rights of appeal.	There are no third party appeal rights in TPS 1A that applies in the former Town area.	The submission be dismissed.



**DEVELOPMENT SERVICES REPORTS**

**EXTRACT FROM EXISTING TOWN PLANNING SCHEME NO. 3**

**TABLE II - STANDARDS FOR DEVELOPMENT WITHIN RESIDENTIAL ZONES**

MINIMUM LOT AREA SQUARE METRES	MINIMUM EFFECTIVE FRONTAGE METRES	MAXIMUM NUMBER OF DWELLING UNITS (D.U.)	MAXIMUM PLOT RATIO	MINIMUM NUMBER OF CAR SPACES	MIN SETBACK FROM BOUNDARIES		
					FRONT	SIDES	REAR
<b>IMPERVIOUS SOIL AREAS</b> 1300	35	1	0.30	2	7.5m	3.9m	7.5m
<b>SANDY SOIL AREAS</b> 800	20	1 single family detached unit	0.30	2 per D.U.	7.5m	2.4 one side	
1000	20	2 (duplex)	0.30	2 per D.U.	7.5m	1.5m single storey, if multi storey 3m per storey per side	7.5m
<b>SEWERED AREAS</b> 680	18	1	0.30	2	7.5m	2.4m one side	7.5m
900	20	2 (duplex)	0.30	2 per D.U.	7.5m	1.5 single storey if multi storey 3 per storey	7.5m
Applications to develop to the following standards are subject to resolution by the Council							
1500	25	4 (Quadruplex)	0.30	2 per D.U.	9.0m	3 per storey each side	7.5m

**NOTE: CLASSIFICATION OF SOIL AREA WILL BE MADE BY COUNCIL'S BUILDING SURVEYOR**

**DEVELOPMENT SERVICES REPORTS**

**ADOPTED SCHEDULE  
OF SUBMISSIONS**

**Town Planning & Development Act 1928  
Town Planning Scheme No. 3  
Proposed Amendment No. 221  
Schedule of Submissions**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
1.	AR Taylor 14 Frederick Street Albany		The Council should retain third party appeal rights.	There are currently no third party appeal rights in TPS 1A which applies to this property.	The submission be NOTED.
2.	M Taylor 14 Frederick Street Albany		The Council should retain third party appeal rights	As per Submission 1.	The submission be NOTED.
3.	A & J Oats 40 Golf Links Road Albany		Oppose any changes to TPS 3, as it is the only way residents can appeal a local government decision and would take away the democratic right from a community in a developing city.	As per Submission 1.	The submission be NOTED.
4.	WA & M Green 18 Belfast Street Morley		Request information on third party appeal rights for possible introduction into own local area.	Does not constitute a submission to the Amendment.	The submission be NOTED.

**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
5.	AG Ewen PO Box 5656 Albany		Vehemently oppose changes to TPS 3. Neighbours are still being allowed to erect sheds in residential zones for a business of one kind or another. An example is a shed in Balston Road. Approving such applications often results in bad blood between neighbours or a conflict.	There is broad community support for the retention of broader appeal rights (3 <sup>rd</sup> party appeals). Third party appeals should be part of a state planning appeal process that will set out the rules including the period within which such appeals are to be made (possibly 21 days) and the persons to whom the right of appeal would apply (eg. only those who made a submission during the advertising of an application). Council, in response to the submissions received, supports the principle of retaining clause 6.7 of the Scheme. However, the current clause is not specific on who can appeal and Council considers there is a need to better define the appeal mechanisms within the Scheme.	The submission be UPHeld IN PART and Council obtain legal advice on the appropriate clauses to be introduced at Section 6.7 of the Scheme to specify the process, the time period and the parties who may lodge an appeal against a Council decision. Clause 6.7 to be amended accordingly.
6.	RG Loe 3 Balston Road Albany		Absolutely against changes to TPS 3. Experiencing many problems with a neighbouring building that has caused unhappiness and misery. Do not let it happen to others.	As per Submission 5.	The submission be UPHeld IN PART.
7.	JF Tulloch 5 Wakefield Crescent Mira Mar, Albany		Against proposed change to TPS 3. Proud happy and satisfied that Albany plus 2 others still have the democratic right that others have extinguished. It must not be taken from us. Council must support the retention of third party appeal rights and reject this amendment.	As per Submission 5.	The submission be UPHeld IN PART.
8.	G Hudson RMB 9035 Albany		Ask that the City keeps third party appeal rights in its Town Planning Schemes	As per Submission 5.	The submission be UPHeld IN PART.
9.	E & M Wisniewski Lot 61 Henry Street Little Grove		Ask that the City keeps third party appeal rights in its Town Planning Schemes.	As per Submission 5.	The submission be UPHeld IN PART.

**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
10.	D Phillips 200 Stirling Terrace Albany		Right of third party appeals needs to be retained and implemented throughout Western Australia.	As per Submission 1.	The submission be NOTED.
11.	F Crowley Corner Lancaster & McGonnell Roads Albany		Clause 6.7 in TPS 3 (appeals) be retained with no changes.	As per Submission 5.	The submission be UPHELD IN PART.
12.	W & JR Castle 179 Bay View Drive Albany		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As per Submission 5.	The submission be UPHELD IN PART.
13.	K Saare 200 Stirling Terrace Albany		Third party appeal rights need to be retained as part of the planning process.	As per Submission 1.	The submission be NOTED.
14.	C Lowrie RMB 9570A Willyung Road Albany		Removing third party appeals would be an undemocratic backward step. Bad planning decisions do occur usually due to incorrect information. It is most important for a third party neighbour to have the right of appeal to prove an injustice has occurred.	As per Submission 5.	The submission be UPHELD IN PART.
15.	NF Eriksen 47 Elizabeth Street Albany		The right of third party appeals should be retained; removing the right denies ratepayers natural justice.	As per Submission 5.	The submission be UPHELD IN PART.
16.	M James 38 Mira Mar Road Albany		Request the City retain third party appeal rights.	As per Submission 1.	The submission be NOTED.
17.	M Butcher 50-56 Pioneer Road Albany		Request the City retain third party appeal rights.	As per Submission 1.	The submission be NOTED.

**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
18.	M Austin Lot 50 Limeburners Road Albany		Request the City retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
19.	J Holland 1 Grove Street West Little Grove		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As per Submission 5.	The submission be UPHeld IN PART.
20.	K Holland 1 Grove Street West Little Grove		Request the City retain rights of third party appeals and obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As per Submission 5.	The submission be UPHeld IN PART.
21.	SI Austin M Austin Lot 50 Limeburners Road Albany		Request the City retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
22.	S Tracey 748 Frenchman's Bay Road Little Grove Albany		Request the City retain third party appeal rights; feel that individual's rights must be protected.	As per Submission 5.	The submission be UPHeld IN PART.
23.	D & W Shanks 760 Frenchman's Bay Road Albany		Request the City retain third party appeal rights. This is a democratic society where the people should have the right to appeal decisions that they feel have been wrongly made.	As per Submission 5.	The submission be UPHeld IN PART.
24.	R Wilkinson 754 Frenchman's Bay Road Albany		Request the City retain third party appeal rights. This is a democratic society where the people should have the right to appeal decisions that they feel have been wrongly made.	As per Submission 5.	The submission be UPHeld IN PART.

**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
25.	RFC Latham 343 Serpentine Road Albany		That third party appeal rights should be retained for/in a free democratic society.	As per Submission 1.	The submission be NOTED.
26.	E Swift 712 Frenchman's Bay Road Little Grove		Many residents are affected by Council's decisions in which they are not directly involved. Surely it is a basic right for them to be able to request assessment by independent authority	As per Submission 5.	The submission be UPHeld IN PART.
27.	V MacKay 59 Yatana Road Albany		Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
28.	RA & JM Bell 5 Greeble Street Albany		Disagree with deletion of clause 6.7 from TPS 3. Right of appeal should be allowed as part of a democratic process.	As per Submission 5.	The submission be UPHeld IN PART.
29.	J Burbidge & T Morgan Lot 82 Spring Street Little Grove		Want to retain third party appeal rights. This is a very important part of democracy.	As per Submission 5.	The submission be UPHeld IN PART.
30.	R & M Gwynn 19 Norwood Road Lower King		Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
31.	B Hughes 55 Peels Place Albany		Submit that third party appeal rights be retained in Albany.	As per Submission 1.	The submission be NOTED.
32.	G Hughes 55 Peels Place Albany	Duke-Collie intersection and York St – Peels Place	Want right of appeal to be retained, hopefully will not need to use it, but should have the choice. Let Albany set the example by keeping the right to appeal and are a forward looking Council.	As per Submission 1.	The submission be NOTED.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
33.	Lower King & Bayonet Head Progress Association C/- 2 Bushby Road Lower King		Unanimously decided to urge the Council to retain third party appeals pending examination of the longer-term consequences of altering them.	As per Submission 5.	The submission be UPHeld IN PART.
34.	N Morgan 45 Bedwell Street Emu Point		There will be no taking away third party appeal and rights of ratepayers in other words, no dictatorship.	As per Submission 1.	The submission be NOTED.
35.	J Johnson 176 Bay View Drive Little Grove		Want to retain third party appeal rights. No deleting clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
36.	R Johnson 176 Bay View Drive Little Grove		Third party appeal rights must be retained in TPS 3. No deleting clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
37.	G Orr 84 Bay View Drive Little Grove		This basic right of individual Albany residents must be retained. The official logic for rescinding this right is convoluted. The proposal to limit appeals to developers and deny this right to individual residents is an extremely bad piece of legislation.	As per Submission 5.	The submission be UPHeld IN PART.
38.	WA & WL Wood Lot 75 Cull Road Albany		Believe residents should have a right to protest against any development that we believe not to be suitable for any part of this city and surrounds.	As per Submission 5.	The submission be UPHeld IN PART.
39.	H Kane 84 Bay View Drive Little Grove		Important for individuals to have the right of appeals when Council makes bad decisions. As part of the democratic process third party appeal rights should be retained	As per Submission 5.	The submission be UPHeld IN PART.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
40.	Mr & Mrs PR Croney 24 Hofrad Court Albany		Want to retain the right of a third party appeal.	As per Submission 1.	The submission be NOTED.
41.	M Wilkinson PO Box 1681 Albany		Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
42.	EE Sharp 346 Frenchman's Bay Road Albany		The planning strategy (sic) should remain the same, it has worked well for many years and there is no valid reason for change. If it isn't broken don't fix it.	As per Submission 5.	The submission be UPHeld IN PART.
43.	MH Sharp 346 Frenchman's Bay Road Albany		Want to have the third party appeal rights remain, with no alteration.	As per Submission 5.	The submission be UPHeld IN PART.
44.	VI Hanna 76 Wylie Crescent Albany		Desire to retain third party appeal rights.	As per Submission 1.	The submission be NOTED.
45.	IW Squire 700 Frenchman's Bay Road Albany		Want to retain the right to third party appeals against Council's decisions that affect amenity and property value. Without third party appeals will lose the right to appeal a Council decision that may affect self or community. Council may otherwise act without regard for resident's interests.	As per Submission 5.	The submission be UPHeld IN PART.
46.	BH Gilmore 231 Middleton Road Albany	231 Middleton Road, near Campbell Road.	Want right of appeal as now exists to be retained.	As per Submission 1.	The submission be NOTED.



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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
47.	EJ Gilmore 231 Middleton Road Albany	231 Middleton Road, near Campbell Road.	Should be a right of appeal against a Council decision that would have any effect on own property and dwelling.	As per Submission 1.	The submission be NOTED.
48.	EB Webb 14 Redraft Drive Albany		Third party submissions should be retained. Without this option affected neighbours would lose their right of freedom of speech.	The calling for submissions on development applications will not be changed. Affected landowners will still be invited to comment on applications where relevant. As per Submission 5.	The submission be UPHeld IN PART.
49.	J Guidera 3 Shepherd Street Lower King		Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.
50.	EK Stanton 55 Chipana Drive Little Grove		Request third party appeal rights are preserved in TPS 3 and included in any future Town Planning Schemes. Even though there is no general right of third party appeal in Western Australia, enlightened local governments may create that right through their Town Planning Scheme. Third parties (either individuals or community groups) who were heard and objected before the original decision was made should have a right to appeal against a decision to approve a development. Apart from the needs of Albany the WAPC should amend the Model Scheme Text to permit third party appeals in every local government Town Planning Scheme.	As per Submission 5.	The submission be UPHeld IN PART.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
50.			<p>In other states there are guidelines as to who may lodge an appeal. Similar guidelines (or filters) could be set out in new Town Planning Schemes</p> <p>The Model Scheme Text provisions could be varied to allow for third party appeals. The City should apply for the right to depart from the Model Scheme Text.</p> <p>Appeals from local government decisions on development applications would be reduced if the City's Town Planning Scheme spelt out with certainty and precision how decisions should be made.</p>		
51.	AK Stanton 55 Chipana Drive Little Grove		Wants the City to retain third party appeal rights and requests the City obtain approval from the Minister for Planning & Infrastructure to depart from the Model Scheme Text to retain this right.	As per Submission 5.	The submission be UPHeld IN PART.
52.	H Weber 89 LeGrande Avenue Albany		Want to retain third party appeal rights.	As per Submission 1.	The submission be NOTED.
53	J Kuyer 742 Frenchman's Bay Road Little Grove	Lot 66 (742) Frenchman's Bay Road Little Grove.	Absolutely no faith in the current planning and development tactics used by the City; appeal by third parties should be retained.	As per Submission 5.	The submission be UPHeld IN PART.
54.	J Fletcher PO Box 1283 Albany	Location 2537 Lake Sadie Road Albany	Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHeld IN PART.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
55.	H & N Smith 10 Boongarrie Street Emu Point		Want to retain third party appeals with a voice on issues that may affect own property in the future and issues of importance to the region.	As per Submission 1.	The submission be NOTED.
56.	V Hall 1 Anne Street Bayonet Head	1 Anne Street Bayonet Head	Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHELD IN PART.
57.	E Corrigan 2 Taylor Street Oyster Harbour		Refers to letter previously submitted.	As per Submission 5.	The submission be UPHELD IN PART.
58.	P McKail RMB 8629 Lower Kalgan		Want to retain third party appeal rights.	As per Submission 5.	The submission be UPHELD IN PART.
59.	J O'Keefe 1 Wylie Crescent Albany		<p>Proposed changes to TPS 3 threaten good town planning by:</p> <ul style="list-style-type: none"> <li>- abolition of third party appeals that is based on the assumption that third party submissions on rezoning and development are properly considered.</li> <li>- blanket R20 Code whereas the Residential Planning Codes are about diversity.</li> </ul> <p>Evidence from many recent rezoning and development applications is that City officers do not correctly report on submissions and contributions from the public, to enable Council to fully assess and decide on them.</p>	<p>Local government does not make the final decision on a TPS or TPS Amendment; it makes recommendations to the WAPC that in turn makes recommendations to the Minister for Planning &amp; Infrastructure who makes the final decision. Third party appeals do not apply to TPS Amendments and this part of the submission is not relevant.</p> <p>The references to recent Amendments and submissions from DEP/EPA and FESA do not relate the full story. DEP/EPA advice is just that – advice. It may be taken into account in the framing of appropriate TPS provisions, or in determination of an application for planning approval, or in conditions of subdivision (by the WAPC) where subdivision may follow.</p>	This part of the submission be dismissed.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
59.			<p>Examples are given of recent TPS 3 Amendments and the Schedules of Submissions.</p> <p>DEP/EPA and FESA submissions on Amendments are treated with contempt, ridicule, and disdain.</p> <p>Introduction of the R Codes is illogical and amending TPS 3 at the end of its life to introduce the R20 code alone is reprehensible and illogical.</p> <p>A Local Planning Strategy should investigate capability and suitability for various densities eg R5, R10, R12.5, R15, R17.5, R20, R25, R30, R40, R60, R80 etc so a new Scheme can propose a mix of densities. Local qualification of these Codes can then form part of the new Scheme eg height restrictions etc.</p> <p>Instead of following the Local Planning Strategy and new Scheme process it is proposed to colour the whole city R20 and then introduce policies separately. This is ad hoc planning.</p>	<p>The example given of a FESA submission for TPS 3.2B Amendment No. 6 ignores the fact that the proponent submitted a fire management plan to FESA that then supported the Amendment. The end result is that the fire hazard identified by FESA is to be reduced, and this must benefit the whole of that local community.</p> <p>The parts of the submission relating to third party appeals and Amendments (in particular) also totally ignores the practice that all submissions are either included in the Elected Members Report/Information Bulletin or are tabled at a Council meeting. In either case Councillors have access to each Submission, which becomes a public document.</p> <p>Report agenda are public information and questions on any aspect may be asked at a Council meeting. All Submissions on a TPS or TPS Amendment are sent to the WAPC and are available for the Minister for Planning &amp; Infrastructure.</p> <p>The parts of the submission relating to the Residential Planning Codes do not have regard for the existing provisions of TPS 3. Standards for residential development in the Scheme Area of TPS 3 are set out in Table II to that Scheme; a copy of the Table is appended to this Schedule.</p> <p>The proposed Amendment is to include all of the unsewered land in the Residential zone in TPS3 in the R5 code, in accordance with Government Sewerage Policy. Subdivision decisions by the WAPC are now being made on the basis of the R5 code, despite any contrary provision in the Scheme.</p> <p>In a similar way, the proposed R20 reflects existing subdivision practice. The R20 code should be compared with the existing TPS 3 provisions that are for a minimum lot size of 680 m<sup>2</sup> for sewerred land.</p>	<p>This part of the submission be dismissed.</p>

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
59.			<p>In summarizing Submissions the recommendation that a Submission “<i>be noted</i>” whereas the effect of the recommendation maybe that the Submission is not supported is wrong, and should be that the Submission “<i>be dismissed</i>”.</p>	<p>The proposed Amendment <u>does not</u> apply the R20 code to the whole City. The Amendment is to TPS 3, which is for the former Shire area. Density codes in the former Town area are <u>not</u> affected. And it is incorrect to refer to only R20 because the intention is to designate unsewered areas as R5, consistent with Government Sewerage Policy and WAPC practice. The Residential Planning Codes already apply in TPS1A. It is clear that the Codes are to be introduced into TPS 3 as a short-term measure pending the City’ new Scheme, to firstly bring TPS3 provisions into line with current practice, and secondly so that the Residential Planning Codes are a consistent basis for assessment of residential development (on zoned Residential land) across the whole of the City. The diversity of R Codes that may be considered in the new Scheme will follow on from consideration of the Local Planning Strategy and is not in any way compromised by the proposed Amendment.</p> <p>The point is accepted. The reference to a Submission being noted rather than being dismissed has evolved in response to comments from some members of the public that by it being “<i>dismissed</i>”, their Submission is regarded as worthless. The end result is not any different, but in acknowledgement of the point made in the Submission future recommendations will be to “<i>uphold</i>”, “<i>uphold in part</i>” or to “<i>dismiss</i>” Submissions. This will affect reporting format, and not the Amendment.</p>	<p>This part of the Submission be dismissed.</p>
60.	F Crugnale 198 Grey Street West Albany	Lot 71 Wylie Crescent Albany	Want to retain third party appeal rights. This is the only way to fair and democratic rights for everyone.	As per Submission 1.	The submission be NOTED.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
61.	W Roth 77-81 Grey Street Albany		Want to retain third party appeal rights. This is the only way to fair and democratic rights for everyone.	As per Submission 1.	The submission be NOTED.
62.	A Cotton Lot 122 Swan Point Road Lower Kalgan		Strongly oppose the proposal to withdraw third party appeal rights. This is a vital protection to property owners and other residents and should not be forfeited.	As per Submission 5.	The submission be UPHOLD IN PART.
63.	J Cotton Lot 122 Swan Point Road Lower Kalgan		Oppose the proposal to withdraw third party appeal right that is necessary to protect residents and property owners.	As per Submission 5.	The submission be UPHOLD IN PART.
64.	W Smallwood Chorkenup Road Redmond		Want to be able to appeal against building sizes etc, and maybe against clearing of verges or similar type of degradation of the countryside.	Any appeal rights apply to a discretionary decision by Council. Depending on the type and the use of a building, it may be that appeal rights do not apply. The clearing of road verges does not require planning approval and is not open to appeal rights.	The submission be UPHOLD IN PART.
65.	C Bales 55 Aberdeen Street and 188 Frenchman's Bay Road Albany	298 Middleton Road Albany 188 Frenchman's Bay Road Albany	For Middleton Road land refers to planning issues regarding Woolworth's building extensions, and for Frenchman's Bay Road land refers to market gardens in vicinity using noxious sprays affecting health/ grape vines/ plant growth. Lost appeal rights on other's development is basically wrong. When developers want to do something Council does not have to inform neighbours, as they cannot appeal the planning permission Council has given and this is wrong.	As per Submission 1. The matters referred to that are of concern with the Frenchman's Bay Road do not relate to an application for planning approval, and a right of appeal would not arise in the absence of a discretionary decision by Council. The calling for submissions on development applications will not be changed. Affected landowners will still be invited to comment on applications where relevant.	The submission be UPHOLD IN PART.

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No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
66.	P & JJ Annison 706 Frenchman's Bay Road Little Grove.	706 Frenchman Bay Road Little Grove.	Want to retain third party appeal rights	As per Submission 5.	The submission be UPHeld IN PART.
67.	PM Bales 188 Frenchman's Bay Road Albany		Essential to retain right of third party appeal in relation to Council decisions.	As per Submission 5.	The submission be UPHeld IN PART.
68.	B Willoughby Lot 163 Walford Road Lower Kalgan		Want to retain third party appeal rights	As per Submission 5.	The submission be UPHeld IN PART.
69.	GE Fletcher PO Box 1283 Albany	Lake Sadie North Road.	Want to retain third party appeal rights	As per Submission 5.	The submission be UPHeld IN PART.
70.	K Argus 596 Frenchman's Bay Road Albany		Want to retain third party appeal rights. No deleting clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
71.	B Hockey 414 Princess Royal Drive Albany		Third party appeal right must be retained. No deleting of clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
72.	J Rosman U1/292 Albany Highway Albany		Third party appeal right must be retained. No deleting of clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
73.	K Teodorowycz 25 Anuaka Road Albany		Third party appeal right must be retained. Clause 6.7 must not be deleted.	As per Submission 5.	The submission be UPHeld IN PART.
74.	M Quick 181 Bayview Drive Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.

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**DEVELOPMENT SERVICES REPORTS**

No.	Name/Address	Description of Affected Property	Summary of Submission	Comment	Local Government's Recommendation
75.	P Mitchell 15 O'Connell Street Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
76.	B McCarthy 182 Bayview Drive Little Grove		Third party appeal right must be retained. No deleting of clause 6.7.	As per Submission 5.	The submission be UPHeld IN PART.
77.	WR Weedon 59 Adelaide Crescent Albany		The right of third party appeals is a democratic safeguard especially for the sensitive issues and outcomes of planning, environmental, and development matters. All wisdom does not reside in laws or in those who administer them. Maintenance of appeal rights encourages awareness and responsibility and Albany should retain it as a model for re-instatement by others.	As per Submission 1.	The submission be NOTED.
78.	E Bromilow 22 Edward Street Yakamia		Protest against the proposed removal of third party rights of appeal.	As per Submission 1.	The submission be NOTED.



**DEVELOPMENT SERVICES REPORTS**

**11.2 INSPECTION SERVICES**

**11.2.1 Liquor Licence Application – 338 Middleton Road, Albany**

- File/Ward** : A158615 (Frederickstown Ward)
- Proposal/Issue** : Liquor Licence Application for Barcino Cafe
- Subject Land/Locality** : Lot 17 (#338) Middleton Road, Albany
- Proponent** : R Forgione
- Owner** : F Forgione
- Reporting Officer(s)** : Executive Director Development Services  
(R Fenn)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Summary Recommendation:** Issue Section 40 Certificate under Liquor  
Licensing Act
- Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

**BACKGROUND**

1. The shop unit at 338 Middleton Road (Middleton Loop) previously occupied by the Zero Graphics business is being converted into a café/restaurant called “Barcino”. The tenants are seeking to establish an alfresco dining area on the footpath in front of the café and that application is being separately considered by Council staff.
2. The applicant has requested a Liquor Licensing Act, Section 40 Certificate from the City of Albany. The opportunity to serve liquor from the proposed premises is submitted for Council’s consideration.

**STATUTORY REQUIREMENTS**

3. The Section 40 Certificate advises the Registrar of Liquor Licensing whether the site and intending use (with liquor licence) would comply with the relevant planning laws, or already complies with the relevant planning laws.

**POLICY IMPLICATIONS**

4. The delegations provided to the CEO by Council expressly excludes the capacity of Staff to issue a planning scheme consent for a premise requiring a liquor licence.

**FINANCIAL IMPLICATIONS**

5. There are no direct financial implications to Council.

**STRATEGIC IMPLICATIONS**

6. The City of Albany has worked closely with the liquor and hotel industry in Albany for a number of years to promote the safe and responsible consumption of alcohol. The Albany Liquor Accord is a tangible outcome of that process.

**COMMENT/DISCUSSION**

7. The conversion of the existing floorspace in the premises at 338 Middleton Road from an office to the alternate use of café/restaurant is consistent with the Central Area provisions of Scheme 1A. The tenant is seeking to obtain a restaurant licence for the premises (see following sketch of premises layout) which will allow patrons to purchase liquor onsite and consume the liquor with a meal.
8. The consumption of alcohol within those alfresco dining areas located within road reserves has previously been rejected by Council, except where the dining area is clearly defined by solid infrastructure (eg. Albany Hotel and Nonna’s). The applicant has indicated that the licence being sought would be restricted to the interior of Barcino’s.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

**RECOMMENDATION**

THAT Council issue a Section 40 Notice under the Liquor Licensing Act for the premises known as Barcino, situated at Lot 17 (#338) Middleton Road, Albany advising that the premises are suitable as a café/restaurant with a restaurant liquor licence provided the licensed premises are restricted to the confines of the building on the site.

*Voting Requirement Simple Majority*

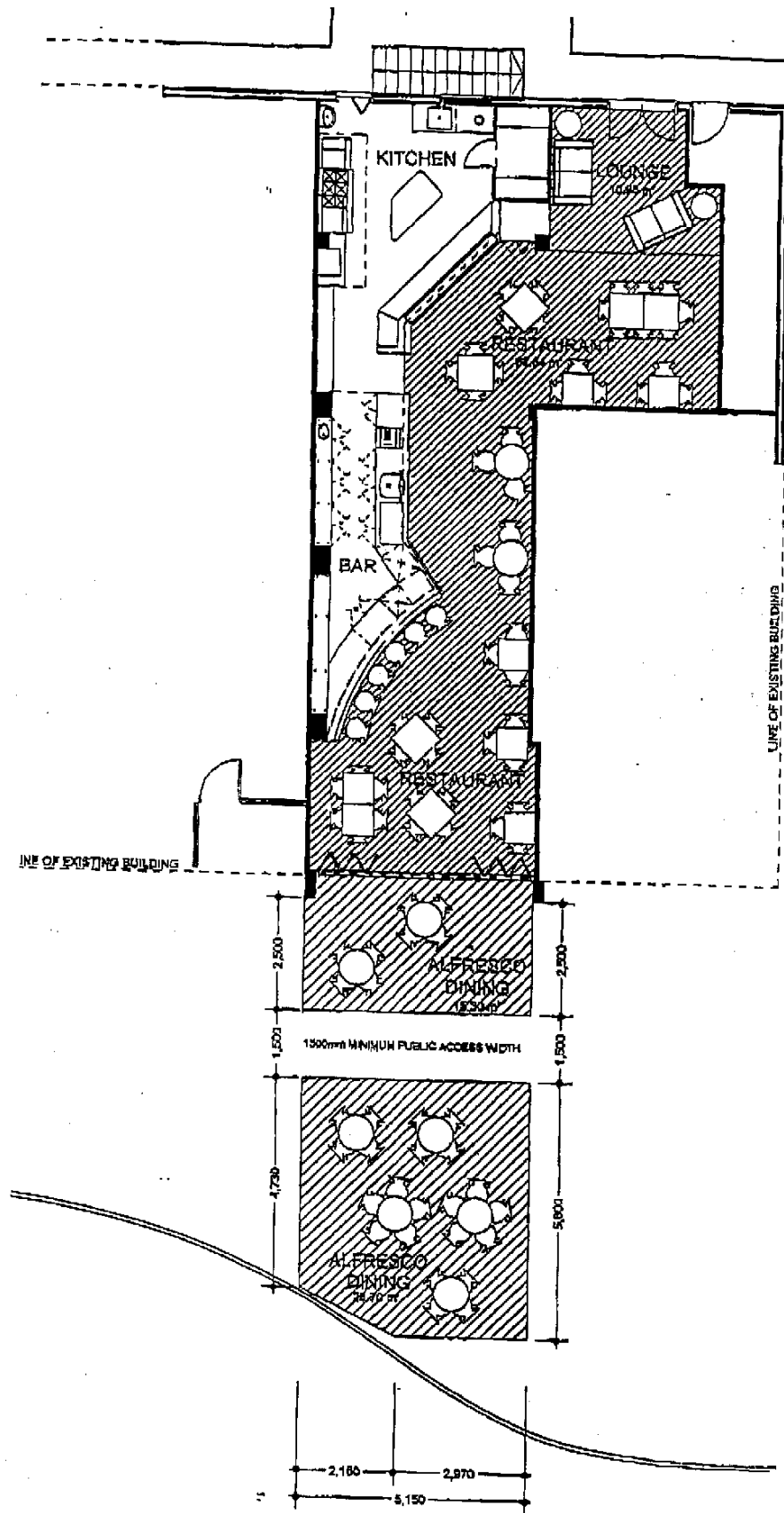
.....

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR BOJCUN**

**THAT Council issue a Section 40 Notice under the Liquor Licensing Act for the premises known as Barcino, situated at Lot 17 (#338) Middleton Road, Albany advising that the premises are suitable as a café/restaurant with a restaurant liquor licence provided the licensed premises are restricted to the confines of the building on the site.**

**MOTION CARRIED 12-1**

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 DEVELOPMENT SERVICES REPORTS



**DEVELOPMENT SERVICES REPORTS**

**11.2.2 Adoption of Activities in Thoroughfares and Public Places and Trading Local Law 2001**

<b>File/Ward</b>	:	MAN048 (All Wards)
<b>Proposal/Issue</b>	:	To make new Activities in Thoroughfares and Public Places and Trading Local Law 2001
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager Inspection Services (K Barnett)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation:</b>		To make the Activities in Thoroughfares and Public Places and Trading Local Law 2001
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Many activities occur on the City's thoroughfares and public places, some with approval, others without approval, which need to be managed and regulated. The legislation that currently covers thoroughfares is fragmented, contains outdated requirements and fails to address many issues such as the felling of trees, the impounding of shopping trolleys, verge treatments and roadside conservation.
2. A review of the existing legislation has resulted in the preparation of a draft Local Law that updates and expands that legislation to provide the City with the ability to implement greater control over what can and cannot occur in thoroughfares and public places.
3. All legislation relating to thoroughfares and public places has now been consolidated into one document, and the proposed local law embraces the following categories:
  - General prohibitions & permits - prohibits certain activities absolutely and allows other activities only by permit;
  - Vehicle crossings - enables the City to ensure temporary crossovers are provided in a way which does not damage the verge or footpath;
  - Verge treatments - allows the City to specify permissible verge treatments for which no permit is required;

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

- Property numbers - provides the City with the authority to assign street numbers;
  - Signs erected by the City - provides the City with the authority to erect signs in public places;
  - Advertising on thoroughfares - sets the conditions under which election and portable signs may be approved;
  - Obstructing animals, vehicles or shopping trolleys - controls activities concerning animals and vehicles on thoroughfares and other public places, and allows the City to impound shopping trolleys;
  - Roadside conservation - these clauses provide the means by which the City can recognise policies concerning roadside conservation;
  - Stallholders and traders - provides the City with the ability to control stallholders and traders in public places through the imposition of conditions; and
  - Outdoor eating facilities on public places - sets out the procedure to be followed when applying for a permit and the obligations of a permit holder.
4. A draft of the Activities in Thoroughfares and Public Places and Trading Local Law 2001 has been prepared for Council consideration and is included in the Elected Members' Report/Information Bulletin.

**STATUTORY REQUIREMENTS**

5. Section 3.12 of the Local Government Act states:-

- "3.12 (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.*
- (3) The local government is to -*
- a) give Statewide public notice stating that -*
    - i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
    - ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
  - b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law\* as proposed or make a local\* that is not significantly different from what was proposed.*
- \* *Special Majority Required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give Statewide public notice -*
- a) stating the title of the local law;*
  - b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - c) advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them."*

**POLICY IMPLICATIONS**

6. There are no Council policies relating to this item.

**FINANCIAL IMPLICATIONS**

7. There will be statutory advertising costs which will be funded from the 2001/2002 budget.

**STRATEGIC IMPLICATIONS**

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

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

9. Under this Port of Call is an objective:

- ❑ To provide a range of environmental health services for the benefit of our community.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.2 continued

**COMMENT/DISCUSSION**

10. The procedure for making Local Laws requires Council to advertise statewide, advising of its intention to make Local Laws and seeking submissions within a six-week period. Council is to consider all submissions before making a Local Law, publish it in the Government Gazette and supply the Minister for Local Government the documents for tabling in Parliament. statewide notice of the adoption of the Local Law is then to occur.

**11. In addition, the procedure for making Local Laws requires the person presiding at a Council meeting to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed Local Law.**

**Purpose and Effect**

**Purpose:** To consolidate various local laws relating to activities in thoroughfares and public places and trading.

**Effect:** Some activities are prohibited, some activities are permitted only under permit in thoroughfares and public places. Also, the local law enables a local government to require house numbering and the erection of fences in certain circumstances.

**RECOMMENDATION**

THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make the Activities in Thoroughfares and Public Places and Trading Local Law 2001, as detailed in the Elected Members' Report/Information Bulletin.

*Voting Requirement Simple Majority*

.....  
The Executive Director Development Services stated that on Page 14 of the Elected Members' Report/Information Bulletin within the definition of "townsite", the settlement of -Youngs Siding needed to be included.

The Chief Executive Officer stated the purpose and effect of the proposed Local Law.

**MOVED COUNCILLOR WILSON  
SECONDED COUNCILLOR BOJCUN**

**RECOMMENDATION**

**THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make the Activities in Thoroughfares and Public Places and Trading Local Law 2001, as detailed in the Elected Members' Report/Information Bulletin.**

**MOTION CARRIED 13-0**



**DEVELOPMENT SERVICES REPORTS**

**11.2.3 Adoption of Health Local Laws 2001**

<b>File/Ward</b>	:	MAN050 (All Wards)
<b>Proposal/Issue</b>	:	To make new Health Local Laws 2001
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager Inspection Services (K Barnett) Senior Administration Officer (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation:</b>		To make the Health Local Laws 2001
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. A review of the City's Health Local Laws has been completed and a draft proposal has been prepared for Council consideration.
2. Since July 1998, issues such as sanitation, water supply, disposal of solid waste, infectious diseases and lodging houses have been managed by the City using two local laws:-
  - i) The former Shire of Albany Model Health Local Laws Series "A" adopted in 1965; and
  - ii) The City of Albany Health Local Laws adopted in 1998.
3. While the Model Health Local Laws Series "A" have been amended from time to time, to reflect changes as the community developed, a total review of these Local Laws was long overdue. Also, the Health Local Laws adopted by the City in 1998 apply to the former Town of Albany area only.
4. A copy of the draft Health Local Laws, which embrace the whole of the municipality, has been included in the Elected Members' Report/Information Bulletin.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.3 continued

**STATUTORY REQUIREMENTS**

5. Section 3.12 of the Local Government Act states:-

- "3.12 (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.*
- (3) *The local government is to –*
- a) *give Statewide public notice stating that –*
    - i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
    - ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
  - b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law\* as proposed or make a local\* that is not significantly different from what was proposed.*

*\* Special Majority Required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give Statewide public notice -*
- a) *stating the title of the local law;*
  - b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - c) *advising that copies of the local law may be inspected or obtained from the local government's office*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.3 continued

- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them."*

6. Section 342 of the Health Act 1911 (as amended) states inter-alia:-

*"342 (1) Every local government may from time to time, of its own motion and shall, when the Commissioner so requires, make local laws as herein provided, and generally for carrying into effect the provisions of this Act, within its district;....."*

**POLICY IMPLICATIONS**

7. There are no Council policies relating to this item.

**FINANCIAL IMPLICATIONS**

8. There will be statutory advertising costs which will be funded from the 2001/2002 budget.

**STRATEGIC IMPLICATIONS**

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

- ❖ *"The Continual development of Council services & facilities to meet the needs of all stakeholders."*

10. Under this Port of Call is an objective:

- ❑ To provide a range of environmental health services for the benefit of our community.

**COMMENT/DISCUSSION**

11. During the review it was found that the existing Local Laws contain various building specifications which are adequately prescribed in the Building Code of Australia and these clauses have been omitted or modified in the proposed Local Laws.

12. Likewise, clauses related to the control and management of animals have been removed and placed in a draft Animals Local Laws which will allow the City to adopt a more effective and efficient method of dealing with complaints associated with the keeping of animals.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.3 continued

- 13. The draft Health Local Laws also contain clauses dealing with the burning of rubbish or refuse, including green garden cuttings and other material which may become offensive when burnt. Under the provisions of the draft Local Laws, approval will be required from the City prior to burning rubbish or refuse and terms and conditions can be imposed on any approval granted.
- 14. The procedure for making Local Laws requires Council to advertise statewide, advising of its intention to make Local Laws and seeking submissions within a six-week period. Council is to consider all submissions before making a Local Law, publish it in the Government Gazette and supply the Minister for Local Government and the Minister for Health the documents for tabling in Parliament. Statewide notice of the adoption of the Local Law is then to occur.
- 15. In addition, the procedure for making Local Laws requires the person presiding at a Council meeting to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed Local Law.**

**Purpose and Effect**

- 16. The purpose of the proposed Health Local Laws is to provide for proper sanitary and health requirements for all residents of and visitors to the City of Albany.
- 17. The effect of the proposed Health Local Laws will be to ensure that adequate public health standards are maintained within the district.

**RECOMMENDATION**

THAT Council, in accordance with Section 342 of the Health Act 1911 (as amended), agrees to make the Health Local Laws 2001, as detailed in the Elected Members’ Report/Information Bulletin.

*Voting Requirement Simple Majority*

.....  
The Chief Executive Officer stated the purpose and effect of the proposed Local Law.

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR SANKEY**

**THAT Council, in accordance with Section 342 of the Health Act 1911 (as amended), agrees to make the Health Local Laws 2001, as detailed in the Elected Members’ Report/Information Bulletin.**

**MOTION CARRIED 12-1**

**DEVELOPMENT SERVICES REPORTS**

**11.2.4 Adoption of Local Laws Relating to Fencing 2001**

<b>File/Ward</b>	:	MAN049 (All Wards)
<b>Proposal/Issue</b>	:	To make new Local Laws Relating to Fencing 2001
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager Inspection Services (K Barnett)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation:</b>		To make Local Laws Relating to Fencing 2001
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Under the powers of the Dividing Fences Act, a local government can prescribe by local laws what will constitute a dividing fence for its district. This prescription is often used to settle disputes between neighbours over the permissible height of a dividing fence and what constitutes an acceptable material.
2. In addition, a fence is considered a building for the purposes of the Building Regulations 1989 and the Local Government (Miscellaneous Provisions) Act 1960 and it is therefore necessary for a person to obtain a building licence. The proposed Local Laws Relating to Fencing complement this legislation by specifying the manner in which a fence can be constructed, the materials that are acceptable and the design of the fence.
3. The City's existing Local Laws Relating to Fencing have been reviewed and draft Local Laws, which provide a wide choice of sufficient fences and reduces some of the specifications that have been difficult for people to comply with, have been prepared.
4. A major change to the Local Laws Relating to Fencing, which reflects a statewide trend, is the introduction of conditions under which electrified and razor wire fences can be approved for industrial and commercial premises.
5. Draft Local Laws Relating to Fencing have been prepared for Council consideration. (See Elected Members' Report/Information Bulletin)

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.4 continued

**STATUTORY REQUIREMENTS**

6. Section 3.12 of the Local Government Act states:-

- "3.12 (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.*
- (3) *The local government is to -*
- a) *give Statewide public notice stating that -*
    - i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
    - ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
  - b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law\* as proposed or make a local\* that is not significantly different from what was proposed.*

\* *Special Majority Required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give Statewide public notice -*
- a) *stating the title of the local law;*
  - b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - c) *advising that copies of the local law may be inspected or obtained from the local government's office.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.4 continued

- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them."*

**POLICY IMPLICATIONS**

7. There are no Council policies relating to this item.

**FINANCIAL IMPLICATIONS**

8. There will be statutory advertising costs which will be funded from the 2001/2002 budget.

**STRATEGIC IMPLICATIONS**

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

- ❖ *"The Continual development of Council services & facilities to meet the needs of all stakeholders."*

10. Under this Port of Call is an objective:

- ❑ To provide a range of environmental health services for the benefit of our community.

**COMMENT/DISCUSSION**

11. The procedure for making Local Laws requires Council to advertise statewide, advising of its intention to make Local Laws and seeking submissions within a six-week period. Council is to consider all submissions before making a Local Law, publish it in the Government Gazette and supply the Minister for Local Government the documents for tabling in Parliament. Statewide notice of the adoption of the Local Law is then to occur.

- 12. In addition, the procedure for making Local Laws requires the person presiding at a Council meeting to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed Local Law.**

**Purpose and Effect**

13. The purpose of these local laws is to provide a sufficient fence for purposes of the Dividing Fences Act 1961 and to state the materials used and safety measures to be taken for some types of fencing.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.4 continued

14. The effect of these local laws is to enlarge the compliance requirements of the Local Government (Miscellaneous Provisions) Act 1960 in the erection and maintenance of fencing.

**RECOMMENDATION**

THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make Local Laws Relating to Fencing 2001, as detailed in the Elected Members' Report/Information Bulletin.

*Voting Requirement Simple Majority*

.....

The Chief Executive Officer stated the purpose and effect of the proposed Local Law.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR BOJCUN**

**THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make Local Laws Relating to Fencing 2001, as detailed in the Elected Members' Report/Information Bulletin.**

**MOTION CARRIED 13-0**



**DEVELOPMENT SERVICES REPORTS**

**11.2.5 Adoption of Animals Local Law 2001**

<b>File/Ward</b>	:	MAN052 (All Wards)
<b>Proposal/Issue</b>	:	To make new Animals Local Law 2001
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager Inspection Services (K Barnett)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 20/02/01 Item 11.2.1
<b>Summary Recommendation:</b>		To make the Animals Local Law 2001
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. Under the provisions of the Local Government Act 1995, Council is required to review its Local Laws within a period of eight years from the day those laws commenced. In addition, there is a need to ensure that all Local Laws comply with the principles of National Competition Policy.
2. A review of all Local Laws containing clauses dealing with the regulation, control and management of animals has been completed and a draft Local Law relating to Animals has been prepared for consideration. The proposal consolidates the City's current animal legislation into one document.
3. With the exception of dogs, the regulation, control and management of animals has in the past been achieved primarily using provisions contained in the Health Local Laws. Unfortunately, the options available to deal with breaches of the Health Local Laws are limited and basically rely on a prosecution through the courts. It is therefore proposed that breaches of the Animals Local Law will be resolved through the use of infringement notices and modified penalties.
4. Council at its ordinary meeting held on 20<sup>th</sup> February 2001, considered a report on the continuation of the animal exercise area at Middleton Beach, between Griffiths Street and the northern boundary of Lot 1340 Reserve 36320, and resolved:

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.5 continued

*"That Council support the principle that the stretch of beach between Griffiths Street and Middleton Beach Caravan Park remain available for the exercising of horses and dogs and that the City Of Albany develop suitable local laws to address restricting usage patterns, removal of animal faeces, signage and the areas available for such use."*

5. Under the provisions of the draft Animals Local Law it is proposed that the current animal exercise area be extended to the northern boundary of Griffiths Street and divided into two equal sized exercise areas. One area would be used solely for exercising dogs and the other for exercising horses at specific times. Dog owners would be allowed to use the horse exercise area provided their dog is on a leash.
6. While the removal of animal faeces has been addressed in the draft Local Law, the erection of signage is dealt with in the Local Government Property Local Law currently being advertised for public comment.
7. A draft of the Animals Local Law 2001 has been prepared for Council consideration and is included in the Elected Members' Report/Information Bulletin.

**STATUTORY REQUIREMENTS**

8. Section 3.12 of the Local Government Act states:-

- "3.12 (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.*
- (3) *The local government is to -*
- a) *give Statewide public notice stating that -*
    - i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
    - ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
  - b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.5 continued

- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law\* as proposed or make a local\* that is not significantly different from what was proposed.*

\* *Special Majority Required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give Statewide public notice -*
  - a) *stating the title of the local law;*
  - b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them."*

**POLICY IMPLICATIONS**

- 9. There are no Council policies relating to this item.

**FINANCIAL IMPLICATIONS**

- 10. There will be statutory advertising costs which will be funded from the 2001/2002 budget.

**STRATEGIC IMPLICATIONS**

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

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

- 12. Under this Port of Call is an objective:

- ❑ To provide a range of environmental health services for the benefit of our community.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.5 continued

**COMMENT/DISCUSSION**

- 13. With the assistance of the Department of Sport and Recreation, horse trainers, pony clubs and the like were consulted during the preparation of the draft Animals Local Law. Feedback received has been included in the draft proposal.
- 14. The procedure for making Local Laws requires Council to advertise statewide, advising of its intention to make Local Laws and seeking submissions within a six-week period. Council is to consider all submissions before making a Local Law, publish it in the Government Gazette and supply the Minister for Local Government the documents for tabling in Parliament. Statewide notice of the adoption of the Local Law is then to occur.
- 15. In addition, the procedure for making Local Laws requires the person presiding at a Council meeting to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed Local Law.**

**Purpose and Effect**

- 16. The purpose of these local laws is to provide for the regulation, control and management of the keeping of animals within the City of Albany.
- 17. The effect of these local laws is to establish the requirements with which owners and occupiers of land within the district must comply in order to keep animals and provides the means of enforcing the local laws.

**RECOMMENDATION**

THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make the Animals Local Law 2001, as detailed in the Elected Members’ Report/Information Bulletin.

*Voting Requirement Simple Majority*

.....  
The Executive Director Development Services stated that a correction was required on Page 131 of the Bulletin. 6m<sup>2</sup> on the 3<sup>rd</sup> line should read 12m<sup>2</sup>.

The Chief Executive Officer stated the purpose and effect of the proposed Local Law..

**MOVED COUNCILLOR EVERS  
SECONDED COUNCILLOR BOJCUN**

**THAT Council, in accordance with Section 3.12 of the Local Government Act 1995, agrees to make the Animals Local Law 2001, as detailed in the Elected Members’ Report/Information Bulletin.**

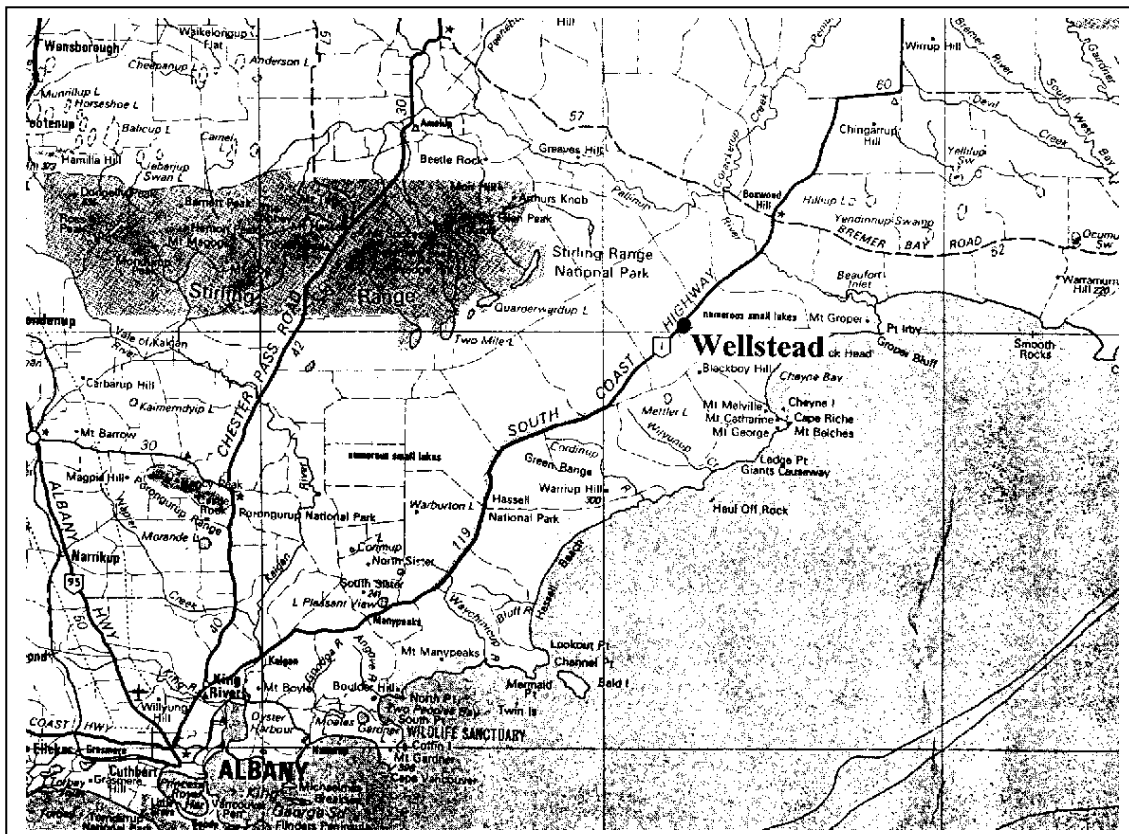
**MOTION CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.3 DEVELOPMENT POLICY**

**11.3.1 Wellstead Townsite Strategy – Final Approval**

<b>File/Ward</b>	:	STR042 (Hassell Ward)
<b>Proposal/Issue</b>	:	Wellstead Townsite Strategy
<b>Subject Land/Locality</b>	:	Wellstead Townsite
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	Various
<b>Reporting Officer(s)</b>	:	Strategic Planning Officer (M Papalia )
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 20/02/01 Item 11.3.1
<b>Summary Recommendation:</b>	:	To consider submissions and grant final approval to the Wellstead Townsite Strategy, subject to modifications.
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

**BACKGROUND**

1. Council at its Ordinary Council meeting on 20<sup>th</sup> February 2001 approved the advertising of the draft Wellstead Townsite Strategy (the Strategy) and requested that the Strategy be referred to the Department of Land and Administration seeking their support to the strategy and a commitment to release suitable land within the Wellstead Townsite.
2. The Strategy was advertised for 28 days. Copies of the Strategy were made available at the Wellstead Store, the York Street Office and all affected government agencies were notified by mail. Eleven submissions were received during advertising, four public submissions and eight from government agencies. Council staff also attended a Wellstead Progress Association meeting to discuss the Strategy.
3. Discussions between Department of Land Administration (DOLA), the community and Council in relation to land release have been going on for over a decade. The main issues affecting land release relate to the Native Title claim over the area and the high costs to develop the land in such a remote location, leading to unaffordable land prices.
4. The issue of land release is becoming more pressing with the shift from traditional farming practices to the establishment of tree plantations, resulting in a number of families leaving the district with no land available in Wellstead to give them the opportunity to stay and remain part of the community.
5. The development of a townsite strategy was identified as the best mechanism to facilitate growth of the townsite bringing all the issues together and considering the opportunities and constraints to development.
6. The main objectives of the strategy include to:
  - Provide land for residential and service industrial development in the most timely and economic manner.
  - Provide opportunities for tourist accommodation and facilities and other economic development.
  - Draw all the existing townsite issues and proposals together to provide a framework for longer term economic, social and residential development of the townsite.

**STATUTORY REQUIREMENTS**

7. There are no statutory requirements for the preparation of Local Townsite Strategies. However, as part of the process it is essential that consultation occurs with relevant government agencies and that the Western Australian Planning Commission endorses the document.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

8. In addition, this strategy will feed into the Local Planning Strategy process, which will provide the strategic direction to develop the new Town Planning Scheme. Thus ultimately, the strategy or components of it will be considered as part of a statutory process in the future.

**POLICY IMPLICATIONS**

9. Council’s Local Rural Strategy which is a policy of Town Planning Scheme No. 3 provides the basis for providing support to the development of rural townsites via the following two policies:

*“GP49 Expansion of Remote Townsites - Due to their remoteness from urban facilities, where necessary Council will provide for the expansion of Manypeaks and Wellstead townsites. AND*

*GP50 Improvement of Amenity and Townscape in Rural Townsites - In order to provide for the improvement of rural townsites in terms of their social and visual amenity, sense of community and attractiveness to the travelling public, Council will support the planned establishment of townscape improvements, community facilities, general stores, arts/crafts outlets, etc.”*

**FINANCIAL IMPLICATIONS**

10. The financial commitments at this stage include the cost of the strategy and related officer time.
11. Implementation of the strategy has the potential to impose financial commitments upon Council, although this will depend on a number of factors:
  - what role Council chooses to take to facilitate land release;
  - whether or not the State Government will use this strategy as impetus to move forward with land release at Wellstead; and/or
  - whether or not private landowners will develop land at Wellstead in accordance with the Strategy.
12. Should Council decide to take on a lead role in facilitating the development, the likely financial commitments would need to be further investigated.

**STRATEGIC IMPLICATIONS**

13. The Strategy helps satisfy the “*Managed healthy land/harbour environment*” Port of Call of Albany 2020 – Charting Our Course, with particular reference to the “land use planning” objective.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

**COMMENT**

**Submissions**

14. Eleven submissions were received on the Strategy and have been summarised in the Schedule of Submissions and recommendations attached to this report.
15. All the submissions supported the Strategy with the following common issues being raised:
  - Cost effective development options being required to ensure affordable land is available.
  - The desire to develop land will be subject to funding, the level of demand and Native Title.
  - The need to upgrade Sandalwood Road to a bitumen seal standard.
  - Careful consideration of the use of vegetated land for development.
  - The requirement of a buffer surrounding the proposed transfer station.
  - The extension of water services being limited due to the associated costs.
  - The need for an extension and upgrade of the power supply to cater for industrial type uses.
16. Most of the submissions raised valid issues that will be investigated further and where appropriate the necessary changes will be made to the final strategy as highlighted in the Schedule of Submissions.
17. A discussion was held with Councillor West during the advertising period where a number of issues were discussed. Most of the issues discussed have been raised in the Strategy. One of the important issues relates to the need to keep the town's community members at a sustainable level where the school and local businesses can continue to exist. The issue of families coming off farms and wanting to remain in the community was also highlighted as a major issue. On the issue of Native Title, this is an area that the City has not been actively involved with and the process up until now has been long-winded and bureaucratic. With regard to ensuring affordable land, Councillor West indicated that government funding options should be considered to assist with the servicing and infrastructure costs of land release.
18. The main issue is Council's request for a commitment from the Department of Land and Administration to release land within the townsite (as per Council resolution of 20/02/01). In its submission to Council, DOLA has indicated that any land release within the townsite is subject to Native Title clearances, funding and the level of demand.
19. With the change of government, DOLA has indicated to Council staff that its Land Development Function is in the process of being handed over to Landcorp. There will be a 6 month transitional period between the two government bodies to work through the details.



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

20. From initial inquiries it would appear that Landcorp is unlikely to release land within the townsite unless it is a profitable arrangement. Previous cost estimates and those calculated through the development of the Strategy both indicate that land release at Wellstead is only possible through a cost recovery program and that any profit from the subdivision is highly unlikely.
21. Wellstead, together with other rural townsites across the State will be in the same situation, where land release will have to occur as a community service. How this will actually occur is yet to be resolved by the State Government.

**Servicing & Infrastructure**

22. One of the main issues affecting the affordability of land in Wellstead relates to the need to reduce development standards. Most of the service authorities have shown a degree of flexibility with their current policies due to the remote location of Wellstead. In the case of the water supply, the Water Corporation has highlighted in their submission that “in principle” support would be considered for future lots to be serviced by individual tanks rather than a requirement for a reticulated service. Western Power has also stated that the extension of any high voltage infrastructure could occur overhead.
23. With regard to the road upgrading issues Council’s engineering staff have indicated that the minimum road seal costings should be included in the cost estimates as this is a minimum road standard now being implemented City-wide which would reduce future road maintenance in this area.
24. The introduction of development concessions as mentioned above will ensure the viability of any land release in Wellstead and will help keep the price of land affordable. Based on conversations held with community members there is general support for the reduction in development standards to ensure affordable land.
25. As part of the finalisation of the Strategy, Council staff will ensure that the Strategy makes a recommendation to ensure that future landowners of land within the townsite will be made fully aware that lots have been developed at a reduced level of service and infrastructure standards. This will alleviate any expectations from the communities of tomorrow.

**Native Title**

26. Since the Strategy was advertised DOLA has indicated that a portion of land zoned residential on Lehman Street is reaching clearance under the future acts provision of the Native Title Act. As such a 2 hectare area will be available in the near future for development, if and when land release occurs.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

27. As far as Native Title goes for the remaining affected portions of land in the townsite these will have to be pursued further. Council has established a Memorandum of Understanding with the local Aboriginal community from which an accord is to be established. Through these established links with the local Aboriginal community, it is anticipated that Council and the community could work through Native Title issues, if Council is the developer.

**DISCUSSION**

28. Its important to keep in mind that some recommendations of the Strategy can not be pursued until other issues have been resolved. For example, until Native Title is resolved only freehold land can be pursued for development; any recommendations or actions relating to the development of Crown land would not be acted upon until such time as clearance of Native Title is given.

29. The strategy has assessed a number of different options to develop Crown land against different levels of service requirements and preliminary costings have already been done for DOLA. By taking the initiative to prepare this Strategy, Council has demonstrated its commitment to facilitating the release of land at Wellstead. However, as the State Government is not in a position to commit to releasing land at Wellstead, the implementation of the Strategy is in question.

30. The important thing at the moment is that the planning for the future development of the townsite has been established. Should the State Government agencies not be forthcoming with land release, the City of Albany will need to consider the option of being actively involved in the release of land at Wellstead. This would be an issue for the Economic Development Unit of the City of Albany to consider.

**CONCLUSION**

31. With the town planning work for the development of the townsite near completed, the essential ingredients to land release in Wellstead requires a co-ordinated approach with the native title claimants, the State Government, service authorities and Council. This will ensure the provisions of affordable living and economic development opportunities in Wellstead. With the recent development of the Rest Area and funding for the Resource Centre, services and facilities are improving at Wellstead, which will no doubt draw more people to the townsite whether they are travelling through or moving into town.

32. The Wellstead Townsite Strategy provides a clear strategic direction to Council and the community, which will ensure the enhancement of the townsite and its survival as a rural town of the City of Albany.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.1 continued

RECOMMENDATION

THAT Council:

- i) grant final approval to the Wellstead Townsite Strategy, subject to modifications being carried out in accordance with the recommendations of the attached Schedule of Submissions;
- ii) the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be noted as detailed;
- iii) the Wellstead Townsite Strategy be referred to the Western Australian Planning Commission for endorsement; and
- iv) refer the Wellstead Townsite Strategy to the Economic Development Unit to advocate with the appropriate Government agency on land release in Wellstead seeking an indication of the process and timing for land release.

*Voting Requirement Simple Majority*

.....

**MOVED COUNCILLOR WEST  
SECONDED COUNCILLOR EVERS**

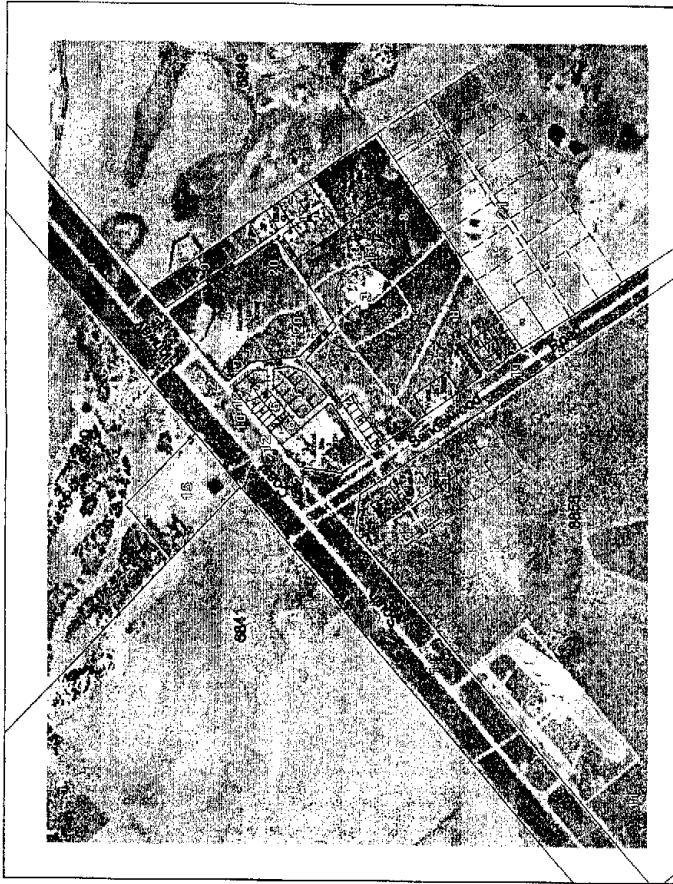
**THAT Council:**

- i) grant final approval to the Wellstead Townsite Strategy, subject to modifications being carried out in accordance with the recommendations of the attached Schedule of Submissions;**
- ii) the Schedule of Submissions be received, the comments on individual submissions be tabled and the recommendations contained therein be noted as detailed;**
- iii) the Wellstead Townsite Strategy be referred to the Western Australian Planning Commission for endorsement; and**
- iv) refer the Wellstead Townsite Strategy to the Economic Development Unit to advocate with the appropriate Government agency on land release in Wellstead seeking an indication of the process and timing for land release.**

**MOTION CARRIED 13-0**

\*\* REFER DISCLAIMER \*\*

DEVELOPMENT SERVICES REPORTS



- 13. Possible future transfer station buffer area (100m - 200m zones) as recommended by the Department of Environmental Protection. May be reduced subject to location, operation and management of the site.
- 14. Unutilised rubbish disposal site. Potential, subject to further study, for future transfer station site or for freeholding and residential/home business development subject to Native Title, servicing and demand.
- 15. Transfer water sites to the Public Purposes reserve.
- 16. Incorporate unused rail site within adjoining Recreation Reserve
- 17. Lot 37 Fenwick Street (Light Industry Zone). The only townsite land unretreived by Native Title claim and therefore immediately available for development. Five large industrial lots provided via extension of Fenwick Street. Potential for caterakers dwellings.
- 18. Empressess Wellstead Road as the town's main street.
- 19. Sandbeard Road as access to main coastal recreation area (Cape Riches). Increasing traffic volumes anticipated by virtue of increasing casual visits and development of Cape Riches Special Rural Zone.
- 20. Vegetated portions of Recreation Reserve retained for passive recreation.
- 21. Potential large lot development areas for residential, home business and tourist uses. Private freehold land so no Native Title constraints. Vegetation protection controls required in areas of bush and tree planting/screening required in existing cleared areas.

- 1. Townsite Approach. Maintain amenity and character by protecting/enhancing remnant vegetation on approaches. Open up access and visibility of the townsite by emphasising the major entry at the Rest Area.
- 2. Potential for superfluous highway reserve to be transferred to Council for general community and other uses east of the resource centre and major recreation (eastern and western inter portions).
- 3. Existing rubbish tip, to be closed, rehabilitated and subject to further study, redeveloped as a Transfer Station.
- 4. Smeedman Street Right of Way. In process of being amalgamated into adjoining lots.
- 5. Prospect emergency landing strip. Sites identified by Aerstin Committee. Grant application to Council unsuccessful. Development pending funding and site availability.
- 6. Potential for subdivision of Lehman Street residential area (2000m2) subject to Native Title and water supply issues.
- 7. Potential additional residential main street lots (2000m2) for commercial, tourist accommodation and services subject to Native Title and water supply issues.
- 8. Future development area for 2000m2 - 4000m2 residential lots. Larger home business lots may share use of possible Transfer Station buffer.
- 9. Potential for extension of Fenwick Street residential lots (4000m2) and include options for home business. Road frontage already constructed but electrical extensions and potentially significant water extensions required. Development potential subject to Native Title.
- 10. Rest Area currently under construction. To incorporate parking and landscaping. Also functions as an entry statement to town.
- 11. Potential site for extensive rural processing industry subject to land acquisition and servicing conditions (particular electricity). Buffers stated with CBT.
- 12. Site for Wellstead Resource Centre opposite shop to emphasise the importance of this node. To address both the rest area and Wellstead Road.

SCALE  
1:15000  
Figure 6

# Wellstead Townsite Strategy

## City of Albany

To be read in conjunction with Figure 5

AYTON TAYLOR & BURRELL  
Consultants in Town Planning  
11 Duke Street Albany W.A.

**DEVELOPMENT SERVICES REPORTS**

**Wellstead Townsite Strategy**

**Schedule of Submissions**

No.	Ratepayer/ Resident or Agency	Submission	Comment	Recommendation
1.	Steven Hall Loc 6849 Hassell Highway, Wellstead	<p>Generally supports the draft strategy and raises the following issues:</p> <p>(a) The town water supply was established as a supplementary scheme however in practise householders use it as a total supply. Householder's tanks need to have the inlet spigots and float valves relocated to 1/3 the way up the tank walls as tanks are generally full from the dam water and when it rains the tanks overflow.</p> <p>(b) The proposed subdivision on portion of Location 6849, south of the townsite has us, as the landowner spending \$63,000 with no guarantee of selling the lots. In the current economic climate this is too risky. We have a preference to subdivide 8 blocks along Sandalwood Road continuing on from proposed blocks 1,3 &amp; 4. This would alleviate the need for expensive road works and create more affordable lots. Failing this we would need to consider proposed blocks 1,3 and 4 in stage 1 to test demand and then proceed with the roadworks if stage 1 is successful.</p>	<p>(a) This issue relates to the operation of the current system which, rests with the Water Corporation. However if this is the case some water savings could be made which, will need to be discussed further with the Water Corporation.</p> <p>(b) The subdivision of 8 blocks off Sandalwood Road is not appropriate as Sandalwood Road is constructed to a gravel road standard. Special Rural developments City wide generally require bitumen seal road access. However the development of lots 1,3 &amp; 4 could be considered as part of a pilot project to establish the demand for land.</p>	<p>(a) Clarification will be sought from the Water Corporation.</p> <p>(b) To be considered and highlighted when preparing the final strategy.</p>
2.	AM Poad & LS Crowe 20 Steedman Street, Wellstead	<p>(a) The most important thing that Wellstead can benefit from is more affordable land. Everyone benefits from the flow on effects from the school to local businesses. The school will lose 8 kids and maybe a teacher next year.</p>	<p>(a) Noted.</p>	<p>The submission be noted.</p>

**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/ Resident or Agency	Submission	Comment	Recommendation
		<p>(b) Sandalwood Road needs to be sealed, it's the main road other than the Highway that is used by the whole community.</p> <p>(c) A caravan park should be built near Cape Riche and not in town. People want to Camp by the beach not in town.</p>	<p>(b) Maintenance works will occur on portion of Sandalwood Road over the next financial year. With respect to road upgrading, the current traffic volumes of 64 vehicles per day do not justify a bitumen seal on Sandalwood Road. This approach is in accordance with Council's Asset Management Strategy for Roads.</p> <p>(c) Noted.</p>	
3.	R & J Ellett Lot 50 Sandalwood Road, Wellstead	<p>Supports the draft strategy with the following issues:</p> <p>(a) Priority should be given to the development of the larger lots as soon as possible as these lots seem cost effective.</p> <p>(b) The strategy should acknowledge the high use of the coastal area, namely Cape Riche by locals and tourists.</p> <p>(c) The upgrading of Sandalwood Road to improve access to the coast and provide access to the Special Rural blocks should be considered. The existing water supply would not have to be extended or Native Title involved if these blocks were developed first.</p>	<p>(a) Noted.</p> <p>(b) The strategy has already highlighted this point however it will be reviewed to ensure that it is adequately addressed.</p> <p>(c) As point b) above.</p>	<p>(a) Noted.</p> <p>(b) This issue to be reviewed when preparing final strategy.</p> <p>(c) Noted.</p>
4.	Main Roads WA	<p>(a) The integrity of South Coast Highway as the main heavy haulage needs to be maintained.</p> <p>(b) Any development abutting South Coast Highway should gain access from local access roads and not the highway. Any new access points onto South Coast Highway will require approval from Main Roads</p> <p>(c) With regard to the Indicative Western Special Rural Subdivision a four way intersection is proposed. Where possible this should be avoided as this intersection will create additional traffic conflict points as opposed to the existing T junction intersection.</p>	<p>(a) Noted.</p> <p>(b) The City is fully aware of Main Road's requirements with respect to these issues and the plan reflects their position accordingly.</p> <p>(c) Noted.</p>	This submission is noted.

**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/ Resident or Agency	Submission	Comment	Recommendation
5.	Department of Conservation and Land Management	<p>(a) CALM acknowledges the need to release more land in Wellstead however, as much remnant vegetation as possible should be protected. CALM prefers the use of cleared private rural land for development to guard against incremental loss of native vegetation.</p> <p>(b) Should vegetated land be used for development surveys for Declared Rare Flora may be required.</p> <p>(c) The uncleared gazetted rubbish disposal reserve could be considered as a reserve for vegetation protection. This would have conservation, landscape and potentially tourism benefits.</p> <p>(d) Recommendation 7.3.7 relates to Community management of the Cape Riche reserve and whilst CALM supports community management there are no details in the strategy to provide comment.</p>	<p>(a) The City is aware of the environmental concerns relating to the loss of vegetation. This issue will be reviewed to ensure that where practical vegetation will be protected or retained.</p> <p>(b) The need for a Declared Rare Flora and Fauna Survey will be highlighted in the final strategy.</p> <p>(c) Noted.</p> <p>(d) It was never the intent of this strategy to provide detail on areas outside of the Wellstead townsite area however, it was considered necessary to consider the impacts of surrounding land uses and acknowledge the recreational value of Cape Riche to the local and wider community.</p>	<p>These issues will be considered and highlighted when preparing the final strategy.</p>
6.	Department of Environmental Protection	<p>Any implementation of the Strategy would require referral to the EPA via the standard statutory processes.</p> <p>(a) If clearing of remnant vegetation is proposed the vegetation within the study area would need to be assessed with reference to the EPA Position Statement No.2 on the Protection of Native Vegetation in WA.</p> <p>(b) Support is given to the closure of the existing rubbish disposal site and re-use of the same site as a transfer station. A transfer station should be able to be constructed without requiring additional clearing of native vegetation.</p>	<p>(a) This point will be highlighted in the final Wellstead Townsite Strategy.</p> <p>(b) As point a) above</p>	<p>These issues will be considered and highlighted when preparing the final strategy.</p>

**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/ Resident or Agency	Submission	Comment	Recommendation
		(c) The CBH terminal is situated within approximately 450 metres of the proposed large lot development areas. The DEP generally recommends a buffer of 500 metres to residential areas from such uses in accordance with the EPA draft Guidance Statement No. 3. An appropriate buffer to residences should be based on the operations of the CBH facility.	(c) As point a) above	
7.	Water & Rivers Commission	<p>Generally supports the strategy with the following issues:</p> <p>(a) Supports the rehabilitation of the existing refuse site in accordance with the DEP’s requirements.</p> <p>(b) Ensuring the provision of a water supply for future development is a priority considering the limits to the current supply.</p> <p>(c) Native gardens should be encouraged to help reduce the pressure on the water supply.</p>	<p>(a) Noted.</p> <p>(b) Noted.</p> <p>(c) This point will be included in the final Wellstead Townsite Strategy.</p>	<p>(a) Noted.</p> <p>(b) Noted.</p> <p>(c) To be highlighted in the final strategy.</p>
8.	Western Power	<p>(a) Western Power would allow the installation of overhead high voltage networks for the Wellstead townsite but would prefer that any Low Voltage infrastructure is put underground as the town is fed via:</p> <ul style="list-style-type: none"> <li>- a 33Voltage system and the underground equipment for this voltage is not common;</li> <li>- a significant overhead network is already in place and putting any power extensions underground would not significantly alter reliability.</li> </ul> <p>The preference for low voltage underground power would reduce the safety risks and problems caused by vegetation interference with overhead lines.</p> <p>(b) The development of cottage industries and the industrial area will require a three phase supply which, will need to be extended from the main line running along South Coast Highway.</p>	<p>(a) This point will be made clear in the final Wellstead Townsite Strategy and factored into relevant costing scenarios.</p> <p>(b) As point a) above.</p>	To be highlighted in the final strategy



**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/ Resident or Agency	Submission	Comment	Recommendation
9.	Department of Land & Administration	<p>Supports the Strategy in principle with the following issues:</p> <p>(a) Development and release of land in Wellstead is dependant upon compliance with the future act provisions of the Native Titles Act 1993 (NTA). A notice of intention for part of the residential land (already zoned) is currently with the Minister for approval.</p> <p>(b) Any commitment to develop land will be subject to funding/level of demand once the Native Title issue has been completed.</p> <p>(c) Some costings estimated in 1997 to develop land in Wellstead have been provided.</p> <p>(d) Understanding that the minimum lot size for unsewered lots was 850m<sup>2</sup> at a R12.5 density code.</p> <p>(e) Minor reference changes required relating to legislation changes.</p> <p>(f) Section 5.6 – Native Title, should read that “Lot 37 Fenwick and Barr Streets are subject to the provisions of the Native Title Act”. Development of the industrial land will also be subject to Native Title.</p>	<p>(a) Noted.</p> <p>(b) Noted.</p> <p>(c) These costings will be forwarded to Council’s consultants to assist with the review of costings.</p> <p>(d) The current policy is 2,000m<sup>2</sup> for unsewered lots.</p> <p>(e) The Strategy will be amended accordingly.</p> <p>(f) The Strategy will be amended accordingly.</p>	<p>(a) Noted</p> <p>(b) Noted.</p> <p>(c) To be reviewed when finalising strategy.</p> <p>(d) Noted.</p> <p>(e) The Strategy to be amended accordingly.</p> <p>(f) The Strategy to be amended accordingly.</p>
10.	Water Corporation	<p>(a) Upgrading the system to accommodate development will cost \$500,000, which equates to \$25,000 per lot. Support for the upgrade would be treated with caution.</p> <p>(b) ‘In principle’ support would be considered for future lots to be serviced by individual tanks.</p> <p>(c) If the current scheme is to be increased in capacity then other options such as desalination of existing groundwater should also be considered.</p> <p>(d) The existing scheme service would not be compromised by any expansion of the service.</p>	<p>(a) Already mentioned in strategy.</p> <p>(b) To be highlighted in final strategy</p> <p>(c) To be highlighted in final strategy.</p> <p>(d) To be highlighted in final strategy.</p>	<p>(a) Noted.</p> <p>(b) The Strategy to be amended accordingly.</p> <p>(c) The Strategy to be amended accordingly.</p> <p>(d) The Strategy to be amended accordingly.</p>

ORDINARY COUNCIL MEETING MINUTES – 18/09/01

\*\* REFER DISCLAIMER \*\*

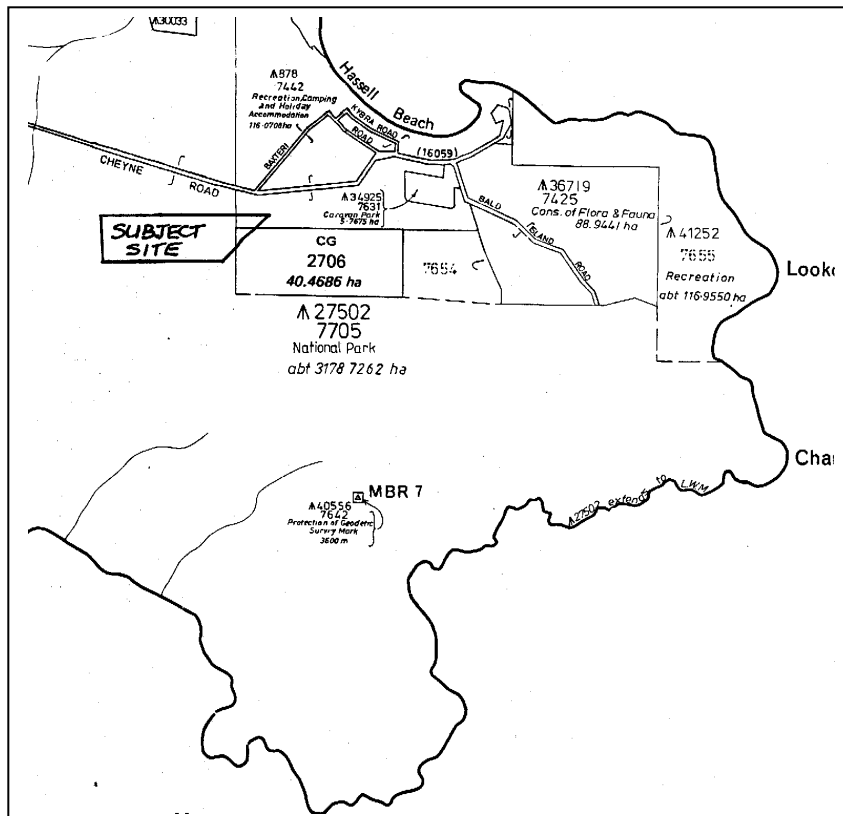
**DEVELOPMENT SERVICES REPORTS**

No.	Ratepayer/ Resident Agency or	Submission	Comment	Recommendation
		(e) Support to notices being issued on titles detailing the level of service available.	(e) To be highlighted in final strategy.	(e) The Strategy to be amended accordingly.
11.	Ministry for Planning	(a) Allocation of land for future tourist uses should be considered. (b) With reference to Figure 5 of the strategy – proposed area 5 land uses will need to be adequately separated from area 6 & 7 uses to avoid potential land use conflicts. (c) Consideration to be given to an industrial zone that could accommodate uses not appropriate in a composite zone. (d) The rubbish disposal site buffer should be indicated. In the long term this facility should be moved away from residential development. (e) Whilst the rationale behind developing the Special Rural lots south of the townsite is understood this development will split the townsite and should only be pursued if the native title and water supply issues are not resolved.	All these issues will be considered and the strategy will be amended where appropriate.	All these issues will be considered and the strategy will be amended where appropriate.

**DEVELOPMENT SERVICES REPORTS**

**11.3.2 Land Use Planning – Cheyne Beach**

<b>File/Ward</b>	:	STR047 (Kalgan Ward)
<b>Proposal/Issue</b>	:	Development of commercial fishing infrastructure and future planning for Cheyne Beach
<b>Subject Land/Locality</b>	:	Reserve 878 Location 7442 Cheyne Road, Cheyne Beach
<b>Proponent</b>	:	J & T Westerberg
<b>Owner</b>	:	Crown
<b>Reporting Officer(s)</b>	:	Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 17/07/01 Item 11.3.2
<b>Summary Recommendation:</b>		Comprehensive planning of Cheyne Beach be undertaken.
<b>Locality Plan</b>	:	



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**BACKGROUND**

1. At the Council meeting on 17<sup>th</sup> July 2001, Council considered a report on the long term status of holiday accommodation leases at Cheyne Beach and a separate request from J & T Westerberg to develop a fish freezing facility adjacent to the settlement of Cheyne Beach. A copy of the minutes of that meeting (with the original officer's report) is included in the Elected Members' Report/Information Bulletin.
2. Council resolved at that meeting *"to lay this matter on the table to allow adequate time for Councillors to receive a comprehensive briefing on the implications, or otherwise, of the proposed actions upon the City's strategic planning direction"*. In the interim period, Councillors have received independent briefings on the separate components from City of Albany staff and from Mr Tony Westerberg.
3. In his briefing to Council, Mr Westerberg highlighted that the two commercial fisher syndicates operating along Hassell Beach produce approximately 2500 tonnes of salmon and herring annually. Their concern with the fish processors in Albany is the difficulty in holding adequate volumes of fish whilst processing; fishers often travel long distances with catches only to find the catch cannot be stored or processed.
4. The fishers are seeking to develop a shed of approximate dimensions of 40m x 20m x 4m (opening height) to house a 200 tonne capacity freezer unit. Power would be generated on-site and rainwater would be used for wash down. Fish would be frozen whole and future processing may be extended to include gutting and head removal. The industry operates from February to May annually and Hassell Beach is the highest producing fish resource in the region.
5. A preliminary request was also forwarded to the Department of Land Administration (DOLA) on the freeholding of existing leases at Cheyne Beach and on the potential to expand the existing settlement.

**STATUTORY REQUIREMENTS**

6. Refer to copy of previous report in the Elected Members' Report/Information Bulletin.

**POLICY IMPLICATIONS**

7. Refer to copy of previous report in the Elected Members' Report/Information Bulletin.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

**FINANCIAL IMPLICATIONS**

8. Reserve 878 forms part of the Crown's reserve network and is set aside for "Recreation, Camping and Holiday Accommodation" purposes. The power supply to the existing settlement is at its maximum capacity, no reticulated water supply exists to leases and the bitumen roads meet rural road standards.
9. If leases are converted to freehold lots, the Crown will require the new owners to reimburse the Crown for the value of the land.
10. Council has no budget currently to undertake detailed planning for Cheyne Beach. The cost of extending or upgrading infrastructure to existing or future lots would normally be borne by the developer of newly created lots or the respective agency where service delivery is below that agency's supply standards.

**STRATEGIC IMPLICATIONS**

11. Refer to copy of previous report in the Elected Members' Report/Information Bulletin.

**COMMENT/DISCUSSION**

12. The current purpose for Reserve 878 allows for additional holiday homes to be built at Cheyne Beach upon leased land. Council can progress the release of those leases only after the Minister for Lands has consented to the new lease sites. Officers of the DOLA have indicated that the Minister's support is unlikely to be gained until a comprehensive plan has been developed for the settlement and the servicing of the new leases has been adequately resolved. Until a formal application is lodged, officers could not provide a definitive answer on the possibility of freeholding the leased sites, although they were not totally opposed to the concept.
13. DOLA staff have also stated that the overall planning of the settlement should be in place, and applications submitted to the WA Planning Commission to subdivide the separate lots (to reflect the existing development pattern) prior to independent titles being established. By progressing through the subdivision process, service agencies would be entitled to seek an upgrading of existing infrastructure at the developer's cost, whoever the developer may be, and the environmental issues adequately addressed. With government land, Landcorp or a similar agency would normally undertake the subdivision and sale of the land on a commercial basis.
14. The request from the Westerberg's, needs to be considered in the context of the overall planning of Cheyne Beach. The advice from DOLA would indicate that any request to lease a parcel of land in the short term would not be supported by the Minister; at the very least, the purpose of the reserve would need to be amended to support a lease for commercial fish processing purposes.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

15. The merits of providing a fish freezing plant at Cheyne Beach can be considered in isolation of the future planning of the settlement. To date, the level of detail on the application is in draft form and some discretion exists on the final siting of a lease area. With any site upon Reserve 878, the buffering requirements for this facility would place a major impediment upon the long term growth of the settlement for residential activity, if that is considered the optimum development solution for the locality.
16. The fishing season along Hassell Beach is seasonal (lasting approximately 4 months) and freezing facilities could be developed elsewhere within the district, albeit that the fishers would incur additional expenses transporting and treating their catch at that plant. On the other hand, the capacity to create another holiday settlement which offers the same lifestyle qualities as Cheyne Beach, and is in close proximity to Albany, is extremely remote. Council needs to determine which land use should be given greater priority, or whether there is some capacity to allow both to proceed in a planned manner.
17. The City of Albany does not have discretionary funding available in 2001/02 to undertake structure planning over the settlement or to put in place the necessary zoning to control developments on future land parcels. Within the City's strategic land use planning framework, Cheyne Beach would not be a higher priority for funding than the settlement of Little Grove or the suburbs of Gledhow or Milpara. Similarly, government agencies are unlikely to consider Cheyne Beach as a priority within the State context unless there is a significant settlement created.

**RECOMMENDATION**

**THAT**

- i) J & T Westerberg be advised that Council does not support the development of a fish freezing plant upon Reserve 878, being Location 7442 Cheyne Road, Cheyne Beach and is not prepared to approach the Department of Land Administration to create a lease area for that purpose;
- ii) Council advocate with the State Government for the preparation of a detailed structure plan over Reserve 878, being Location 7442 Cheyne Road, Cheyne Beach which would provide;
  - A subdivisional layout over existing holiday home sites at Cheyne Beach and allow for the future subdivision and freehold titling of those holiday homes;
  - An expansion of the number of holiday home sites at Cheyne Beach available for development;

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.2 continued

- A review of the existing vacant lease areas set aside for commercial fishermen to develop for housing and fishing infrastructure to determine the suitability of utilising that land for that purpose in the long term;
- An improvement in the quality of services and infrastructure available to the settlement in the long term; and
- Improved recreational and tourism infrastructure within the expanded settlement for the broader community.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR EVERS  
SECONDED COUNCILLOR CECIL**

**THAT**

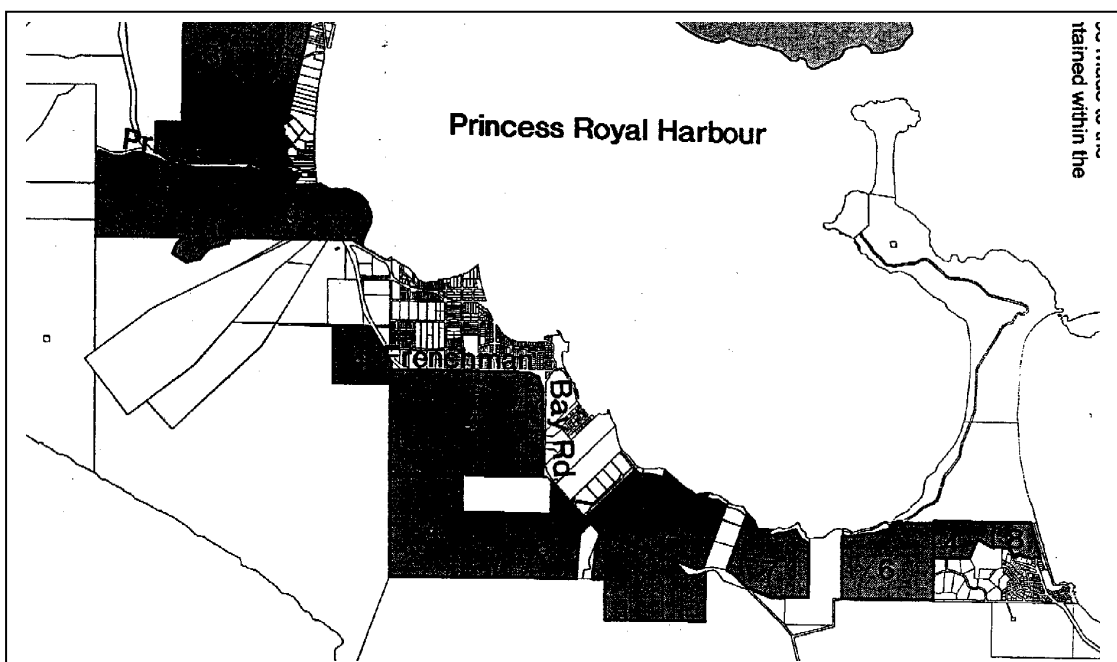
- i) **J & T Westerberg be advised that Council does not support the development of a fish freezing plant upon Reserve 878, being Location 7442 Cheyne Road, Cheyne Beach and is not prepared to approach the Department of Land Administration to create a lease area for that purpose;**
- ii) **Council advocate with the State Government for the preparation of a detailed structure plan over Reserve 878, being Location 7442 Cheyne Road, Cheyne Beach which would provide;**
  - **A subdivisional layout over existing holiday home sites at Cheyne Beach and allow for the future subdivision and freehold titling of those holiday homes;**
  - **An expansion of the number of holiday home sites at Cheyne Beach available for development;**
  - **A review of the existing vacant lease areas set aside for commercial fishermen to develop for housing and fishing infrastructure to determine the suitability of utilising that land for that purpose in the long term;**
  - **An improvement in the quality of services and infrastructure available to the settlement in the long term; and**
  - **Improved recreational and tourism infrastructure within the expanded settlement for the broader community.**

**MOTION CARRIED 13-0**

**DEVELOPMENT SERVICES REPORTS**

**11.3.3 Change Policy Provisions – Local Rural Strategy (South Coast Water Reserve)**

<b>File/Ward</b>	:	STR069 (Vancouver Ward)
<b>Proposal/Issue</b>	:	Modify Local Rural Strategy to Reflect Changes to South Coast Water Reserve Boundary
<b>Subject Land/Locality</b>	:	Private Land in Princess Royal Harbour Policy Areas
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	Numerous
<b>Reporting Officer(s)</b>	:	Executive Director Development Services (R Fenn)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 5/09/00 Item 11.3.4 OCM 4/07/00 Item 11.3.2
<b>Summary Recommendation:</b>		Approve Final Amendments to Specified Policies Within the Princess Royal Harbour Policy Areas.
<b>Locality Plan</b>	:	





**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

**BACKGROUND**

1. The Waters and Rivers Commission (W&RC) commenced the process in 1999 of redefining the outer boundary of the South Coast Water Reserve (SCWR) and to amend the development control requirements for land within the declared water reserve (groundwater protection area). The original SCWR was based upon reasonably unsophisticated research. The W&RC conducted extensive research and modelling in the mid 1990's which ultimately concluded that the original SCWR boundary covered an excessive area.
2. Within the City of Albany Local Rural Strategy, several policy areas were established to control developments and set the framework for the future subdivision/development of rural land on Vancouver Peninsula. The policies for those areas were heavily influenced by the information contained in the then groundwater protection provisions administered by the W&RC. If the SCWR's outer boundary was to be reduced in size, and the land use controls within the SCWR amended by the W&RC, the foundations upon which the City's policy direction were established would then be seriously flawed.
3. Attached to this report is a copy of the plans showing the previous and proposed boundary of the South Coast Water Reserve. The implementation of the land use controls applying to some of the Princess Royal Harbour (PRH) and Torbay policy areas of the City of Albany Local Rural Strategy relied heavily upon the City's and the W&RC's control mechanisms being compatible. The W&RC adopted the Water Source Protection Plan for the SCWR in June 2001 which effectively allows some lots to be further developed or subdivided in a manner which is inconsistent with the City's Local Rural Strategy.

**STATUTORY REQUIREMENTS**

4. Clause 6.9 of the City of Albany Town Planning Scheme 3 establishes the legal framework for the adoption and amendment of scheme policies. That clause states:

*6.9.2 A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:*

- (a) The Council having prepared and having resolved to adopt a Draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the Draft Policy may be inspected and where, in what form, and during what period (not being less than 21 days) representation may be made to the Council.*
- (b) The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to fully adopt the Draft Policy with or without amendment, or not proceed with the Draft Policy.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

*(c) Following Final Adoption of a Town Planning Scheme Policy details thereof shall be advertised publicly and a copy kept with the Scheme Documents for inspection during normal office hours.*

6.9.3 A Town Planning Scheme Policy may only be altered or rescinded by:-

*(a) Preparation and Final Adoption of a new Policy pursuant to this Clause, specifically worded to supercede an existing policy.*

*(b) Publication of a formal Notice of Rescission by the Council twice in a newspaper circulating in the area.*

5. At the Council meeting on the 4<sup>th</sup> July 2000, the City of Albany adopted the changes to some of the Princess Royal Harbour and Torbay policy provisions to reflect the amendments being mooted by the W&RC. The draft policy changes were advertised concurrently with the release of the SCWR amendments and public comment was sought up till the 18<sup>th</sup> August 2000.
6. On the 5<sup>th</sup> September 2000 Council considered the submissions received and resolved:

*“That the Waters and Rivers be requested to provide a detailed report on the rationale for including lots in the various priority areas for the South Coast Water Reserve and further, the Commission be asked to formally address the submissions received by Council on the proposed amendments to the City’s Local Rural Strategy.”*

7. The W&RC responded in writing directly to the persons who lodged submissions to Council at that time, refer to attached schedule. The W&RC’s response is included in the Elected Members’ Report/Information Bulletin.

**POLICY IMPLICATIONS**

8. The City of Albany Local Rural Strategy is a town planning scheme policy adopted by Council under the provisions of Clause 6.9 of Town Planning Scheme 3.

**FINANCIAL IMPLICATIONS**

9. There are no financial implications relating to this item

**STRATEGIC IMPLICATIONS**

10. The City of Albany Local Planning Strategy (ALPS) is currently reviewing the long term planning direction for land on Vancouver Peninsula. The City’s Local Rural Strategy remains the primary planning tool for land usage controls in this locality until the ALPS is completed and the City’s District Town Planning Scheme 1 is prepared and gazetted.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

**COMMENT/DISCUSSION**

11. In the Elected Members’ Report/Information Bulletin is a copy of the current and the proposed clauses for Princess Royal Harbour 1 to 9 and the Torbay 1 and 7 policy areas. These changes will integrate the W&RC policies for groundwater protection into the City’s Local Rural Strategy, but taking a “no development” option where land use controls are to be removed, but the affected land is located in prominent visual landscape areas.
12. A review of the submissions received, and the response supplied by the Waters and Rivers Commission, would indicate that the proposed changes to the Local Rural Strategy will not impose any higher level of control on landowners than currently exists. In most cases, landowners gain additional development potential. As with any policy provision, some concerns remain over the location of policy boundaries and the opportunities available to some landowners but not others.
13. The submission from Mr Waugh raises concern over the capacity of his family to continue horticultural activity into the future and to expand the family’s business operations. The W&RC indicate that shallow and deep groundwater resources in the Scrub Bird Road area are interconnected and contamination of one could affect the other. The landowner enjoys existing land use rights under the Town Planning Scheme and the W&RC is reluctant to support the removal of the restrictions on horticulture in the priority 2 area.
14. Staff consider the submissions received do not warrant a change in the draft policy clauses.

**RECOMMENDATION**

THAT Council;

- i) pursuant to Section 6.9.2 of the City of Albany Town Planning Scheme No.3, formally adopts the amended clauses for the Princess Royal Harbour policy areas 1 to 9 and the Torbay 1 and 7 policy area provisions of the City of Albany Local Rural Strategy;
- ii) pursuant to clause 6.9.3 of the Scheme, resolves to have the amended clauses supercede the existing provisions of that policy;
- iii) advertise the adoption of the amended policy provisions; and
- iv) advise the Ministry for Planning and Infrastructure accordingly.

*Voting Requirement Simple Majority*

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**DEVELOPMENT SERVICES REPORTS**

Item 11.3.3 continued

Councillor Evers declared a disclosure of interest and left the chamber at 8.35pm. The nature of Councillor Evers interest is her property lies within the boundary of the South Coast Water Reserve.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR BARTON**

**THAT Council;**

- i) pursuant to Section 6.9.2 of the City of Albany Town Planning Scheme No.3, formally adopts the amended clauses for the Princess Royal Harbour policy areas 1 to 9 and the Torbay 1 and 7 policy area provisions of the City of Albany Local Rural Strategy;**
- ii) pursuant to clause 6.9.3 of the Scheme, resolves to have the amended clauses supercede the existing provisions of that policy;**
- iii) advertise the adoption of the amended policy provisions; and**
- iv) advise the Ministry for Planning and Infrastructure accordingly.**

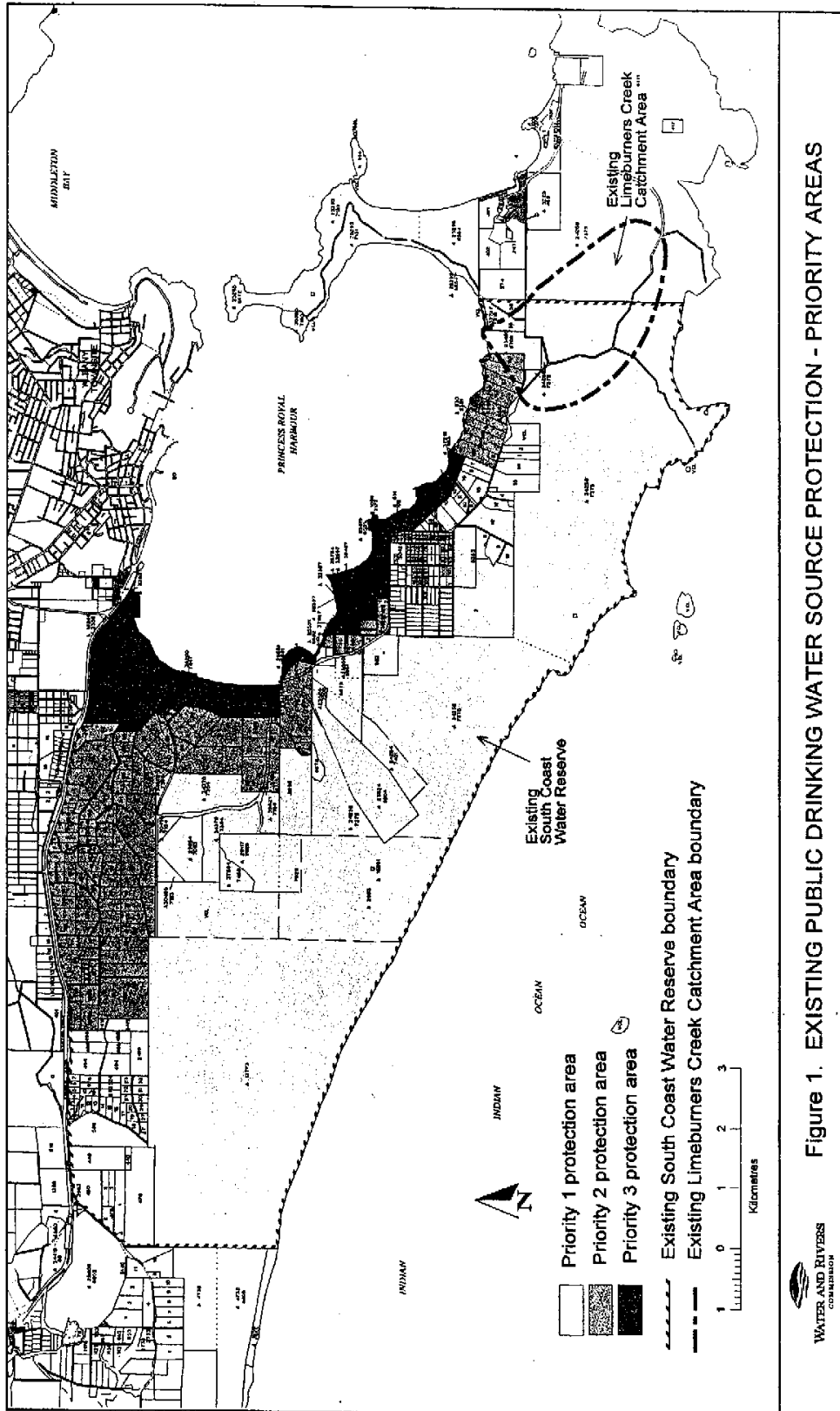
**MOTION CARRIED 12-0**

Councillor Evers returned to the chamber at 8.40pm.

**DEVELOPMENT SERVICES REPORTS***Schedule of Submissions  
Amendments to City of Albany Local Rural Strategy*

<i>Name</i>	<i>Submission</i>	<i>Comment</i>
a) D Douglas Lot 135 Clayton Street Little Grove	Refer to full copy of submission in Elected Members' Report / Information Bulletin	Refer to Waters and Rivers Commission Response in Elected Members' Report / Information Bulletin
b) R.R. Oliver Lot 119 Diamond Street Albany	As per (a) above	As per (a) above
c) F Parkinson 108 O Connell Street Little Grove	As per (a) above	As per (a) above
d) J L Owen 83 Symes Street Little Grove	As per (a) above	As per (a) above
e) C Tasker Lot 8 Humphrey Road Little Grove	As per (a) above	As per (a) above
f) K & S Gleave 130 Diamond Street Little Grove	As per (a) above	As per (a) above
g) JP & HA Paunich Loc. 962 Frenchman Bay Road Little Grove	As per (a) above	As per (a) above
h) G & N Kennedy 554 Frenchman Bay Road Little Grove	As per (a) above	As per (a) above
i) A & A Doyle Lot 79 Spring Street Little Grove	As per (a) above	As per (a) above
j) WJ & KM Lee Lot 133 Clayton Street Little Grove	As per (a) above	As per (a) above
k) W Reader Lot 44 Opal Street Little Grove	As per (a) above	As per (a) above
l) LG & BM Baker 100 Symers Street Little Grove	As per (a) above	As per (a) above
i) G Franklin 560 Frenchman Bay Road Little Grove	As per (a) above	As per (a) above
j) J Burbidge & T Morgan Lot 82 Spring Street Little Grove	As per (a) above	As per (a) above
k) S Harris P O Box L27 Little Grove	As per (a) above	As per (a) above
l) K Liron 540 Frenchman Bay Road Albany	As per (a) above	As per (a) above
m) G Waugh 76 Bayview Drive Albany	As per (a) above	As per (a) above

DEVELOPMENT SERVICES REPORTS



DEVELOPMENT SERVICES REPORTS

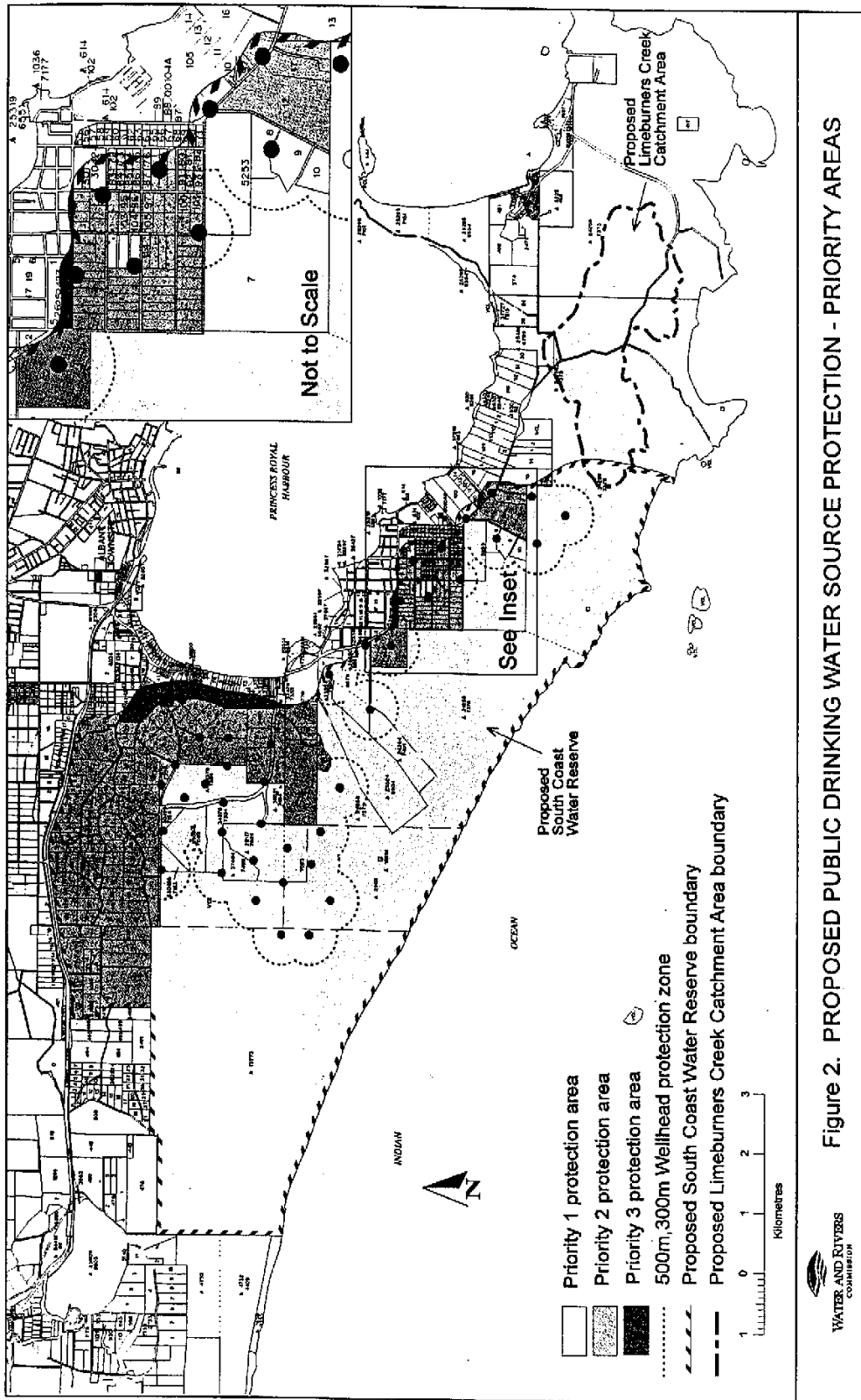


Figure 2. PROPOSED PUBLIC DRINKING WATER SOURCE PROTECTION - PRIORITY AREAS



**DEVELOPMENT SERVICES REPORTS**

**Tables showing Land use compatibility with PDWSA protection objectives**

**AGRICULTURE - ANIMALS**

Land use	Priority 1	Priority 2	Priority 3
Animal saleyards and stockyards <sup>14</sup>	Incompatible	Incompatible <sup>7</sup>	Conditional <sup>7</sup>
Apiaries on Crown land	Conditional	Conditional	Conditional
Aquaculture eg. crustaceans, fish, algae farms	Incompatible	Conditional	Conditional
Dairy sheds	Incompatible	Incompatible <sup>11,15</sup>	Conditional <sup>15</sup>
Feedlots	Incompatible	Incompatible	Conditional
Livestock grazing - pastoral leases	Conditional	Compatible	Compatible
Livestock grazing - broad acre (extensive)	Incompatible	Conditional <sup>11</sup>	Compatible
Livestock grazing (intensive)	Incompatible	Incompatible	Conditional <sup>11</sup>
Piggeries	Incompatible	Incompatible	Incompatible
Poultry farming (housed)	Incompatible	Conditional	Conditional
Stables	Incompatible	Conditional	Compatible

**AGRICULTURE - PLANTS**

Land use	Priority 1	Priority 2	Priority 3
Broad acre cropping i.e. non-irrigated	Incompatible	Conditional <sup>1</sup>	Compatible
Floriculture (extensive)	Incompatible	Conditional	Compatible
Floriculture (intensive)	Incompatible	Incompatible	Conditional
Horticulture- hydroponics	Incompatible	Conditional	Conditional
Horticulture - market gardens	Incompatible	Incompatible	Conditional
Orchards	Incompatible	Conditional	Compatible
Nurseries (potted plants)	Incompatible	Conditional	Compatible
Silviculture (tree farming)	Conditional	Conditional	Compatible
Turf farms	Incompatible	Incompatible	Conditional
Viticulture (wine & table grapes)	Incompatible	Conditional	Compatible

**DEVELOPMENT - COMMERCIAL**

Land use	Priority 1	Priority 2	Priority 3
Aircraft servicing	Incompatible	Incompatible	Conditional <sup>6</sup>
Airports or landing grounds	Incompatible	Incompatible	Conditional <sup>6</sup>
Amusement centres	Incompatible	Incompatible	Compatible <sup>6</sup>
Automotive businesses	Incompatible	Incompatible	Conditional <sup>6</sup>
Boat servicing	Incompatible	Incompatible	Conditional <sup>6</sup>
Catteries	Incompatible	Compatible	Compatible
Caravan and trailer hire	Incompatible	Incompatible	Conditional <sup>6</sup>
Consulting rooms	Incompatible	Incompatible <sup>7</sup>	Compatible <sup>8</sup>
Concrete batching and cement products	Incompatible	Incompatible	Conditional
Cottage Industries	Conditional	Conditional	Compatible
Dog kennels	Incompatible	Conditional	Conditional
Drive in / take-away food shops	Incompatible	Incompatible	Compatible <sup>6</sup>
Drive-in theatres	Incompatible	Incompatible	Compatible <sup>6</sup>
Dry cleaning premises	Incompatible	Incompatible	Conditional <sup>6</sup>
Farm supply centres	Incompatible	Incompatible <sup>7</sup>	Conditional
Fuel depots	Incompatible	Incompatible	Conditional
Garden centres	Incompatible	Incompatible	Compatible
Laboratories (analytical , photographic)	Incompatible	Incompatible	Conditional <sup>6</sup>
Markets	Incompatible	Incompatible	Compatible <sup>6</sup>
Mechanical servicing	Incompatible	Incompatible	Conditional <sup>6</sup>
Metal production / finishing	Incompatible	Incompatible	Incompatible
Milk transfer depots	Incompatible	Incompatible	Conditional
Pesticide operator depots	Incompatible	Incompatible	Incompatible
Restaurants and taverns	Incompatible	Incompatible	Compatible <sup>6</sup>



## DEVELOPMENT SERVICES REPORTS

Land use	Priority 1	Priority 2	Priority 3
Service stations	Incompatible	Incompatible	Conditional <sup>5</sup>
Shops and shopping centres	Incompatible	Incompatible <sup>7</sup>	Compatible <sup>6</sup>
Transport depots	Incompatible	Incompatible	Conditional
Vehicle parking (commercial)	Incompatible	Incompatible	Compatible
Vehicle wrecking and machinery	Incompatible	Incompatible	Conditional
Veterinary clinics / hospitals	Incompatible	Incompatible <sup>7</sup>	Conditional <sup>6</sup>

**DEVELOPMENT - INDUSTRIAL**

Land use	Priority 1	Priority 2	Priority 3
Heavy Industry	Incompatible	Incompatible	Incompatible
Light or general Industry	Incompatible	Incompatible	Conditional <sup>6</sup>
Power Stations	Incompatible	Incompatible	Incompatible

**DEVELOPMENT - URBAN**

Land use	Priority 1	Priority 2	Priority 3
Aged and dependent persons group dwellings	Incompatible	Incompatible	Compatible <sup>6</sup>
Cemeteries	Incompatible	Incompatible	Conditional
Civic buildings	Incompatible	Conditional <sup>7</sup>	Compatible <sup>6</sup>
Clubs -sporting or recreation	Incompatible	Conditional	Compatible <sup>6</sup>
Community halls	Incompatible	Conditional <sup>7</sup>	Compatible
Family day care centres	Incompatible	Incompatible <sup>7</sup>	Compatible <sup>6</sup>
Funeral parlours	Incompatible	Incompatible	Compatible <sup>6</sup>
Health centres	Incompatible	Incompatible	Compatible <sup>6</sup>
Hospitals	Incompatible	Incompatible	Conditional <sup>6</sup>
Medical centres	Incompatible	Incompatible	Compatible <sup>6</sup>
Toilet blocks and change rooms	Incompatible <sup>7</sup>	Conditional	Compatible

**EDUCATION / RESEARCH**

Land use	Priority 1	Priority 2	Priority 3
Community education centres	Conditional <sup>7</sup>	Conditional <sup>7</sup>	Compatible <sup>6</sup>
Primary / Secondary Schools	Incompatible	Incompatible	Compatible <sup>6</sup>
Scientific Research	Conditional	Conditional	Compatible
Tertiary Education Facilities	Incompatible	Incompatible	Conditional <sup>6</sup>

**MINING AND MINERAL PROCESSING**

Land use	Priority 1	Priority 2	Priority 3
Extractive industries (sand mining, quarries)	Conditional <sup>2</sup>	Conditional <sup>2</sup>	Conditional <sup>2</sup>
Mineral exploration	Conditional <sup>4</sup>	Conditional <sup>4</sup>	Conditional <sup>4</sup>
Mining	Conditional <sup>4</sup>	Conditional <sup>4</sup>	Conditional <sup>4</sup>
Mineral processing	Incompatible	Incompatible	Conditional <sup>4</sup>
Tailings dams	Incompatible	Incompatible	Conditional <sup>4</sup>

**PROCESSING OF ANIMALS / ANIMAL PRODUCTS**

Land use	Priority 1	Priority 2	Priority 3
Animal product rendering works	Incompatible	Incompatible	Incompatible
Abattoirs	Incompatible	Incompatible	Incompatible
Dairy product factories	Incompatible	Incompatible	Conditional <sup>6</sup>
Food Processing	Incompatible	Incompatible	Conditional <sup>6</sup>
Tanneries	Incompatible	Incompatible	Incompatible
Wool-scourers	Incompatible	Incompatible	Incompatible

## DEVELOPMENT SERVICES REPORTS

## PROCESSING OF PLANTS / PLANT PRODUCTS

Land use	Priority 1	Priority 2	Priority 3
Breweries	Incompatible	Incompatible	Conditional <sup>3</sup>
Composting / soil blending (commercial)	Incompatible	Incompatible	Conditional
Vegetable / food processing	Incompatible	Incompatible	Conditional <sup>6</sup>
Wineries	Incompatible	Incompatible	Conditional

## SUBDIVISION

Land use	Priority 1	Priority 2	Priority 3
Rural subdivision to a minimum lot size of 4 ha	Incompatible	Compatible	Compatible
Rural subdivision to a lot size less than 4 ha	Incompatible	Incompatible	Incompatible
Special rural subdivision to a minimum lot size of 2 ha	Incompatible	Conditional <sup>8,9</sup>	Conditional <sup>8</sup>
Special rural subdivision to a lot size between 1 and 2 ha	Incompatible	Incompatible	Conditional <sup>8,9</sup>
Special rural subdivision to a lot size less than 1 ha	Incompatible	Incompatible	Incompatible
Urban subdivision	Incompatible	Incompatible	Compatible <sup>4</sup>
Industrial subdivision	Incompatible	Incompatible	Conditional <sup>5</sup>

**Note: Subdivision of lots to any size within Priority 1 areas is incompatible**

## SPORT AND RECREATION

Land use	Priority 1	Priority 2	Priority 3
Equestrian centres	Incompatible	Incompatible	Compatible
Golf courses	Incompatible	Incompatible	Conditional <sup>1</sup>
Motor sports ie permanent racing facilities	Incompatible	Incompatible	Conditional
Public swimming pools	Incompatible	Incompatible	Conditional
Recreational parks -irrigated	Incompatible	Incompatible	Conditional <sup>1</sup>
Rifle ranges	Incompatible	Conditional	Compatible

## STORAGE/ PROCESSING OF TOXIC AND HAZARDOUS SUBSTANCES (THS)

Land use	Priority 1	Priority 2	Priority 3
Above ground storage of THS	Conditional	Conditional	Conditional
Underground storage tanks for THS	Incompatible	Incompatible	Conditional

## TOURISM ACCOMMODATION.

Land use	Priority 1	Priority 2	Priority 3
Bed and breakfast accommodation	Incompatible	Conditional <sup>16</sup>	Compatible
Caravan parks	Incompatible	Incompatible	Conditional <sup>8</sup>
Farm stay accommodation	Incompatible	Conditional <sup>16</sup>	Compatible
Motels, hotels, lodging houses, hostels	Incompatible	Incompatible	Compatible <sup>5</sup>

## WASTE TREATMENT AND MANAGEMENT

Land use	Priority 1	Priority 2	Priority 3
Injection of liquid wastes into ground water	Incompatible	Incompatible	Incompatible
Landfills -Class I, II or III	Incompatible	Incompatible	Conditional
Landfills -Class IV and V	Incompatible	Incompatible	Incompatible
Recycling depots	Incompatible	Incompatible	Conditional
Refuse transfer stations	Incompatible	Incompatible	Conditional
Sewers (gravity)	Incompatible	Incompatible	Compatible
Sewers (pressure mains)	Incompatible	Conditional	Compatible
Sewage pump stations	Incompatible	Conditional	Conditional
Used tyre storage / disposal facilities	Incompatible	Incompatible	Incompatible
Wastewater treatment plants	Incompatible	Incompatible	Conditional
Wastewater application to land	Incompatible	Incompatible <sup>17</sup>	Conditional

## OTHER DEVELOPMENTS

[www.wrc.wa.gov.au](http://www.wrc.wa.gov.au)

Land use compatibility in PDWSAs

Original Author(s): R. Taylor

Version 21 January 2000

**DEVELOPMENT SERVICES REPORTS**

Land use	Priority 1	Priority 2	Priority 3
Caretaker's housing	Incompatible <sup>7</sup>	Conditional	Compatible
Drinking water treatment plants	Conditional	Conditional	Conditional
Communications receivers / transmitters	Conditional	Conditional	Conditional
Construction projects (not shown elsewhere)	Conditional	Conditional	Conditional
Forestry	Conditional <sup>1</sup>	Compatible	Compatible
Major transport routes	Incompatible	Conditional <sup>10</sup>	Compatible
National and Regional Parks <sup>13</sup>	Compatible	Compatible	Compatible
Nature reserves	Compatible	Compatible	Compatible

**Table reference notes:**

1. Conditions may limit fertiliser and pesticide application.
2. Conditions cover the storage of fuels and chemicals, the depth of mining in relation to the water table with strict guidelines for rehabilitation.
3. Conditions cover the storage and use of fuel and other chemicals.
4. Conditions placed via the mining lease and / or environmental approval.
5. Special rural development must have appropriate provisions under the Town Planning Scheme, to prevent introduction of land uses and practices that pose an unacceptable risk to water resources.
6. Must be connected to deep sewerage, except where exemptions apply under the current Government Sewerage Policy.
7. Only permitted if this use is incidental to the overall land use in the area and consistent with planning strategies.
8. Lots should only be created where land capability allows effective on-site soakage disposal of treated wastewater. Conditions apply to siting of wastewater disposal systems in areas with poor land capability and / or a shallow depth to groundwater, animals are held or fertiliser is applied. Alternative wastewater treatment systems, where approved by the Health Department, may be accepted with maintenance requirements.
9. An average rather than minimum lot size may be acceptable if the proponent can demonstrate that the water quality objectives of the source protection area are met, and caveats are placed on titles of larger blocks stating that further subdivision cannot occur.
10. Conditions cover road design, construction and the types of goods that may be carried.
11. May be permitted if animal stocking levels (number of animals per hectare) are consistent with source protection objectives.
12. May be permitted if the type, volume and storage mechanisms for chemicals are compatible with water quality protection objectives.
13. Visitor and management infrastructure and facilities must be appropriately sited and maintained.
14. This does not include on-farm / pastoral lease stock-yards used for animal husbandry
15. Waste management practices must be compatible with source protection objectives.
16. Conditions apply on density of accommodation in Priority 2 areas
17. May be permitted if the quantity and quality are compatible with water quality protection objectives.

**DEVELOPMENT SERVICES REPORTS**

**11.3.4 Scheme Amendment Request - Lot 1 & 2 Frenchman Bay Road, Frenchman Bay**

**File/Ward** : A6135/A6136 (Vancouver Ward)

**Proposal/Issue** : Preliminary request to rezone Lots 1 & 2 from Special Site (Caravan Park) to Special Site “Holiday Accommodation” “Additional Use Permanent Residential Development, Tearooms & Shop”

**Subject Land/Locality** : Lot 1 & 2 (Location 7584) Frenchman Bay Road, Frenchman Bay

**Proponent** : Ayton Taylor Burrell

**Owner** : Champion E J & A P

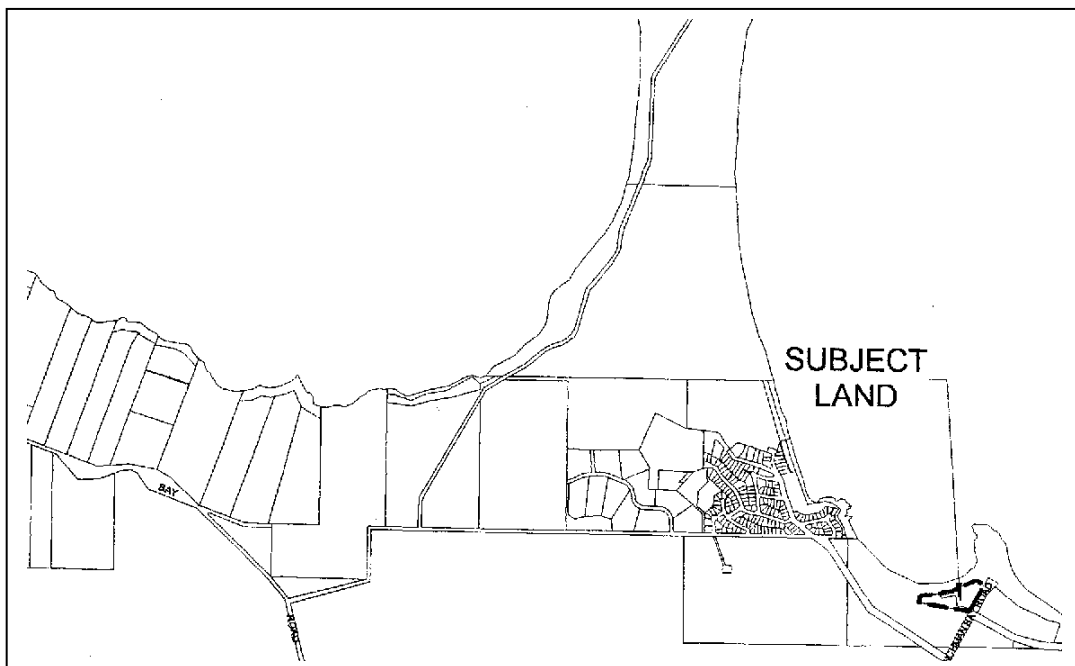
**Reporting Officer(s)** : Executive Director Development Services (R Fenn)

**Disclosure of Interest** : Nil

**Previous Reference** : Nil

**Summary Recommendation:** Not Support Request to Change Zoning of Site

**Locality Plan** :



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

**BACKGROUND**

1. The Frenchman Bay Caravan Park and Tearooms has operated on Lot 1 & 2 Frenchman Bay Road for a number of years and has been the subject of a previous development request to the City.
2. Broughton Planning, in 1999/2000 contacted Council Planning Officers and submitted a concept plan to develop 31 chalets. The chalets were to be strata tilted and let out as tourist accommodation when not required by the owners. The proponent suggested that the chalets would fulfil the same function as a “park home” development, while providing for a mix of potential users.
3. A second stage was proposed which would provide for fifteen hotel style rooms, administration office/café/brassiere/convention centre while a third stage was to provide 36 serviced apartments. The proposal put forward by Broughton Planning was not pursued, after a brief period of consultation with planning staff, which concluded in June 2000.
4. On 24 July 2001 Ayton Taylor and Burrell submitted a Scheme Amendment Request for a proposed tourist development upon Lots 1 and 2 Frenchman Bay Road. Included in this request was an indicative plan for the proposed development and a number of perspective drawings relating to the proposal (refer to Elected Members’ Report/Information Bulletin).
5. The proponents are seeking Council support (see report in Elected Members’ Report/Information Bulletin) to rezone the site from Special Site (Caravan Park) to Special Site “Holiday Accommodation” “Additional Use Permanent Residential Development, Tearooms & Shop”.
6. The proponent’s sketch show a development comprising 100 single and double storey, one, two and three bedroom units on the site. Twenty-five of the proposed units are shown to be strata titled and to be used as permanent residences. The remaining seventy-five units are planned to be used as short-term “up market holiday accommodation”. The twenty-five units would be initially sold to underwrite the development as a whole. In addition, a two-storey motel, restaurant and shop are planned to be developed on the site.
7. The proponent feels that there is strong community support for the proposed development. It is claimed that the proposal fits with a number of documents, including the Vancouver Waterways Report and the draft Local Planning Strategy, both of which highlight the suitability of the site for “up market holiday accommodation”.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

8. Letters of support were submitted by the Western Australian Tourism Commission, Whale World and the Great Southern Development Commission. This support is claimed to be an indication that a development of this type is required within the locality.
9. The proponent indicates that the development would, by adopting a number of design principles, reduce a number of potential impacts, which may be created by such a proposal. The design elements would include:
  - *overall aim to ensure that the development blends with the landscape while allowing a view of the bay from each unit,*
  - *limiting development to one to two stories, with an emphasis on single storey structures adjacent to the foreshore,*
  - *sympathetic construction materials and colours to reduce visual impact of the development; and*
  - *development of a landscape plan.*

**STATUTORY REQUIREMENTS**

10. Clauses 3.7 and 5.14 within Town Planning Scheme No. 3 state:

*3.7 Special Site Zones -*

*Within those areas zoned as Special Sites Zone, all uses except those marked on the scheme map or shown in the following table shall be prohibited.*

***SPECIAL SITE ZONE***

---

<u><i>Use Class</i></u>	<u><i>Caravan Park</i></u>	<u><i>Holiday Accommodation</i></u>	<u><i>Museum</i></u>
<i>Caravan Park</i>	<i>P</i>	<i>X</i>	<i>X</i>
<i>Caretakers House/Flat</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Holiday Accommodation</i>	<i>AA</i>	<i>P</i>	<i>X</i>
<i>Petrol Filling Station</i>	<i>AA*</i>	<i>X</i>	<i>X</i>
<i>Public Recreation</i>	<i>AA</i>	<i>X</i>	<i>X</i>
<i>Shop</i>	<i>IP</i>	<i>X</i>	<i>IP</i>

*\* Restricted to Clients Use*

*5.14 Coastal Environmental Area -*

*In respect of any application in respect of land within the coastal environmental area Council shall take into consideration:*

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

- (i) *The Guidelines for an Environmental Protection Policy on the Coastal Zone in Western Australia published by the Environmental Protection Authority.*
- (ii) *Any declaration of policy or policy planning maps prepared by Council or by any Department or Instrumentality of the State.*

11. A Scheme Amendment Request (SAR) is not a statutory process under the Town Planning & Development Act 1928. The purpose of the SAR process is to give an applicant feedback as to whether an amendment is likely to be supported or not, and the issues to be addressed in the scheme amendment documents.

12. If an applicant decides to pursue a scheme amendment, the Council will be required to formally consider that request.

**POLICY IMPLICATIONS**

13. If scheme amending documents are to be prepared they will need to pay close regard to and address a range of State Government Policies including the Western Australian Planning Commission Development Control Policy 6.1 Country Coastal Planning Policy (Amended 1999). The site is also located in an area designated as a Visual Management Area A, within the Local Rural Strategy.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

15. The *Vancouver Waterways Project Study Final Report May 2000* supports the development of accommodation units at the Frenchman Bay Caravan Park site, but it does not highlight a permanent residential component.

16. The Albany Regional Strategy 1994 and the draft Albany Local Planning Strategy supports planned urban growth with a minimal impact on visual amenity, based upon frontal development and urban consolidation. Within both strategies this site was identified as a tourism node.

**COMMENT/DISCUSSION**

17. The subject site is a prime location to develop a range of tourism infrastructure to value add to the accommodation and recreational pursuits that Albany has to offer. Whilst located 20 kilometres from the city centre, it is a destination which is on the edge of the Torndirrup National Park, it offers open water views for visitors and it experiences less traffic and urban noise than most of the other larger tourist accommodation sites in Albany. The proponent has indicated a desire to have future development on the site undertaken using bricks and mortar, rather than having a miss-match of temporary buildings, caravans and chalets strewn across the site, dominating an important vista for tourists.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

18. Under the Caravan Park and Camping Act, the site can be redeveloped with a range of short stay accommodation options (tent sites, caravan bays, chalets) and a number of permanent park homes (meeting the design requirements of the Act). With Council approval, the site can also be designated as a park home park and it can be converted to 100% occupancy by individuals permanently residing in park homes. Through the Caravan Park and Camping Act, the ownership of “the bay” remains with the landowner; a bay is leased to an individual for a maximum period of 3 months in any year (for caravan and chalet activities) or for the entire year if it is a park home. There is also the capacity to strata title caravan park bays, although that idea has failed to gain acceptance in the market place.
  
19. The provisions of Scheme 3 allow the site to be redeveloped for a range of “holiday accommodation” uses (ranging from motels to camp sites) with buildings capable of being constructed out of brick or other materials. Within the site, ancillary buildings (restaurants, etc) can also be developed to meet the needs of visitors to the site. The only restriction imposed by the zoning is that the buildings must be used on a short term basis and not become permanent residences.
  
20. The application before Council seeks to set aside portion of the site for permanent residential use and to use the money generated by the sale of part of the site to redevelop the remainder. Council staff have a fundamental concern with this request. In point format, those concerns are;
  - The creation of a satellite residential area is contrary to the Residential Expansion Strategy and the draft Albany Local Planning Strategy. Applications for discrete residential areas (eg. Little Grove) have been strongly opposed in the past, even where the land is zoned Residential Development, if the full range of services are not available to the land.
  - The new residential lots (to be strata titled) will be connected to a private reticulated sewerage, water, drainage and road system (held as common property and maintained by the strata body) with inherent ongoing maintenance issues and environmental concerns.
  - Apart from the ability to build more permanent residential structures on the land, the applicant’s plans for brick chalets, etc. can be met under the Caravan Parks and Camping Act within the current zoning.
  - The creation of a residential node on the land reduces the area of land available for holiday accommodation, further restricting the long-term viability of holiday accommodation on the site.
  - There is no guarantee that adequate funds will be generated by the sale of the residential lots to facilitate the level of investment mooted for the site and the economic considerations should not over-rule the planning merits of the proposal.
  - The site is being promoted in all strategic documents as a valuable holiday accommodation site, not a mixed holiday accommodation / residential enclave and it would create a precedent for the subdivision of similar zoned land in the City.



**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

21. Staff acknowledge that, in the current business investment environment, obtaining finance to develop or redevelop holiday accommodation is difficult. The Frenchman Bay Caravan Park has infrastructure which has reached its economic life and the owners require a massive cash injection to upgrade that infrastructure or to set a new direction for the site. The property is held as a freehold title and a full range of development options are available to the owners; in contrast, the facilities along Middleton Beach are leased premises and Council, dictated by the reserve purpose and controlled through lease agreements, restricts the range of activities developed on those land parcels.
  
22. Councillors are reminded that this application is not to rezone the land. The proponent is seeking feedback from Council on the City's preparedness to receive amending documents to initiate a Town Planning Scheme amendment. Council can decide:
  - to advise the proponent that it does not support the request. In that instance, the landowners may decide to withdraw their proposal or proceed to prepare the amending documents in the knowledge that Council is unlikely to decide to initiate the amendment (no appeal rights exist against that decision).
  - That it is unsure of its position, in which case the amending documents can be prepared (at the full risk of the landowner), the "fine details" can be fully explored, and appropriately documented, and Council is then in a better position to make an informed decision.
  - to support the idea, which allows the landowners to approach the documentation (with the inherent costs) with a higher degree of confidence that they are not wasting their financial resources. Even if Council support is obtained, the final decision on the rezoning rests with the Minister for Planning and Infrastructure.
  
23. If Council supports the rezoning initiative, staff suggest that the rezoning documents, which form the next step in the amending process, would need to address a range of issues including:
  - a) The strategic importance of the site and how this proposal responds to existing government strategies.
  - b) How the proposed development meets or responds to City of Albany and State Government agency policies on development in visually sensitive areas and adjacent to the coast.
  - c) The design parameters to be set for development which is planned to occur on the site.
  - d) The provision of services to all components of the proposed development and the ongoing management of those services.
  - e) Control of traffic on and adjacent to the site and pedestrian access to the adjacent foreshore.
  - f) The extent to which cut and fill and clearing will occur on the site and measures to be taken to minimise the long-term visual impact of developing the site.
  - g) The visual impact of proposed development as seen from land and water.

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

24. Staff consider the proponent has failed to adequately address the strategic implications of this proposal. The creation of a residential enclave within a tourism project at Frenchman Bay is not considered to be proper and orderly planning.

**RECOMMENDATION**

THAT Council advise Ayton Taylor and Burrell that it does not support the preliminary request to rezone Lots 1 and 2 Frenchman Bay Road, Frenchman Bay from “Special Site (Caravan Park)” to “Special Site (Holiday Accommodation)” with the “Additional Use” of “Permanent Residential Development, Tearooms and Shop” and should the landowners wish to proceed to prepare Scheme Amending documents they do so at their own risk.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR BOJCUN  
SECONDED COUNCILLOR EMERY**

**THAT Council advise:**

- (i) it is prepared to receive amending documents to rezone Lots 1 and 2 Frenchman Bay Road, Frenchman Bay from “Special Site (Caravan Park)” to “Special Site (Holiday Accommodation)” with an “Additional Use” of “Permanent Residential Development, Tearooms and Shop”;**
- (ii) the amending documents are to detail the requirements outlined in paragraph 23 of the officer’s report and provide appropriate scheme provisions which;**
  - a) ensure development responds to constraints and opportunities created by the site;**
  - b) set clear site development and servicing parameters;**
  - c) stipulates maximum percentages of the site to be allocated to potential land uses; and**
  - d) ensures off site impacts are adequately addressed.**

**MOTION LOST 5-8**

**DEVELOPMENT SERVICES REPORTS**

Item 11.3.4 continued

**MOVED COUNCILLOR EVANS  
SECONDED COUNCILLOR EVERS**

**THAT this matter lay on the table until such time as the proposal can be subjected to an informal advertising process and public comment sought.**

**MOTION CARRIED 13-0**

Reason:

It would assist Council in its decision-making if broader community input was provided on this proposal.

**DEVELOPMENT SERVICES REPORTS**

**11.4. DEVELOPMENT SERVICES COMMITTEES**

**11.4.1 City of Albany Bushfire Management Committee Minutes of 29<sup>th</sup> August 2001**

- File/Ward** : MAN089 (All Wards)
- Proposal/Issue** : Committee Items for Council Consideration
- Reporting Officer** : Executive Director Development Services  
(R Fenn)
- Summary Recommendation** : That the minutes of the City of Albany Bushfire Management Committee held on 29<sup>th</sup> August 2001 be adopted.

**Confirmation of the minutes of the City of Albany Bushfire Management Committee of 29<sup>th</sup> August 2001**

**Recommendation**

THAT the minutes of the City of Albany Bushfire Management Committee held on the 29<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin) and the following items 7.3, 7.5 and 8.1 be adopted.

Item 7.3 Firebreak Reviews

THAT the Bushfire Management Committee endorse the recommendations for firebreaks as proposed for the South Western Sectors commencing in year 2002/2003.

Item 7.5 Burning on Sundays & Public Holidays- Highway Brigade District

THAT the Bushfire Management Committee endorse the recommendation that burning of the bush on Sundays and public holidays during restricted burning periods be permitted for the Highway Volunteer Bushfire Brigade district.

Item 8.1 Emergency Services Levy Funding Proposal

THAT Council endorse in principle the concept of a levy to fund the Western Australian Emergency Services subject to further detail being provided on the administration of the fund.

*Voting Requirement Simple Majority*

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**DEVELOPMENT SERVICES REPORTS**

Item 11.4.1 continued

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WILSON**

**THAT the minutes of the City of Albany Bushfire Management Committee held on the 29<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin) and the following items 7.3, 7.5 and 8.1 be adopted.**

**Item 7.3 Firebreak Reviews**

**THAT the Bushfire Management Committee endorse the recommendations for firebreaks as proposed for the South Western Sectors commencing in year 2002/2003.**

**Item 7.5 Burning on Sundays & Public Holidays- Highway Brigade District**

**THAT the Bushfire Management Committee endorse the recommendation that burning of the bush on Sundays and public holidays during restricted burning periods be permitted for the Highway Volunteer Bushfire Brigade district.**

**Item 8.1 Emergency Services Levy Funding Proposal**

**THAT Council endorse in principle the concept of a levy to fund the Western Australian Emergency Services subject to further detail being provided on the administration of the fund.**

**MOTION CARRIED 13-0**

# **Corporate & Community Services**

## **REPORTS**

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

**12.1 FINANCE**

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

<b>File/Ward</b>	:	FIN022 (All Wards)
<b>Proposal/Issue</b>	:	N/A
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Manager of Finance (S Goodman)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	N/A
<b>Summary Recommendation</b>	:	Approve accounts for payment
<b>Locality Plan</b>	:	N/A

**COMMENT/DISCUSSION**

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

Municipal Fund Vouchers			
Cheques	14446-14619	totalling	200,708.59
EFT	EF7319-EF7778	totalling	1,291,750.75
Municipal Fund Direct Debits			
Payroll		totalling	731,915.78
<b>Total Municipal Fund</b>			<b><u>2,224,375.12</u></b>
Trust Fund Vouchers	134-135	totalling	6,000.00
<b>Total Trust Fund</b>			<b><u>6,000.00</u></b>
<b>TOTAL</b>			<b><u>2,230,375.12</u></b>

**RECOMMENDATION**

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

Municipal Fund	totalling	\$2,224,375.12
Trust Fund	totalling	<u>\$ 6,000.00</u>
Total		<u>\$2,230,375.12</u>

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR EMERY**

**SECONDED COUNCILLOR WELLINGTON**

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

Municipal Fund	totalling	\$2,224,375.12
Trust Fund	totalling	<u>\$ 6,000.00</u>
Total		<u>\$2,230,375.12</u>

**MOTION CARRIED 13-0**

### 12.1.2 Write-Off Rates – 25 Edinburgh Road, McKail

<b>File/Ward</b>	:	A47016 (West Ward)
<b>Proposal/Issue</b>	:	Request for waiver of Back Rates
<b>Subject Land/Locality</b>	:	25 Edinburgh Road, McKail
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	M & JM Van Der Brugge
<b>Reporting Officer(s)</b>	:	Finance Officer-Rates (K Dolzadelli)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	That Council waive Back Rates
<b>Locality Plan</b>	:	N/A

#### BACKGROUND

1. Back Rate changes were levied in accordance with Sections 6.39 and 6.40 of the Local Government Act 1995. The amendments came about after it was discovered that the property had not been rated correctly and in fact another property's Gross Rental Valuation had been applied to it. In essence, Council had used an incorrect Valuation to calculate Rates on the property.
2. The Back Rates charged represented a rate adjustment on the property from 1<sup>st</sup> July 1995 to 30<sup>th</sup> June 2000.
3. A letter of explanation and an Interim Rate Notice were forwarded to the owners. On receipt of their adjusted Rate Notice Mrs Van Der Brugge contacted Council and the details were discussed. An undertaking was given to Mrs Van Der Brugge to follow the issue up with the Valuer Generals Office as there appeared to be some uncertainty regarding the Valuation that had been placed on the property.
4. The Valuer Generals Office was contacted and they investigated the matter, however determined that the valuation was correct. Unfortunately, this decision was not communicated to Mr & Mrs Van Der Brugge at the time by the Valuer Generals Office.



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\*\* REFER DISCLAIMER \*\*  
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Item 12.1.2 continued.

5. On receipt of this year's Rate Notice Mrs Van Der Brugge was, to say the least, surprised at the fact that the Back Rate amounts remained on the account as she was under the impression that the matter had been resolved.

**STATUTORY REQUIREMENTS**

6. Section 6.47 of the LGA 1995 states

*“Subject to the Rates And Charges (Rebates And Deferments) Act 1992, a Local Government may at the time of imposing a rate or service charge or at a later date resolve\* to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge. “*

*\* Absolute majority required*

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

8. The amount requested to be written off is \$191.87.

**STRATEGIC IMPLICATIONS**

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

**COMMENT/DISCUSSION**

10. Error and confusion, none of which has been the fault of the owners, have marked this issue. The owners have formally requested that Council write-off/waive the amount citing financial hardship and their good past payment record.

**RECOMMENDATION**

THAT Council resolve to waive the amount of \$191.87 in relation to Assessment A47016, 25 Edinburgh Road, McKail.

*Voting Requirement Absolute Majority*

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ORDINARY COUNCIL MEETING – 18/09/01  
\*\* REFER DISCLAIMER \*\*  
**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.2 continued.

**MOVED COUNCILLOR EVERS  
SECONDED COUNCILLOR BOJCUN**

**THAT Council resolve to waive the amount of \$191.87 in relation to  
Assessment A47016, 25 Edinburgh Road, McKail.**

**MOTION CARRIED  
ABSOLUTE MAJORITY 13-0**

The Chief Executive Officer advised the incorrect street number had been recorded – 25 Edinburgh Road be amended to 32 Edinburgh Road, McKail.

## 12.2 ADMINISTRATION

### 12.2.1 Wilson Inlet Management Group – Membership Invitation

<b>File/Ward</b>	:	MAN 063 (All Wards)
<b>Proposal/Issue</b>	:	Council representation on the Wilson Inlet Management Group
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	Waters and Rivers Commission
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Senior Administration Officer (S Pepper)
<b>Disclosure of Interest</b>	:	Nil.
<b>Previous Reference</b>	:	Nil.
<b>Summary Recommendation</b>	:	Nominate representatives to the Wilson Inlet Management Group
<b>Locality Plan</b>	:	N/A

#### BACKGROUND

1. The Waters and Rivers Commission has advised it is establishing a new group to assist in the management of the Wilson Inlet. It will undertake some of the former activities of the Wilson Inlet Management Authority, but will be primarily focussed on the management of the inlet and its immediate foreshore.
2. It is intended that the Wilson Inlet Management group will be an action committee, actively participating and achieving on-ground outcomes.
3. Council has been asked to nominate a representative to the Group.

#### STATUTORY REQUIREMENTS

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

#### POLICY IMPLICATIONS

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

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\*\* REFER DISCLAIMER \*\*  
**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.2.1 continued.

**FINANCIAL IMPLICATIONS**

6. The are no financial implications relating to this item.

**STRATEGIC IMPLICATIONS**

7. Albany 2020 Port of Call – Managed healthy land/harbour environment, by maximising partnerships with other stakeholders to ensure the sustainable use and care of our harbours.

**COMMENT/DISCUSSION**

8. The Water and Rivers Commission has advised the Management Group will become a referral body, referring matters to the Commission that need to be addressed through the powers of the Waterways Conservation Act, and would expect the Commission to respond to such referrals.
9. The aim of the Group is to be representative of the diverse interests of the Wilson Inlet community, with membership having strong community representation.
10. Nominees are required to provide a written CV, which should address various criteria (see attachment in Elected Members Report/Information Bulletin), appointments are for a two year period, and nominations close on 30<sup>th</sup> September 2001.

**RECOMMENDATION**

THAT Council nominate Councillor \_\_\_\_\_ as its representative to the Wilson Inlet Management Group.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR BARTON**

**THAT Council nominate Councillor Diane Evers as its representative to the Wilson Inlet Management Group.**

**MOTION CARRIED 13-0**

### 12.2.2 Repeal Various Local Laws

<b>File / Ward</b>	:	MAN048 (All Wards)
<b>Proposal / Issue</b>	:	Proposal to repeal various former Town and Shire Local Laws.
<b>Subject Land / Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Senior Administration Officer (S Pepper)
<b>Disclosure of Interest</b>	:	Nil.
<b>Previous Reference</b>	:	Nil.
<b>Summary Recommendation</b>	:	Repeal various former Town and Shire local laws.
<b>Locality Plan</b>	:	N/A

#### BACKGROUND

1. Staff have been conducting a review of the City's Local Laws to determine their relevance for today's needs and whether they have been superceded by other legislation. It has been established there are some Local Laws adopted by the former Town and Shire of Albany, which are still current, that are considered no longer applicable to the City.
2. The Local Laws include-  
Former Town of Albany
  - By-Laws relating to Pest Plants
  - By-Laws relating to the Control and Storage of Old and Disused Vehicles and MachineryFormer Shire of Albany
  - By-Laws relating to Pest Plants
  - By-Laws relating to Aerodromes
  - By-Laws relating to Vehicle Wrecking
  - By-Laws relating to Unkempt Land

Item 12.2.2 continued.

### STATUTORY REQUIREMENTS

3. Section 3.12 of the Local Government act, states:-
- “3.12 (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) At a council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.*
- (3) The local government is to-*
- (a) give Statewide public notice stating that-*
- (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
- (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
- (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given*
- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*
- \* Special Majority Required.*
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*

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Item 12.2.2 continued.

*(6) After the local law has been published in the Gazette the local government is to give Statewide public notice-*

*(a) stating the title of the local law;*

*(b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*

*(c) advising that copies of the local law may be inspected or obtained from the local government's office.*

*(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made and any explanatory or other material relating to them."*

#### **POLICY IMPLICATIONS**

4. There is no Council policy in place relating to this item.

#### **FINANCIAL IMPLICATIONS**

5. There will be statutory advertising costs, which will be funded from the current budget.

#### **STRATEGIC IMPLICATIONS**

6. The Council's Strategic Plan has identified the need to provide good governance for the City:

- in complying with the provisions of the Local Government Act 1995 and all other relevant legislation; and
- to establish effective two way communication between Council, residents and other stakeholders.

#### **COMMENT/DISCUSSION**

7. The former Councils by-laws have been assessed and found to be

- Pest Plants (Town and Shire) – no longer relevant as the management of agricultural pests (including plants) is administered by the Agriculture Protection Board under the provisions of the Agriculture and Related Resources Protection Act 1976
- Control and Storage of Old and Disused Vehicles and Machinery (Town) – superseded, by section 3.25(1) of the Local Government Act 1995, which provides that a notice can be given to the owner/occupier of land, requiring the person to do anything specified in the notice that is prescribed.

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Item 12.2.2 continued.

- Aerodrome (Shire) – superseded, covered in the City of Albany Parking and Parking Facilities, and the Local Government Property Local Laws 2001
  - Vehicle Wrecking (Shire) – superseded, by section 3.25(1) of the Local Government Act 1995, which provides that a notice can be given to the owner/occupier of land, requiring the person to do anything specified in the notice that is prescribed.
  - Unkempt Land (Shire) – superseded, by section 3.25(1) of the Local Government Act 1995, which provides that a notice can be given to the owner/occupier of land, requiring the person to do anything specified in the notice that is prescribed.
8. To formally delete these local laws and their numerous amendments, it is proposed to draft a new local law, which repeals all that has been identified in the text, hence ensuring a saving to Council in advertising costs (see Local Law attached to this item).
9. While there are still some former Town and Shire local laws being used, a review is continuing, using the Western Australian Municipal Association draft local laws as a basis to provide the City with its own set of local laws, as required by the Local Government Act.
10. The procedure for repealing local laws, requires Council to advertise Statewide, advising of its intention to repeal a Local Law, and seeking submissions within a six-week period. Council is to consider all submissions before repealing a local law, publish it in the Government Gazette and supply to the Minister for Local Government the documents for tabling in Parliament. Statewide notice of the repeal of the Local Law is then to occur.
- 11. In addition, the procedure for repealing Local Laws, requires the person presiding at a Council meeting to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed Local Law.**

*“Purpose and Effect*

*The purpose of the local law is to:*

*Remove all those local laws, from the former Town and Shire of Albany, that have been superceded by new legislation.*

*The effect is to provide the City of Albany with a set of local laws relevant to today’s needs.”*



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Item 12.2.2 continued.

**RECOMMENDATION**

THAT Council in accordance with section 3.12 of the Local Government Act 1995, agrees to repeal the following former Town and Shire of Albany local laws:-

Town of Albany	Date of Gazettal
<i>Control of Old and Disused Vehicles &amp; Machinery</i>	<i>05.08.83</i>
<i>Pest Plants</i>	<i>13.11.87</i>
Shire of Albany	
<i>Aerodromes</i>	<i>07.06.85</i>
<i>Pest Plants</i>	<i>13.11.92</i>
<i>Vehicle Wrecking</i>	<i>22.07.83</i>
<i>Unkempt Land</i>	<i>15.05.92</i>

*Voting Requirement Simple Majority*

.....

The Chief Executive Officer stated the purpose of Local Law and Effect.  
 Thanks was extended to City of Albany staff for the preparation of Local Laws.

**MOVED COUNCILLOR WILSON  
 SECONDED COUNCILLOR EMERY**

**THAT Council in accordance with section 3.12 of the Local Government Act 1995, agrees to repeal the following former Town and Shire of Albany local laws:-**

<b>Town of Albany</b>	<b>Date of Gazettal</b>
<i>Control of Old and Disused Vehicles &amp; Machinery</i>	<i>05.08.83</i>
<i>Pest Plants</i>	<i>13.11.87</i>
<b>Shire of Albany</b>	
<i>Aerodromes</i>	<i>07.06.85</i>
<i>Pest Plants</i>	<i>13.11.92</i>
<i>Vehicle Wrecking</i>	<i>22.07.83</i>
<i>Unkempt Land</i>	<i>15.05.92</i>

**MOTION CARRIED 13-0**

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*Local Government Act 1995*

Municipality of the City of Albany

Local Laws relating to the Revocation of Existing City of Albany Local Laws

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the \_\_\_ day of \_\_\_\_\_ 2001 to make and submit for confirmation by the Governor the following Local Laws.

<b>Town of Albany</b>	<b>Date of Gazettal</b>
<i>Control of Old and Disused Vehicles &amp; Machinery</i>	<i>05.08.83</i>
<i>Pest Plants</i>	<i>13.11.87</i>
<b>Shire of Albany</b>	
<i>Aerodromes</i>	<i>07.06.85</i>
<i>Pest Plants</i>	<i>13.11.92</i>
<i>Vehicle Wrecking</i>	<i>22.07.83</i>
<i>Unkempt Land</i>	<i>15.05.92</i>

Dated at Albany on this \_\_\_\_\_ day of \_\_\_\_\_ 2001.

The Common Seal of the City of Albany was affixed by the Authority of a resolution of the Council in the presence of-

A. Goode, JP, Mayor.

A. Hammond, Chief Executive Officer.

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**12.2 3 New Lease – Navy League of Australia – Reserve 35137**

**File/Ward** : PRO072 (Frederickstown Ward)

**Proposal/Issue** : New Lease

**Subject Land/Locality** : Reserve 35137

**Proponent** : Navy League of Australia

**Owner** : Crown Land (Managed by the City of Albany)

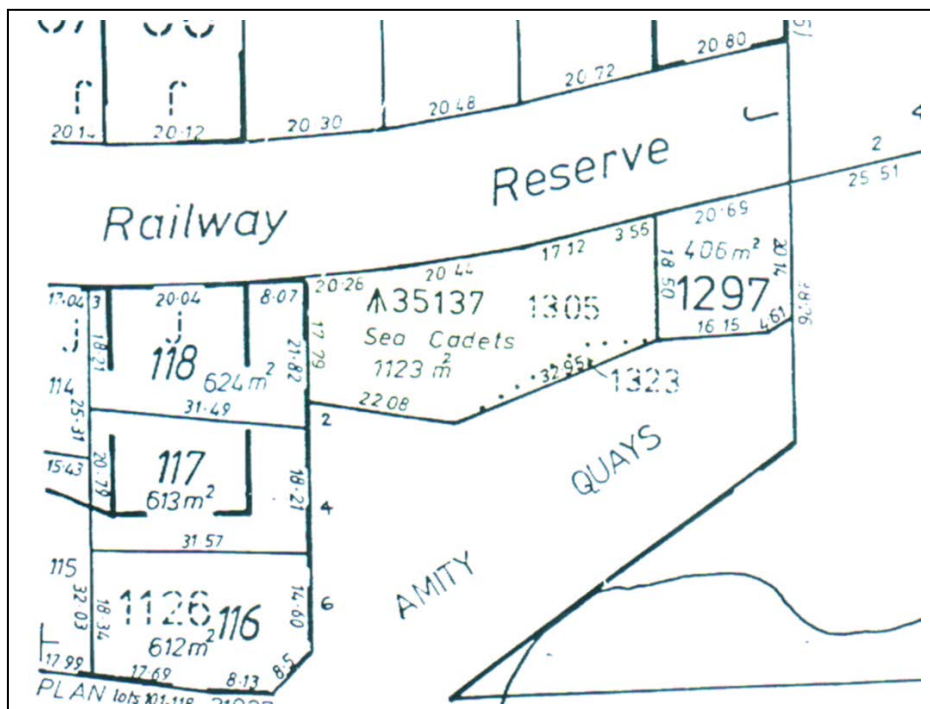
**Reporting Officer(s)** : Administration Officer (L Freegard)

**Disclosure of Interest** : Nil

**Previous Reference** : Nil

**Summary Recommendation** : Approve Application for New Lease

**Locality Plan** :



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Item 12.2.3 continued.

**BACKGROUND**

1. Reserve 35137 is located within the foreshore area adjacent to the Residency Museum. The City of Albany has a Management Order for this Reserve for the purpose of “Sea Cadets” with power to lease the site for periods no greater than 21 years. The Navy League of Australia currently holds the lease for this site for the purpose of TS Vancouver to conduct training for local sea cadets, this lease is due to expire on 28 February 2002.

**STATUTORY REQUIREMENTS:**

2. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
3. Council is however able to dispose of property by other means, provided that it gives Statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
4. Clause 30 of the Local Government (Functions and General) Regulations 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.
5. The Navy League of Australia holds this lease for the purposes of educational training for the cadets and therefore the proposed disposition of land is exempt from the provisions of Section 3.58 of the Act.

**POLICY IMPLICATIONS**

6. There are no policies in place with regard to this item.

**FINANCIAL IMPLICATIONS**

7. The rental for this lease is set by independent sworn valuation no greater than 6 months old. Therefore after receiving a recent valuation the lease is to commence at \$8000.00 per annum plus GST. This is subject to review by revaluation every three years. Council however, subsidises the rental for the Navy League of Australia and this results in an annual rental of \$10 per annum. The reason that the valuation is obtained is to ensure that if the Navy League were to vacate the premises and transfer the existing lease to another unassociated body ,the valuation rental would apply.
8. All costs associated with this proposed new lease are to be borne by the applicant, The Navy League of Australia.

Item 12.2.3 continued.

**STRATEGIC IMPLICATIONS**

9. This request complies with Council’s ‘Albany 2020’ which in part states as follows:

*“Reserve Management – to manage reserves for environmentally sustainable use, community enjoyment and benefit”*

**COMMENT/DISCUSSION**

10. An application has been received from the Navy League of Australia for a new lease of the current site (Reserve 35137) for a further period of 21 years. The new lease will contain the same clauses as the current lease, with the inclusion of a new clause for GST.
11. TS Vancouver provides not only valuable naval training for many young cadets in the Albany region but also provides training in many life skills for the development of these young citizens.

**RECOMMENDATION**

THAT, subject to approval by the Minister for Lands, Council in accordance with the Functions and General Regulations 1996, Section 30 agree:

- i) to enter into a new lease agreement with the Navy League of Australia for Reserve 35137, for a period of 21 years commencing 1 March 2002;
- ii) to the rental being set at \$8000.00 per annum plus GST, subject to review every three years by an independent licenced sworn valuation;
- iii) the terms and conditions of the previous lease be extended to the proposed lease, with the addition of a clause for GST;
- iv) that all costs associated with the preparation of the lease documentation be borne by the Navy League of Australia; and
- v) the Common Seal of the City of Albany be affixed to the relevant documentation.

*Voting Requirement Simple Majority*

.....

Item 12.2.3 continued

**MOVED COUNCILLOR WELLINGTON  
SECONDED COUNCILLOR BOJCUN**

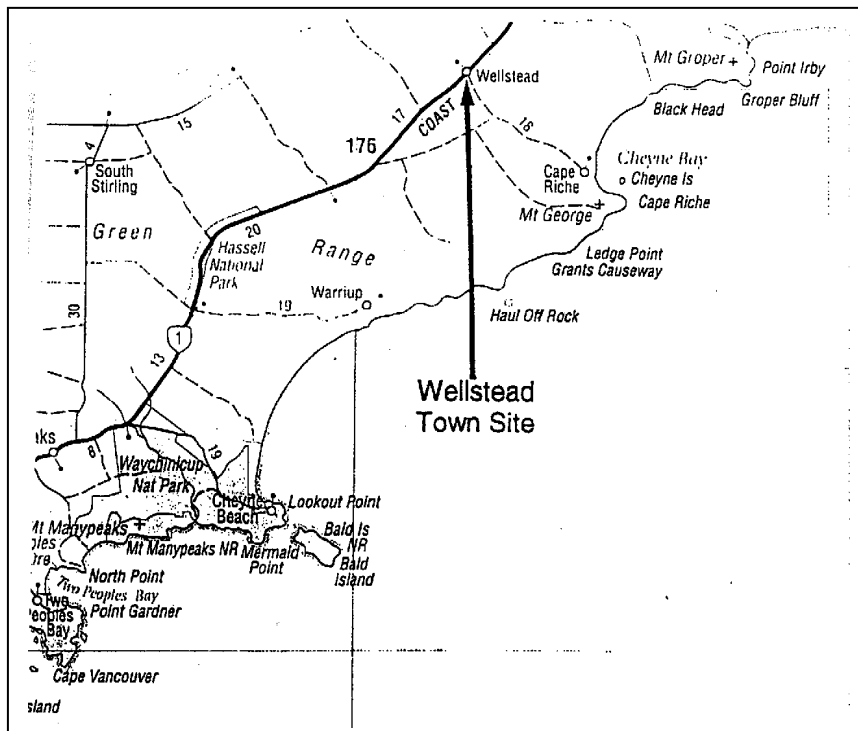
**THAT, subject to approval by the Minister for Lands, Council in accordance with the Functions and General Regulations 1996, Section 30 agree:**

- i) to enter into a new lease agreement with the Navy League of Australia for Reserve 35137, for a period of 21 years commencing 1 March 2002;**
- ii) to the rental being set at \$8000.00 per annum plus GST, subject to review every three years by an independent licenced sworn valuation;**
- iii) the terms and conditions of the previous lease be extended to the proposed lease, with the addition of a clause for GST;**
- iv) that all costs associated with the preparation of the lease documentation be borne by the Navy League of Australia; and**
- v) the Common Seal of the City of Albany be affixed to the relevant documentation.**

**MOTION CARRIED 13-0**

**12.2.4 Wellstead Road Reserve and Road Closure**

<b>File/Ward</b>	:	STR042 (Hassell Ward)
<b>Proposal/Issue</b>	:	To close portion of Hassell Highway and create a new reserve to be managed by the City
<b>Subject Land/Locality</b>	:	Wellstead Townsite
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	Crown Land managed by Main Roads
<b>Reporting Officer(s)</b>	:	Senior Administration Officer (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 05/10/99 Item 15.1.2
<b>Summary Recommendation</b>	:	To close portion of Hassell Highway and create a new reserve to be managed by the City for ‘Recreation and Community Purposes’.
<b>Locality Plan</b>	:	



Item 12.2.4 continued

## **BACKGROUND**

1. Main Roads has previously identified the Wellstead Townsite as a Designated Rest Area for the South Coast Highway (Hassell Highway). It has also agreed to deproclaim part of the road reserve to Council to enable Council to develop with the Wellstead Community, a resource centre.
2. Negotiations have continued between Main Roads, the Wellstead community, Council and the Department of Land Administration, to determine the most efficient method of achieving the land changes required for the completion of this project.

## **STATUTORY REQUIREMENTS**

3. Section 58 of The Land Administration Act details as follows the process for permanently closing road reserves:
  - “58 (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
  - (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
  - (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
  - (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) –*
    - (a) *by order grant the request;*
    - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
    - (c) *refuse the request.*



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Item 12.2.4 continued

- (5) *If the Minister grants a request under subsection (4) –*
- (a) *the road concerned is closed on and from the day on which the relevant order is registered;*
  - (b) *any rights suspended under section 55(3)(a) cease to be so suspended; and*
  - (c) *The Minister must cause notice of the registration of the relevant order to be published in a newspaper circulating in the district of the relevant local government.*
- (6) *When a road is closed under this section, the land comprising the former road –*
- (a) *becomes unallocated Crown Land; or*
  - (b) *if a lease continues to subsist in that land by virtue or section 57(2), remains Crown Land.”*

**POLICY IMPLICATIONS**

4. The City of Albany does not have a policy relating to road closures.

**FINANCIAL IMPLICATIONS**

5. There are no costs to Council other than administrative costs which can be absorbed within the 2001/02 Operating Budget.

**STRATEGIC IMPLICATIONS**

6. In the City of Albany’s 2020 Charting Our Course, the following Port of Call is identified:

Port of Call:

❖ *Transport systems and services designed to meet current and future needs*

Objective:

- To plan Albany’s transport infrastructure to meet future needs complimentary to the City’s form and sense of place.

**COMMENT/DISCUSSION**

7. The portion of road reserve in question is part of the Hassell Highway, but is no longer required by the Main Roads Department. It is proposed that Main Roads will develop a rest area, Council to provide public toilets and public seating, with the Wellstead Progress Association seeking a lease over part of the land to establish a Resource Centre.

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Item 12.2.4 continued

8. To fulfil the land requirements for this project, Main Roads have agreed to relinquish portion of the road reserve to enable the City of Albany to seek the Department of Land Administration's approval to have it vested in Council. It is proposed to create a new reserve, managed by the City, the purpose being 'Recreation and Community Purposes', with power to lease not exceeding 21 years. To complete this task, Council must seek approval to close the road reserve under section 58 of the Land Administration Act, and then request Ministerial approval to create the subsequent reserve.
9. The remainder of the road reserve would not change, as it would become the connecting roads from the Hassell Highway to the Townsite.

**RECOMMENDATION**

THAT Council:

- i) in accordance with section 58 of the Land Administration Act, proposes to close portion of the Hassell Highway as detailed on Drawing Number DWG4713M, subject to there being no submissions, request the Minister to close the portion of the road reserve; and
- ii) seek Ministerial approval to create a new reserve managed by the City of Albany, with a purpose of 'Recreation and Community Purposes' with power to lease up to 21 years.

*Voting Requirement Simple Majority*

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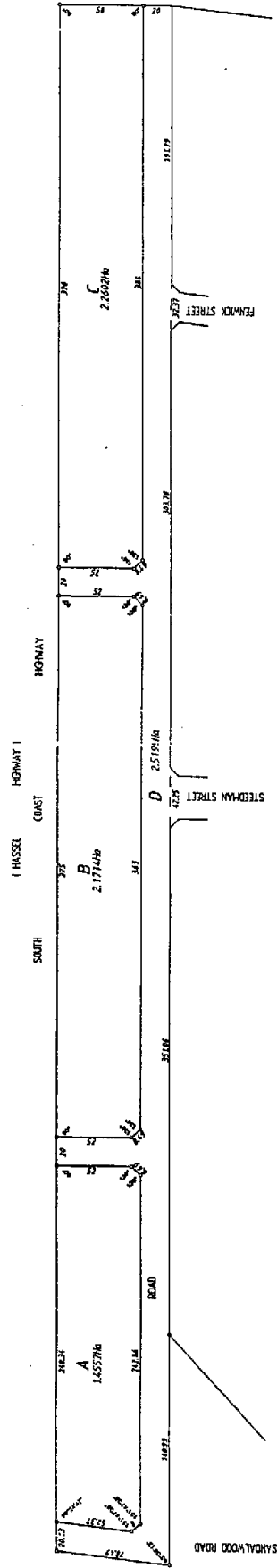
**MOVED COUNCILLOR WEST  
SECONDED COUNCILLOR BARTON**

**THAT Council:**

- i) in accordance with section 58 of the Land Administration Act, proposes to close portion of the Hassell Highway as detailed on Drawing Number DWG4713M, subject to there being no submissions, request the Minister to close the portion of the road reserve; and**
- ii) seek Ministerial approval to create a new reserve managed by the City of Albany, with a purpose of 'Recreation and Community Purposes' with power to lease up to 21 years.**

**MOTION CARRIED 13-0**

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NOTE • CADASTRAL SURVEY COMPLETE  
 • 'A', 'B' & 'C' TO BE CREATED AS SEPARATE LOTS  
 • 'D' TO BE CREATED AS LOCAL AUTHORITY ROAD RESERVE

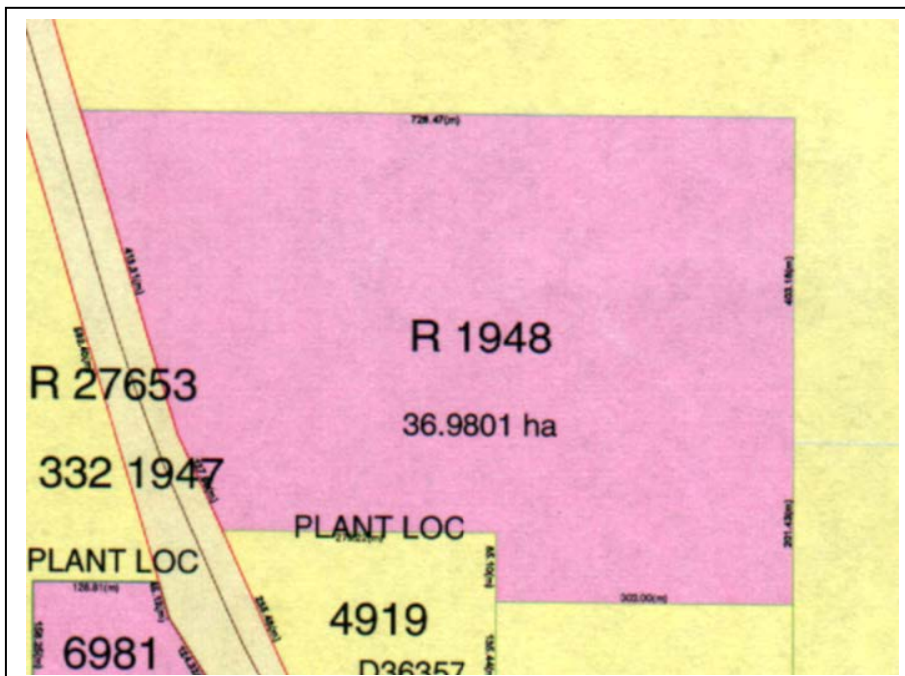
KIRKALL & ASSOCIATES  
 11 THE QUAYS  
 AUCKLAND 1  
 PH 09 308 6771  
 FAX 09 308 6781

PROPOSED RESUMPTION PT SOUTH COAST HIGHWAY WELSTEAD TOWNSITE	Block:	13100 (A1)	
	Sub-block:	13100 (A3)	
	Sheet 1 of 1		
Job No:	4713	Drawing No:	DWG4713M
Date:	March 2001	Approved:	JR

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**12.2.5 New Lease – Apex Club of Albany (Inc.) – Reserve 1948**

<b>File/Ward</b>	:	PRO285 (Kalgan Ward)
<b>Proposal/Issue</b>	:	New Lease
<b>Subject Land/Locality</b>	:	Reserve 1948 Albany Highway
<b>Proponent</b>	:	Apex Club of Albany
<b>Owner</b>	:	Crown Land (Management Order to City of Albany)
<b>Reporting Officer(s)</b>	:	Administration Officer (L Fregard)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 14/09/99 Item 13.2.6
<b>Summary Recommendation</b>	:	Approve New Lease
<b>Locality Plan</b>	:	



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Item 12.2.5 continued.

**BACKGROUND**

1. Reserve 1948 is located on Albany Highway just south of the Harry Riggs Regional Airport, and has a management order to the City of Albany for the purpose of “Recreation and State Emergency Service Radio Facility”, with power to lease. As indicated by its purpose, Reserve 1948 is the present site for the State Emergency Services local radio network transmitter aerial. The remainder and vast majority of the Reserve is presently used by the Albany Apex Club (Inc) for cattle grazing.

**STATUTORY REQUIREMENTS**

2. Section 3.58 of the Local Government Acts deals with “disposing of property” (includes leasing) and requires Council to either dispose of property to the highest bidder at auction or by public tender to the person who, in the opinion of Council, makes the most acceptable tender.
3. Council is however able to dispose of property by other means, provided that it gives statewide public notice (2 weeks) of the proposed disposition and invite submissions on the proposal.
4. Clause 30 of the Local Government (Functions and General) Regulation 1996 provides an exemption to Council from the application of Section 3.58 of the Act if the land is being disposed of to a body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.
5. The Apex Club of Albany (inc) is clearly a charitable group and therefore the proposed disposition of land is exempt from the provisions of Section 3.58 of the Act.

**POLICY IMPLICATIONS**

6. There are no Council policies in place relating to this item.

**FINANCIAL IMPLICATIONS**

7. The applicants pay all fees associated with the preparation of this lease and the annual rental will be set at an amount equivalent to the minimum GRV land rate plus GST.

**STRATEGIC IMPLICATIONS**

8. This request complies with Council’s ‘Albany 2020 – Charting Our Course’, which in part states as follows:-

Item 12.2.5 continued.

- ❖ *“Reserve Management - To manage reserves for environmentally sustainable use, community enjoyment and benefit.”*

**COMMENT/DISCUSSION**

9. Presently there is no formal agreement with the Apex Club of Albany (Inc) to use the land for grazing. This primarily was due to the fact that Council did not have a Management Order from the Department of Land Administration to do so, but, this has now been obtained and both the Apex Club of Albany (Inc) and Council would like to formalise this arrangement. By formalising the agreement, liability of this reserve would be assigned to Apex Club of Albany (Inc) for certain responsibilities such as firebreaks, fencing and fence maintenance.
10. It is also advantageous to Council for the Apex Club of Albany (Inc) to continue grazing the reserve to prevent fire hazards, whilst assisting to raise funds for this valuable community group.

**RECOMMENDATION**

THAT:

- i) subject to Ministerial approval, Council grant a lease of Reserve 1948, to the Apex Club of Albany (Inc) for a term of ten (10) years from 1 November 2001 until 31 October 2011, with a further option of five (5) years from 01 November 2011 until 31 October 2016;
- ii) Council’s standard leasing terms and conditions be prepared for this lease, and the rental be set as an amount equivalent to the minimum GRV land rate and GST for each year during the term of the lease;
- iii) all legal fees and costs associated with the preparation of this new lease be borne by the Apex Club of Albany (Inc); and
- iv) the Common Seal of the City of Albany be affixed to the lease documentation.

*Voting Requirement Simple Majority*

.....

Item 12.2.5 continued

**MOVED COUNCILLOR WEST  
SECONDED COUNCILLOR BARTON**

**THAT:**

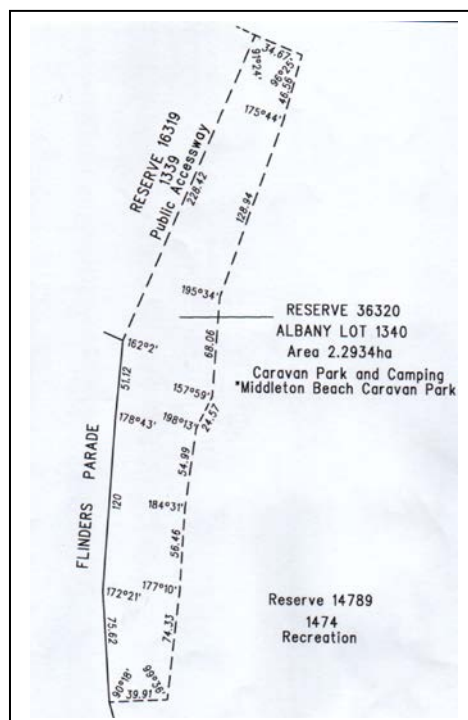
- i) subject to Ministerial approval, Council grant a lease of Reserve 948, to the Apex Club of Albany (Inc) for a term of ten (10) years from 1 November 2001 until 31 October 2011, with a further option of five (5) years from 01 November 2011 until 31 October 2016;**
- ii) Council's standard leasing terms and conditions be prepared for this lease, and the rental be set as an amount equivalent to the minimum GRV land rate and GST for each year during the term of the lease;**
- iv) all legal fees and costs associated with the preparation of this new lease be borne by the Apex Club of Albany (Inc); and**
- iv) the Common Seal of the City of Albany be affixed to the lease documentation.**

**MOTION CARRIED 13-0**

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**12.2.6 Surrender of Lease and Proposal for New Lease for Reserve 36320, Lot 1340 to Shuttleworth Albany Pty Ltd**

<b>File/Ward</b>	:	PRO090 (Frederickstown Ward)
<b>Proposal/Issue</b>	:	Surrender and Propose New Lease
<b>Subject Land/Locality</b>	:	Lot 1340 Reserve 36320 Flinders Parade (Middleton Beach Caravan Park)
<b>Proponent</b>	:	Shuttleworth Albany Pty Ltd
<b>Owner</b>	:	Crown Reserve
<b>Reporting Officer(s)</b>	:	Executive Director Corporate Community Services (P Madigan) Administration Officer (L Freegard)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	Nil
<b>Summary Recommendation</b>	:	Council advertise its intention to surrender the lease and grant a new one to Shuttleworth Albany Pty Ltd for a period of 21 years subject to various requirements.
<b>Locality Plan</b>	:	





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Item 12.2.6 continued

**BACKGROUND**

1. Lot 1340, Reserve 36320 is located at Flinders Parade, Middleton Beach. Council has a Management Order for the purpose of “Caravan Park and Camping” with power to lease the reserve for 21 years subject to the approval of the Minister for Lands. Council currently has a lease with Shuttleworth Albany Pty Ltd as trustee for the Shuttleworth Family Trust for a 21 year term expiring 30 April 2014.

**STATUTORY REQUIREMENTS:**

2. Section 3.58 of the Local Government Act 1995 – “Disposing of Property” requires that Council may issue a lease over a property, however it must first give statewide public notice of its intention to do so and therein invite submissions from interested persons.
3. Council must then give consideration to those submissions before resolving whether or not to proceed with the lease.
4. Section 3.58 further requires that the reasons for Council’s decision are also to be recorded in the minutes of the meeting are which a decision to issue a lease is made.

**POLICY IMPLICATIONS**

5. There are no Council policies in relation to this item.

**FINANCIAL IMPLICATIONS**

6. Currently Council receives \$28,132 pa (set at the last review undertaken in May 1999) in rental for this lease, which is subject to review every three years by an independent sworn valuation. The new lease rental would be subject to revaluation by an independent licenced valuer.
7. The revaluation has been assessed at \$29,775pa excluding GST as of 30 August 2001.
8. All fees associated with the surrender of the current lease and the preparation of the new lease are to be borne by the applicant.

**STRATEGIC IMPLICATIONS**

9. This request complies with Council’s “Albany 2020” which in part states:
  - ❖ *“Reserve Management – To manage reserves for environmentally sustainable use, community enjoyment and benefit”*

Item 12.2.6 continued.

**COMMENT/DISCUSSION**

10. Council has received an application from Shuttleworth Albany Pty Ltd as trustees for the Shuttleworth Family Trust, to surrender their current lease and make application to Council for a new lease term of 21 years. The lessees believe the 13 years left on the current lease is insufficient to enable major renovations/improvements to be undertaken to the Caravan Park and ensure the current lessees receive the full benefit of their investment.
11. The current lessee acknowledges that the lease will be subject to statewide advertising asking for registrations of interest from interested parties. These submissions if received will need to be evaluated by Council prior to considering to the Shuttleworth's request. The Shuttleworth's feel however, that before undertaking the proposed improvements that they need to secure a longer lease term.
12. Shuttleworth Albany Pty Ltd have indicated that they are concerned that the legislative requirements regarding a new lease could impact on their business, in that they are seeking only an extension of their lease and not interested in selling their business. The Council is required to consider any other proposals after the close of public comment and that could entail a new proposal from another party. Shuttleworth's are therefore seeking Council confirmation 'that in the event of surrendering and applying for a new lease if Council leased the reserve to a new lessee then that the new lessee would have to purchase the Park plus improvements at its current market value from Shuttleworth Albany Pty Ltd'.
13. However, once the current lease is surrendered, the caravan park reverts to the Council, until such time as the Park is re-let or a decision taken for Council to operate. In the event that no submissions are received, this proposal simply will be a matter of formalising the appropriate documentation.
14. The application by the Shuttleworth's, requests that subject to the new valuation, the terms and conditions of the current lease be continued into the new lease (with the addition of a clause to cover the GST).

Item 12.2.6 continued

**RECOMMENDATION**

THAT Council;

- i) subject to the requirements of Section 3.58 of the Local Government Act, surrender the current lease agreement of Reserve 36320 by Shuttleworth Albany Pty Ltd as trustee for the Shuttleworth Family Trust as of 31 October 2001; and
- ii) subject to no submissions being received and all necessary approvals obtained Council agree to enter into a new lease agreement as of 1 November 2001 for a period of 21 years as follows:
  - a) the lease rental be set at \$29,775 per annum, plus GST, subject to review by independent sworn valuation every three years;
  - b) terms and conditions of the previous lease be extended to the proposed lease, with the addition of a clause for GST;
  - c) costs associated with the surrender of the current lease and preparation of a new lease be borne by Shuttleworth Albany Pty Ltd as trustee for the Shuttleworth Family Trust Pty Ltd; and
  - d) the Common Seal of the City of Albany be affixed to the relevant documentation.

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR CECIL  
SECONDED COUNCILLOR WELLINGTON**

**THAT Council;**

- i) subject to the requirements of Section 3.58 of the Local Government Act, surrender the current lease agreement of Reserve 36320 by Shuttleworth Albany Pty Ltd as trustee for the Shuttleworth Family Trust as of 31 October 2001; and**
- ii) subject to no submissions being received and all necessary approvals obtained Council agree to enter into a new lease agreement as of 1 November 2001 for a period of 21 years as follows:**

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Item 12.2.6 continued

- a) the lease rental be set at \$29,775 per annum, plus GST, subject to review by independent sworn valuation every three years;**
- b) terms and conditions of the previous lease be extended to the proposed lease, with the addition of a clause for GST;**
- c) costs associated with the surrender of the current lease and preparation of a new lease be borne by Shuttleworth Albany Pty Ltd as trustee for the Shuttleworth Family Trust Pty Ltd; and**
- d) the Common Seal of the City of Albany be affixed to the relevant documentation.**

**MOTION CARRIED 13-0**

**12.3 LIBRARY SERVICES**

Nil

**12.4 DAY CARE CENTRE**

Nil

## 12.5 TOWN HALL

### 12.5.1 Albany Town Hall Theatre Advisory Committee

<b>File/Ward</b>	:	MAN122 (All Wards)
<b>Proposal/Issue</b>	:	Request for Delegated Authority to approve performances
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	City of Albany
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Senior Administration Officer (S Pepper)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 21.08.01 Item 12.7.1
<b>Summary Recommendation</b>	:	That Council grants delegated authority to the Albany Town Hall Theatre Advisory Committee to approve performances
<b>Locality Plan</b>	:	N/A

#### BACKGROUND

1. Under the provisions of the Local Government Act, a local authority may delegate some of its powers and duties to a committee (there are restrictions detailed in the Act), to help facilitate the many services it provides to the community. These delegations must be in writing and may either be of a general nature or specific, but in all cases there is a requirement to review them at least once each year.
2. The Albany Town Hall Theatre Advisory Committee is seeking Council approval for delegated authority to assess and approve performances at the Town Hall, subject to budgetary constraints.
3. Also in the previous Council meeting, OCM 21.08.01 Item 12.7.1, the Officer Recommendation incorrectly sought Council approval for delegated authority to administer limited performance approvals to the Theatre Manager instead of the Chief Executive Officer. This resolution needs to be amended.

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Item 12.5.1 continued.

**STATUTORY REQUIREMENTS:**

4. Section 5.16 and 5.17 of the Local Government Act enables the delegation of some powers and duties to a committee:
  - 1) which may be in writing and be general or as otherwise provided in the instrument of delegation;
  - 2) which have effect for the period of time specified or if no period specified, indefinitely;
  - 3) but can not include any power or duty that requires a decision of an absolute majority or a 75% majority of the Council, or any powers or duties that can be delegated to the CEO under Division 4, etc
  
5. Also under the provisions of section 5.18 of the Local Government Act, a register of these delegations must be kept, and reviewed at least once every financial year.

**POLICY IMPLICATIONS**

6. There are no Council policies relating to this item.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

8. The City's Albany 2020 Objectives and Council activities include the following – Governance – to comply with statutory requirements of the organisation.

**COMMENT/DISCUSSION**

9. The Albany Town Hall Theatre Advisory Committee has sought Council approval for delegated authority to approve performances, hence improving the efficient operation of the Theatre, as decisions need to be made quickly to attract the best shows.
  
10. With regard to the Town Hall Theatre Advisory Committee Item 12.7.1 of Ordinary Council Meeting 21<sup>st</sup> August 2001, the Committee Recommendation incorrectly sought to have the delegated authority given to the Theatre Manager instead of the Chief Executive Officer, as is required by the Local Government Act. An amendment is sought to correct this minor error but does not change the intention of the previous item.

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Item 12.5.1 continued.

- 11. Please note, that while this item seeks a delegation from Council to the CEO only, any subsequent delegation to staff is handled administratively as a function of the CEO.

**RECOMMENDATION**

THAT Council:

- i) in accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, agree to delegate to the Albany Town Theatre Advisory Committee, the power to assess and approve performances at the Theatre, subject to budgetary constraints;
- ii) in accordance with the provisions of section 5.42 of the Local Government Act, agree to grant delegation to the Chief Executive Officer (instead of the Theatre Manager as stated in the OCM 21.08.01 Item 12.7.1) subject to:
  - a) the delegated authority only being used where a response is required by the company prior to the next scheduled meeting of the Advisory Committee;
  - b) the performance can be funded from within the Theatre’s current operating budget for shows;
  - c) the performance is likely to be supported due to demonstrated past sales data for the artist or the type of performance;
  - d) there is an indicated interest in the performance as demonstrated in the previous year’s customer and public surveys;

and

- iii) as from the here on in, Theatre Advisory Committee meets on a bi-monthly basis, however the CEO can call monthly meetings as required.

*Voting Requirement Absolute Majority*

.....



Item 12.5.1 continued

**MOVED COUNCILLOR CECIL  
SECONDED COUNCILLOR WILSON**

**THAT Council:**

- i) in accordance with the provisions of section 5.16 and 5.17 of the Local Government Act, agree to delegate to the Albany Town Theatre Advisory Committee, the power to assess and approve performances at the Theatre, subject to budgetary constraints;**
- ii) in accordance with the provisions of section 5.42 of the Local Government Act, agree to grant delegation to the Chief Executive Officer (instead of the Theatre Manager as stated in the OCM 21.08.01 Item 12.7.1) subject to:**
  - a) the delegated authority only being used where a response is required by the company prior to the next scheduled meeting of the Advisory Committee;**
  - b) the performance can be funded from within the Theatre's current operating budget for shows;**
  - c) the performance is likely to be supported due to demonstrated past sales data for the artist or the type of performance;**
  - d) there is an indicated interest in the performance as demonstrated in the previous year's customer and public surveys;**

**and**

- iii) as from the here on in, Theatre Advisory Committee meets on a bi-monthly basis, however the CEO can call monthly meetings as required.**

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

**12.6 ALBANY LEISURE AND AQUATIC CENTRE**

Nil

**12.7 CORPORATE & COMMUNITY SERVICES COMMITTEE**

**12.7.1 Great Southern Regional Cattle Saleyards Joint Venture Committee Minutes of 13<sup>th</sup> August 2001**

<b>File/Ward</b>	:	REL087 (N/A)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration
<b>Reporting Officer</b>	:	Executive Director Corporate and Community Services (P Madigan)
<b>Summary Recommendation</b>	:	That the minutes of the Great Southern Regional Cattle Saleyards Joint Venture Committee held on 13 <sup>th</sup> August 2001 be adopted.

**Confirmation of the minutes of the Great Southern Regional Cattle Saleyards Joint Venture Committee of 13<sup>th</sup> August 2001**

**Recommendation**

THAT the minutes of the Great Southern Regional Cattle Saleyards Joint Venture Committee held on the 13<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following item 8.1 be adopted.

*Item 8.1 Effluent Treatment Upgrade*

That a letter be forwarded to the Minister requesting funding of \$130,000 for the effluent treatment works emphasising that the saleyards provide a services to the whole community and:

- it is the only public washdown facility south of Katanning;
- it is necessary for the elimination of footrot and other disease breakout;
- the facility is needed for this part of the state.

*Voting Requirement Simple Majority*

.....

Item 12.7.1 continued

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WEST**

**THAT the minutes of the Great Southern Regional Cattle Saleyards Joint Venture Committee held on the 13<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following item 8.1 be adopted.**

***Item 8.1 Effluent Treatment Upgrade***

**That a letter be forwarded to the Minister requesting funding of \$130,000 for the effluent treatment works emphasising that the saleyards provide a services to the whole community and:**

- **it is the only public washdown facility south of Katanning;**
- **it is necessary for the elimination of footrot and other disease breakout;**
- **the facility is needed for this part of the state.**

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

**12.7.2 Disability Services Advisory Committee Minutes of 15<sup>th</sup> August 2001**

<b>File/Ward</b>	:	MAN038 (N/A)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration
<b>Reporting Officer</b>	:	Executive Director Corporate and Community Services (P Madigan)
<b>Summary Recommendation</b>	:	That the minutes of the Disability Services Advisory Committee held on 15 <sup>th</sup> August 2001 be adopted.

**Confirmation of the minutes of the Disability Services Committee held on 15<sup>th</sup> August 2001**

**Recommendation**

THAT the minutes of the Disability Services Advisory Committee held on the 15<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 3.2 and 5.1 be adopted.

Item 3.2 Disability Access Audit and Database

THAT the Disability Access Audit and Database project brief, as presented, be endorsed and the project proceed.

Item 5.1 Committee Membership and Terms of Reference

That Council adopt the membership and Terms of Reference as indicated below.

Disability Services Advisory Committee membership:

Councillor Ian Wilson, (appointed at Special Council Meeting 8/5/01);  
Graham Steel, Manager of Operations;  
Zahra Shirazee, Community Liaison Officer;  
Rob Shanahun, Community Development Officer;  
Karen Sigley, Disability Services Commission;  
Lorraine Wolfe, Disabled Persons' Representative;  
Liz O'Brien, Disabled Persons' Representative;  
Arlene Osborne, Disabled Persons' Representative;  
Colleen Hansen, Community Occupational Therapist;  
Fran Thurman, Activ Foundation; and  
Alan Triplett, Great Southern Personnel.

The terms of reference:

*"To act as a consultative forum for Council in relation to disability issues, and to advocate on behalf of community members that have a disability".*

*Voting Requirement Absolute Majority*

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Item 12.7.2 continued

**MOVED COUNCILLOR WILSON  
SECONDED COUNCILLOR SANKEY**

**THAT the minutes of the Disability Services Advisory Committee held on the 15<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 3.2 and 5.1 be adopted.**

**Item 3.2 Disability Access Audit and Database**

**THAT the Disability Access Audit and Database project brief, as presented, be endorsed and the project proceed.**

**Item 5.1 Committee Membership and Terms of Reference**

**That Council adopt the membership and Terms of Reference as indicated below.**

**Disability Services Advisory Committee membership:  
Councillor Ian Wilson, (appointed at Special Council Meeting 8/5/01);  
Graham Steel, Manager of Operations;  
Zahra Shirazee, Community Liaison Officer;  
Rob Shanhun, Community Development Officer;  
Karen Sigley, Disability Services Commission;  
Lorraine Wolfe, Disabled Persons' Representative;  
Liz O'Brien, Disabled Persons' Representative;  
Arlene Osborne, Disabled Persons' Representative;  
Colleen Hansen, Community Occupational Therapist;  
Fran Thurman, Activ Foundation; and  
Alan Triplett, Great Southern Personnel.**

**The terms of reference:**

***"To act as a consultative forum for Council in relation to disability issues, and to advocate on behalf of community members that have a disability"***

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

**12.7.3 Seniors Advisory Committee Minutes of 16<sup>th</sup> August 2001**

<b>File/Ward</b>	:	REL074 (All Wards)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration
<b>Reporting Officer</b>	:	Executive Director Corporate and Community Services (P Madigan)
<b>Summary Recommendation</b>	:	That the minutes of the Seniors Advisory Committee held on 16 <sup>th</sup> August 2001 be adopted.

**Confirmation of the minutes of the Seniors Advisory Committee of 16<sup>th</sup> August 2001**

**Recommendation**

THAT the minutes of the Seniors Advisory Committee held on the 16<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 4.2 and 4.3 be adopted.

Items 4.2 and 4.3 Review of Committee Membership and Terms

That it be recommended to Council that it adopt the membership and terms of reference for the Seniors Advisory Committee, as indicated below.

Committee membership:

Her Worship the Mayor, Alison Goode JP (appointed at Special Council Meeting on 8/05/01)  
Rob Shanhun, Community Development Officer  
Roy Gwynn, Association of Independent Retirees  
Middy Dumper, Seniors Community  
Ray Crocker, Over 50's Recreation Association  
Digger Cleak, Returned & Services League – Albany Branch  
Kim Buttfield, Albany Injury Prevention Centre  
John Beamon, National Seniors Association  
Jennie Grieve, Seniors Health Coordinator - Public Health Services  
Hope Sharp, Seniors Community  
Nancy Millard Senior Citizens Centre of Meals on Wheels  
Josephine Lewis, Pensioners' League.

The terms of reference:

*“To act as a consultative forum for Council in relation to seniors' issues, and to advocate on behalf of the seniors' community.”*

*Voting Requirement Absolute Majority*

.....

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Item 12.7.3 continued

**MOVED COUNCILLOR BOJCUN  
SECONDED COUNCILLOR WOLFE**

**THAT** the minutes of the Seniors Advisory Committee held on the 16<sup>th</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 4.2 and 4.3 be adopted.

**Items 4.2 and 4.3 Review of Committee Membership and Terms**

**That** it be recommended to Council that it adopt the membership and terms of reference for the Seniors Advisory Committee, as indicated below.

**Committee membership:**

**Her Worship the Mayor, Alison Goode JP (appointed at Special Council Meeting on 8/05/01)**  
**Rob Shanhun, Community Development Officer**  
**Roy Gwynn, Association of Independent Retirees**  
**Middy Dumper, Seniors Community**  
**Ray Crocker, Over 50's Recreation Association**  
**Digger Cleak, Returned & Services League – Albany Branch**  
**Kim Butfield, Albany Injury Prevention Centre**  
**John Beamon, National Seniors Association**  
**Jennie Grieve, Seniors Health Coordinator – Public Health Services**  
**Hope Sharp, Seniors Community**  
**Nancy Millard Senior Citizens Centre of Meals on Wheels**  
**Josephine Lewis, Pensioners' League.**

**The terms of reference:**

*“To act as a consultative forum for Council in relation to seniors' issues, and to advocate on behalf of the seniors' community.”*

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**



# **Works & Services**

# **REPORTS**

**WORKS & SERVICES REPORTS**

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

**13.1 WASTE MANAGEMENT**

Nil

**WORKS & SERVICES REPORTS****13.2 ASSET MANAGEMENT****13.2.1 Construction of Robinson Road**

<b>File/Ward</b>	:	C01066 (Vancouver & West )
<b>Proposal/Issue</b>	:	Tender for Consultancy Services for the Robinson Road Construction Project
<b>Subject Land/Locality</b>	:	N/A
<b>Proponent</b>	:	N/A
<b>Owner</b>	:	N/A
<b>Reporting Officer(s)</b>	:	Design Services Coordinator (John Willis)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	N/A
<b>Summary Recommendation:</b>		Accept tender from WML Consultants for contract C01066 – Robinson Road Construction Project Consultancy Services. Advise Consultant as part of the award process of updated design parameters that must be adhered to.
<b>Locality Plan</b>	:	N/A

**BACKGROUND**

1. The 2001/2002 Budget provided a Capital Works Program that, to be completed, will require the use of external construction contractors and engineering consultants, in addition to Council's day labor force and Design Services Section. Where applicable, these works are to be undertaken by a public tender process and the construction of Robinson Road is one of these projects.
2. Robinson Road travels through the Robinson Precinct. It is predominantly made up of special rural type lots carrying out hobby farm, lifestyle and equestrian activities. The Stidwell Bridle Trail is also associated with the road, crossing it in several locations. The road currently carries local traffic to and from the individual properties to link up with Lower Denmark and Frenchman Bay Roads. The road is, at certain times, also used for access to the Percy Spencer Racecourse and the Horseman's Equestrian Centre. Other traffic using the road include some tourist traffic attracted to the area because of the unique semi-rural environment combined with stands of mature Karri trees.

**WORKS & SERVICES REPORTS**

Item 13.2.1 continued.

3. It has become evident both from media attention and written submissions received from ratepayers, that the community feels extreme concern associated with the design process for the Robinson Road Project.
4. A summary of the general concerns are:
  - All Karri trees are to be retained in the process of road upgrading.
  - The existing road alignment is to be maintained creating a low speed environment.
  - Innovative design measures being used to retain the Karri trees as well as the Black Stump Mailboxes.
  - An overall low speed zone to be applied to the road once completed.
  - The road to be designed to maintain a local semi rural atmosphere that encourages low speed, and accommodates other activities such as pedestrians and horseriders.
  - That further public consultation be undertaken when a consultant is appointed.
5. Part of this agenda item's recommendation is to provide extra direction to the nominated consultant as part of the tender award process. These extra directions should provide confidence to the community that their concerns have been noted and acted upon.

The Contract is for:

- Stage 1 Preliminary Design
- Stage 2 Detailed Design & Tender Documentation
- Stage 3 Final Submission ready for advertising
- Stage 4 Tender issue, Information Provision and Tender Evaluation
- Stage 5 Site Superintendence and Post Design Support

The following criteria will be used to evaluate the tenders

- Technical Capability
- Price
- Methodology
- Management Capability

**STATUTORY REQUIREMENTS**

6. The tendering process for Goods and Services must be in accordance with sections 11(1) 18, and 19 of the Local Government (Functions and General) regulations 1996 of the Local Government Act 1995.

**POLICY IMPLICATIONS**

7. The construction of Robinson Road conforms with Council's Asset Management Strategy – Roads.

**WORKS & SERVICES REPORTS**

Item 13.2.1 continued.

**FINANCIAL IMPLICATIONS**

8. Provision has been made in the Robinson Road Construction budget allocation to include the consultancy services mentioned.
9. Seven tenders were received by the closing time of 2.00 p.m. on Tuesday, 4 September 2001 as tabled below:

<b>Consultant</b>	<b>Tender Price</b>	<b>Regional Tenderer</b>	<b>Regional Content</b>	<b>Price Reduction at 10% Rate of Preference</b>	<b>Adjusted Price for Evaluation Purposes</b>
BSD Consultants	\$71,445.00	No	\$19,350.00	\$1,935.00	\$69,510.00
CJ Wood Civil Design & Construction	\$60,720.00	No	\$ -	\$ -	\$60,720.00
Opus International Consultants	\$49,526.95	Yes	N/A	\$4,952.70	\$44,574.26
Pritchard Francis Associates	\$74,580.00	No	\$ -	\$ -	\$74,580.00
Roads West Engineering Group	\$64,300.00	No	\$8,560.00	\$856.00	\$63,444.00
WML Consultants	\$36,267.00	No	\$10,000.00	\$1,000.00	\$35,267.00
Wood & Grieve Engineers	\$59,586.50	Yes	N/A	\$5,958.65	\$53,627.85

**STRATEGIC IMPLICATIONS**

10. Albany 2020 – Charting Our Course includes the following Ports of Call:

- *Transport systems and services designed to meet current future needs.*  
The quality and range of our transport systems are important factors in the present and future well-being of our community. Roads, paths, maritime and aviation facilities improve our working, social and recreation lives, and a sensible, well-planned transport system is also a key ingredient in the development of our economic future. The City has established the following major objectives to ensure this Port of Call is realised.
- *Transport infrastructure planning*  
To plan Albany's transport infrastructure to meet future needs complementary to the City's form and sense of place.
- *Management of transport infrastructure and services*  
To effectively and efficiently manage the City's transport infrastructure
  - to provide a high quality service;
  - to meet community expectations;
  - to minimise whole life costs; and
  - in alignment with transport plans.

**WORKS & SERVICES REPORTS**

Item 13.2.1 continued.

**COMMENT/DISCUSSION**

11. All consultants were supplied with tender evaluation criteria which uses the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall points score for each tenderer, the criteria are:

Technical capability	35%
Price	30%
Methodology	20%
Management Capability	15%

12. The Assessment Panel consisted of Manager of Asset & Client Services and the Design Services Coordinator. The City of Albany regional price preference policy was applied to this tender.

13. A listing of the final overall ranking for the tenderers is as follows:

1. WML Consultants
2. Opus International Consultants
3. Wood & Grieve Engineers
4. BSD Consultants
5. CJ Wood Civil Design & Construction
6. Roads West Engineering Group
7. Pritchard Francis Associates

14. The extra directions (not originally nominated in the tender design brief) resulting from community concerns have been discussed extensively with the preferred consultant. Overall there is no retraction of their tender, however, there will be an extra cost for attendance at two public meetings not one as specified. This will be negotiated as a variation to the contract according to an accepted schedule of rates as nominated in the contract.

**RECOMMENDATION**

THAT Council:

1. In awarding the consultancy agreement, further considerations are considered and added to the brief, namely;
  - That innovative design solutions will be undertaken to ensure that there is no loss of Karri trees within the Robinson Road reserve;
  - That the design reflects a low speed environment to suit the sensitivity and uniqueness of the area while maintaining quality and safety aspects in the design process;
  - That the design recognises, preserves and seeks to enhance local landmarks;

**WORKS & SERVICES REPORTS**

Item 13.2.1 continued.

- That the public consultation be enhanced and include the following:
  - All written submissions be acknowledged and considered prior to the design process;
  - A pre-design meeting is carried out to ensure community interest have been acknowledged and fully communicated;
  - A further meeting be held to review the preliminary concept design to ensure communities interests have been considered;
- 2. That Council awards Contract C01066 – Robinson Road Construction Project – Consultancy Services to WML Consultants for the sum of \$36,267.00

*Voting Requirement Simple Majority*

**MOVED COUNCILLOR BOJCUN  
SECONDED COUNCILLOR BARTON**

**THAT COUNCIL:**

1. **In awarding the consultancy agreement, further considerations are considered and added to the brief, namely;**
  - **That innovative design solutions will be undertaken to ensure that there is no loss of Karri trees within the Robinson Road reserve;**
  - **That the design reflects a design speed of 40-50 km/hr to suit the sensitivity and uniqueness of the area while maintaining quality and safety aspects in the design process;**
  - **That the maximum vehicle design capability shall be 12.5m rigid vehicle with minimal semi trailer access;**
  - **That the design recognises, preserves and seeks to enhance local landmarks;**
  - **That the public consultation be enhanced and include the following:**
    - **All written submissions be acknowledged and considered prior to the design process;**
    - **A pre-design meeting is carried out to ensure community interest have been acknowledged and fully communicated;**
    - **A further meeting be held to review the preliminary concept design to ensure communities interests have been considered;**

**WORKS & SERVICES REPORTS**

Item 13.2.1 continued

- 2. That Council awards Contract C01066 - Robinson Road Construction Project - Consultancy Services to WML Consultants for the sum of \$36,267.00**

**MOTION CARRIED 13-0**

Reason:

By adding a specified 40-50 km/hr speed limit it would further outline to the design consultants the community's concern regarding speed on this road and clarify design requirements. To clarify the maximum vehicle design size by stating the maximum vehicle type.



**WORKS & SERVICES REPORTS**

**13.3 WORKS**

Nil

**13.4 AIRPORT MANAGEMENT**

Nil

**13.5 RESERVES PLANNING & MANAGEMENT**

Nil

# **General Management Services**

## **REPORTS**

**14.1 STRATEGIC DEVELOPMENT**

Nil

**14.2 ORGANISATIONAL DEVELOPMENT**

Nil

**14.3 ECONOMIC DEVELOPMENT**

Nil

#### 14.4 GENERAL MANAGEMENT SERVICES COMMITTEE

##### 14.4.1 The Albany Boat Harbour Reference Group Minutes of 22<sup>nd</sup> August 2001

<b>File/Ward</b>	:	MAN127 (All Wards)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration
<b>Reporting Officer</b>	:	Chief Executive Officer (A Hammond)
<b>Summary Recommendation</b>	:	That the minutes of the Albany Boat Harbour Reference Group held on 22 <sup>nd</sup> August 2001 be adopted.

##### **Confirmation of the minutes of the Albany Boat Harbour Reference Group of 22<sup>nd</sup> August 2001**

##### **Recommendation**

THAT the minutes of the Albany Boat Harbour Reference Group held on the 22<sup>nd</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 7.2.1, 7.2.2, 8.0, 9.0 and 10.0 be adopted.

##### Item 7.2.1 Draft Terms of Reference

THAT the Terms of Reference for the Albany Boat Harbour Reference Group be:

- (1) "To facilitate an assessment of the feasibility of establishing a boat harbour in Princess Royal Harbour and (subject to sufficient evidence of demand), facilitate the establishment of a master plan that guides land and water based development proposals associated with the boat harbour; and
- (2) a review of the role of the Committee be undertaken on completion of the master planning process."

##### Item 7.2.2 Committee Membership

THAT the Albany Boat Harbour Reference Group has as its membership:-

- Mr Maynard Rye (Great Southern Development Commission)
- Cr Elizabeth Barton (Albany City Council elected at Special Council Meeting 8/05/01)
- Mr Bob Emery (Albany Port Authority)
- Mr Cleve Flottman (Department Planning and Infrastructure)
- Mr Roy Johnson (Department Planning and Infrastructure)
- Mr Phil Shaw (Fisheries WA)

Item 14.4.1 continued

Executive support for the Committee will be provided by the City of Albany's Economic Development Manager.

Item 8.0 Acceptance of Final Draft Demand Assessment Report by International Marina Consultants

THAT the City of Albany receives the Albany Boat Harbour Demand Study Final Report (August 2001) and undertakes a community consultation process to determine community support for the concept of establishing a boat harbour in Princess Royal Harbour; and

THAT the final report (including an abridged version and artist impressions) be made available for public comment (including an information night) before being considered by Council for formal adoption and financial assistance is sought from the State Government for detailed master planning.

Item 9.0 Project Financing Arrangements

THAT the City of Albany request the Great Southern Development Commission to commence applications for financial resources to commence master planning processes in consultation with City of Albany officers.

Item 10.0 Community Consultation and Media Liaison

THAT all media enquiries be directed to the Chairman in consultation with the City of Albany Chief Executive Officer or his delegated officer; and

THAT the City of Albany prepare a media release and accompanying information flyer summarising the outcomes of the Albany Boat Harbour Demand Study and seeking public comment on its findings.

***Voting Requirement Absolute Majority***

Item 14.4.1

**MOVED COUNCILLOR BARTON  
SECONDED COUNCILLOR EMERY**

**THAT the minutes of the Albany Boat Harbour Reference Group held on the 22<sup>nd</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 7.2.1, 7.2.2, 8.0, 9.0 and 10.0 be adopted.**

**Item 7.2.1 Draft Terms of Reference**

**THAT the Terms of Reference for the Albany Boat Harbour Reference Group be:**

- (1) "To facilitate an assessment of the feasibility of establishing a boat harbour in Princess Royal Harbour and (subject to sufficient evidence of demand), facilitate the establishment of a master plan that guides land and water based development proposals associated with the boat harbour; and**
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**Item 7.2.2 Committee Membership**

**THAT the Albany Boat Harbour Reference Group has as its membership:-**

- Mr Maynard Rye (Great Southern Development Commission)**
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- Mr Bob Emery (Albany Port Authority)**
- Mr Cleve Flottman (Department Planning and Infrastructure)**
- Mr Roy Johnson (Department Planning and Infrastructure)**
  
- Mr Phil Shaw (Fisheries WA)**

**Executive support for the Committee will be provided by the City of Albany's Economic Development Manager.**

**Item 8.0 Acceptance of Final Draft Demand Assessment Report by International Marina Consultants**

**THAT the City of Albany receives the Albany Boat Harbour Demand Study Final Report (August 2001) and undertakes a community consultation process to determine community support for the concept of establishing a boat harbour in Princess Royal Harbour; and**

**THAT the final report (including an abridged version and artist impressions) be made available for public comment (including an information night) before being considered by Council for formal**

Item 14.4.1 continued

**adoption and financial assistance is sought from the State Government for detailed master planning.**

**Item 9.0 Project Financing Arrangements**

**THAT the City of Albany request the Great Southern Development Commission to commence applications for financial resources to commence master planning processes in consultation with City of Albany officers.**

**Item 10.0 Community Consultation and Media Liaison**

**THAT all media enquiries be directed to the Chairman in consultation with the City of Albany Chief Executive Officer or his delegated officer; and**

**THAT the City of Albany prepare a media release and accompanying information flyer summarising the outcomes of the Albany Boat Harbour Demand Study and seeking public comment on its findings.**

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

#### 14.4.2 The Economic Development Unit Minutes of 31<sup>st</sup> August 2001

<b>File/Ward</b>	:	MAN008 (All Wards)
<b>Proposal/Issue</b>	:	Committee Items for Council Consideration
<b>Reporting Officer</b>	:	Chief Executive Officer (A Hammond)
<b>Summary Recommendation</b>	:	That the minutes of the Economic Development Unit held on 31 <sup>st</sup> August 2001 be adopted.

#### Confirmation of the minutes of the Economic Development Unit of 31<sup>st</sup> August 2001

#### Recommendation

THAT the minutes of the Economic Development Unit held on the 31<sup>st</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 7.5, 8.0 and 9.0 be adopted.

##### Item 7.5 Tourism Facilities at Albany Wind Farm

THAT the City of Albany allocate up to \$17,000 of the Top Tourism Town Award grant of \$35,000 for a pedestrian trail loop from turbine one to the Bibbulmun Track and the balance of the grant to a feasibility and design study for advanced tourism concepts.

##### Item 8.0 OTHER BUSINESS

###### National Symposium on Bio-diversity

THAT the City of Albany sponsors the proposed National Symposium on Bio-diversity through the provision of the Town Hall for a period of one week (day-time only) from 23-27 September 2002, funded from the economic development budget.

###### Tomioka Japanese Business delegation

THAT in partnership with the Great Southern Development Commission the City of Albany organise a series of cross-cultural training workshops for people involved with Japanese delegations

##### Item 9.0 GENERAL BUSINESS

###### Luxury Retirement Villages

That the City of Albany promotes Albany as a location for investment in luxury retirement complexes (with suitable infrastructure) and that this market is recognised in the district area promotion package currently being compiled.

*Voting Requirement Simple Majority*





Item 14.4.2 continued

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR BOJCUN**

**THAT** the minutes of the Economic Development Unit held on the 31<sup>st</sup> August 2001 be received (copy of minutes in the Elected Members' Report/Information Bulletin), and the following items 7.5, 8.0 and 9.0 be adopted.

**Item 7.5 Tourism Facilities at Albany Wind Farm**

**THAT** the City of Albany allocate up to \$17,000 of the Top Tourism Town Award grant of \$35,000 for a pedestrian trail loop from turbine one to the Bibbulmun Track and the balance of the grant to a feasibility and design study for advanced tourism concepts.

**Item 8.0 OTHER BUSINESS**

**National Symposium on Bio-diversity**

**THAT** the City of Albany sponsors the proposed National Symposium on Bio-diversity through the provision of the Town Hall for a period of one week (day-time only) from 23-27 September 2002, funded from the economic development budget.

**Tomioka Japanese Business delegation**

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**Item 9.0 GENERAL BUSINESS**

**Luxury Retirement Villages**

**That** the City of Albany promotes Albany as a location for investment in luxury retirement complexes (with suitable infrastructure) and that this market is recognised in the district area promotion package currently being compiled.

**MOTION CARRIED 13-0  
ABSOLUTE MAJORITY**

## 15. ELECTED MEMBERS' REPORT/INFORMATION BULLETIN

- 15.1 Minutes of the Timber Industry Road Evaluation Strategy Great Southern (TIRES) meeting held on the 1<sup>st</sup> August 2001.  
[Bulletin Item 2.1 refers]

**DRAFT MOTION**

THAT the minutes of the Timber Industry Road Evaluation Strategy Great Southern (TIRES) meeting held on the 1<sup>st</sup> August 2001, be received and the contents noted.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR WELLINGTON**

**THAT the minutes of the Timber Industry Road Evaluation Strategy Great Southern (TIRES) meeting held on the 1<sup>st</sup> August 2001, be received and the contents noted.**

**MOTION CARRIED 13-0**

- 15.2 Elected Members' Report/Information Bulletin

**DRAFT MOTION**

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

**MOVED COUNCILLOR DEMARTEAU  
SECONDED COUNCILLOR WELLINGTON**

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

**MOTION CARRIED 13-0**

## 16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

## 17.0 MAYORS REPORT

Fellow Councillors

Last week we saw the most atrocious terrorist attack committed in Americas history played out on our television screens.

I know that many people, like me described a feeling of surreality and disbelief as we saw with horror the mounting death toll, thousands of civilians, hundreds of police and emergency service personnel tragically taken, hundreds of thousands of family

members in the USA and around the world view lives shattered with the loss of friends and loved ones.

As I watched live the World Trade Centre collapse to the ground as a result of these barbaric, cowardly acts of terrorism, I prayed that I wasn't witnessing the events that would go down in history as the trigger for World War III.

That morning as I drove into town to attend a breakfast meeting, I drove past green paddocks and peaceful farmland into our beautiful city, my fierce resolve to continue to fight for what we have was reinforced.

On behalf of our community I have written to the American Consulates in Canberra and Perth to express our deep regret at the events that have occurred and have established a Book of Hope, available at the counters of the Mercer road and York Street offices. I encourage you as civic leaders along with members of our community to record your messages of hope into one of these books which will be forwarded to the U.S. Embassy from the citizens of the City of Albany.

On the 23<sup>rd</sup> of August, 2001 I attended a school assembly at North Albany Senior High School to present some awards to students who had participated in the City of Albany Waste Recycling Education Program. These students had developed a CD Rom as an interactive tool to help primary school students learn more about waste recycling in a fun way. Some students had put in an enormous effort, giving up a lot of their own spare time willingly to work on the project. I thoroughly enjoy attending school assemblies as it reinforces my faith in the youth who will be our future leaders.

On Tuesday the 28<sup>th</sup> of August, 2001, I was treated to a very special afternoon. One which I will fondly remember for a very long time to come. To celebrate the Activ Foundations 50<sup>th</sup> anniversary, I was taken on a comprehensive tour of the Activ Industries premises in Spencer Street and Minna Street. I was truly amazed at the diversity of activities being undertaken and the variety of products and services being offered, designed to maximise the skills of their special employees. I was then invited into the home of a group of Activ care recipients who performed some songs whilst signing the words. For those with an intellectual disability the Activ Foundations' network of services provide gainful employment, education, recreation, accommodation, opportunities and challenges in a safe, understanding environment whilst ensuring they retain self respect, dignity and privacy. All these services are run by small teams of staff and a band of dedicated volunteers who are committed to making the lives of others so much better.

Later the following week I attended the Activ Foundations' 50th anniversary celebration which also co-incided with the 40<sup>th</sup> anniversary of Activ in Albany. Activ relies on the generosity and support from the community for most of its funding and knowing that the Albany community has such a strong sense of caring, giving and sharing, I am confident that Activ will continue to develop from strength to strength supported by us all.

On Saturday the 8<sup>th</sup> of September I was invited to address and officially open the State Gathering of the Trefoil Guild. This group of ladies have dedicated the majority of their lives to the Guiding movement and continue to have an active interest in the Girl

Guides of today. I was pleased to find out that the Great Southern guides and scout associations have this year significantly grown in numbers thereby reversing the trend of recent times. The guide movements' principles, which are learned during the young impressionable days, provide a strong foundation and direction for their future in the community.

Late last week, we once again hosted the judges for the Top Tourism Town award. The Chief Executive Officer – Andrew Hammond, provided a very professional, polished presentation and I would like to thank all those involved during the visit for going that bit further to make a good impression. Despite what the outcome will be, I am certain that Albany has a winning formula, our pristine environment, an abundance of quality tourist attractions, an enviable lifestyle, but most of all our friendly, strong and enthusiastic community.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR EVANS**

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

**MOTION CARRIED 13-0**

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

Nil

**19.0 CLOSED DOORS**

Nil

**20.0 NEXT ORDINARY MEETING DATE**

Tuesday 16<sup>th</sup> October 2001, 7.30pm

**21.0 CLOSURE OF MEETING**

9:26pm

Confirmed as a true and accurate record of proceedings.

---

***A Goode JP***  
**MAYOR**

**APPENDIX A**

**WRITTEN NOTICE OF DISCLOSURE OF INTEREST**

**MINUTES OF THE ORDINARY COUNCIL MEETING – 18<sup>th</sup> SEPTEMBER 2001**

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
Councillor Evers	Item 11.3.3 – Change Policy Provisions – Local Rural Strategy (South Coast Water Reserve)	Property owned by Councillor Evers lies within the boundary of the South Coast Water Reserve.

**APPENDIX B**

**MINUTES OF THE ORDINARY COUNCIL MEETING – 21<sup>st</sup> AUGUST 2001**

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

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
	Nil	

**APPENDIX C**

**MINUTES OF THE ORDINARY COUNCIL MEETING – 21<sup>ST</sup> AUGUST 2001**

**CODE OF CONDUCT - INTERESTS (OTHER THAN FINANCIAL) DISCLOSED DURING THE COURSE OF THE MEETING**

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
	Nil	



[Agenda Item 12.1.1 refers]  
[COUNCIL – 18<sup>th</sup> September 2001]

## SUMMARY OF ACCOUNTS

Municipal Fund Vouchers			
Cheques	14446-14619	totalling	200,708.59
EFT	EF7319-	totalling	1,291,750.75
EF7778			
Municipal Fund Direct Debits			
Payroll		totalling	731,915.78
<b>Total Municipal Fund</b>			<b><u>2,224,375.12</u></b>
Trust Fund Vouchers	134-135	totalling	6,000.00
<b>Total Trust Fund</b>			<b><u>6,000.00</u></b>
<b>TOTAL</b>			<b><u>2,230,375.12</u></b>

### CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling \$2,230,375.12 submitted to each member of the Council on 18<sup>th</sup> September 2001 has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**  
(A. Hammond)

### MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling \$2,230,375.12 which was submitted to the Council on 18<sup>th</sup> September 2001 and that the amounts are recommended to the Council for payment.

\_\_\_\_\_  
**MAYOR**  
(A Goode JP)