



MEETING AGENDA

**For the Ordinary Meeting of Council
To be held on
Tuesday, 19 July 2011
7.00pm
City of Albany Council Chambers**

ORDINARY COUNCIL MEETING & BRIEFING
 AGENDA – 19/07/2011
 ** REFER DISCLAIMER **

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XX. NEXT ORDINARY MEETING DATE

XXI. CLOSURE OF MEETING

I. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

II. OPENING PRAYER

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

ITEM 2.0: MOTION 1

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

III. ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION

ITEM 3.0: MOTION

The Mayor’s Report be RECEIVED.

IV. RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC

V. PUBLIC QUESTION AND STATEMENT TIME

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

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

Mayor	MJ Evans
Councillors:	
Breaksea Ward	J Bostock
Frederickstown Ward	Vacant
Frederickstown Ward	D Wellington
Kalgan Ward	M Leavesley
West Ward	D Wolfe
West Ward	D Dufty
Yakamia Ward	J Matla
Yakamia Ward	R Sutton
Vancouver Ward	D Bostock
Staff:	
Chief Executive Officer	F James
Acting Executive Director Corporate Services	P Wignall
Executive Community Services	L Hill
Acting Executive Director Works & Services	S Jamieson
Executive Director Planning & Development Services	G Bride
Minutes	Jennifer Williamson
Apologies:	
Councillor C Holden	Leave of Absence
Councillor R Paver	Leave of Absence
Councillor Hammond	

VII. APPLICATIONS FOR LEAVE OF ABSENCE

VIII. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

ITEM 8.0: MOTION

THAT the minutes of the Ordinary Council Meeting held on 21 June 2011, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

IX. DECLARATIONS OF INTEREST

Name	Item Number	Nature of Interest

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

Nil.

XI. PETITIONS, DEPUTATIONS AND PRESENTATIONS

Landcorp - Albany Waterfront (15 minute presentation by Dr Linley Lutton)

XII. ADOPTION OF RECOMMENDATIONS EN BLOC

Councillors and the public should note that all Reports provided at the Agenda Briefing Session are Draft Papers.

RISK MANAGEMENT FRAMEWORK

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

1.1.1: LOCAL EMERGENCY MANAGEMENT COMMITTEE

File Number (Name of Ward) : ES.MEE.5
Proponent : City of Albany
Attachment : Confirmed Minutes of the Local Emergency Management Committee dated 2 March 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the confirmed minutes of the Local Emergency Management Committee

ITEM 1.1.1: COMMITTEE RECOMMENDATION

THAT the CONFIRMED minutes of the Local Emergency Management Committee meeting held on 2 March 2011 be RECEIVED.

CEO:

RESPONSIBLE OFFICER:

1.1.2: SENIORS ADVISORY COMMITTEE

File Number (Name of Ward) : CR.MEE.2
Proponent : City of Albany
Attachment : Confirmed Minutes of the Seniors Advisory Committee dated 19 May 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the minutes of the Seniors Advisory Committee.

ITEM 1.1.2: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the CONFIRMED minutes of the Seniors Advisory Committee meeting held on 19 May 2011, be RECEIVED.

CEO:	RESPONSIBLE OFFICER:
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1.1.3: BUSH FIRE MANAGEMENT COMMITTEE

File Number (Name of Ward) : ES.MEE.3
Proponent : City of Albany
Attachment : Confirmed Minutes of the Bush Fire Management Committee Meeting dated 8 November 2010
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the confirmed minutes of the Bush Fire Management Committee
- Receive the recommendations of the Bush Fire Management Committee from meeting held on 1 June 2011.

ITEM 1.1.3: COMMITTEE RECOMMENDATION 1

THAT the CONFIRMED minutes of the Bush Fire Management Committee meeting held on 8 November 2010 be RECEIVED.

CEO:**RESPONSIBLE OFFICER:**

ITEM 1.1.3: COMMITTEE RECOMMENDATION 2**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council endorse and gazette the following officers as authorised officers of the City of Albany Bushfire Brigade under section 38 *Bush Fire Act 1954*:

Elected Officers by Bush Fire Advisory Group:

Chief Bushfire Control Officer	Ross Fenwick
Deputy Chief Bush Fire Control Officer (South West)	Ken Johnson
Deputy Chief Bush Fire Control Officer (North East)	Alan Lubcke
Senior Bush Fire Control Officer (North East)	Terry Bradshaw
Senior Bush Fire Control Officer (South West)	Kevin Martin
Fire Weather Recording Officers (South West)	Cris Norton
	Andrew Marshall
	John Bocian
	Jo Plug
	Kevin Martin
	Jim Whitem
Fire Weather Recording Officers (North East)	Brian Lester
	John Hood
	Cris Gilmour
	Morgan Sounness
	Ian Smith
	Alan Lubcke
	Graeme Pile
	Steven Hall
Radio Schedule Officers	All Fire Control Officers (FCO's)
Chief Weather Officer	Ross Fenwick
Clover Burning Officers	Ross Fenwick
	Chris Gilmour
Chairman	Martin van Dongen
Deputy Chairman	Morgan Sounness

Elected Officers by Brigade:

<u>Brigade</u>	<u>Fire Control Officer</u>	<u>Deputy Fire Control Officer</u>
Bornholm	Laurie Nissan	Ted Rastrick
Elleker	Roy Parson	Dale Ferguson
Gnowellen	Morgan Sounness	Darren Baum
Green Range	Ian Smith	Mark Plunkett
Highway	Martin van Dongen	Christopher Norton
Kalgan	John Bocian	John Powis
		Brent Findlay
King River	Sandy Lyon	Julian Cole
		Simon Whitfort
		Alan Hawley
Kojaneerup	Terry Bradshaw	Anthony Slattery

Manypeaks	Richard Metcalf	Kim Lester
Napier	Tom Collins	Brett Smoker
Redmond	Lance Flett	Graham Briggs
South Coast	Derek Jones	Gary Duncan
		Jeff Gibb
South Stirling	Graeme Pyle	Luke Bennett
Torbay	Phillip Marshall	Keith Smith
Wellstead	Steven Hall	Peter Diprose
Youngs Siding	Kevin Martin	Martin Peterson
City of Albany	Garry Turner	
	Keith Barnett	
	Linda Hill	
	Robert Forster	
	Gerhardus Monkhurst	
	Nathan Tysoe	
	Joe Gimondo	
Permit Issuing Officers Only	Zoe Sewell	
	Sarah Abbott	

1.1.4: AIRPORT EMERGENCY COMMITTEE

File Number (Name of Ward) : ES.MEE.5 and ES.MEE.6
Proponent : City of Albany
Attachment : Confirmed Minutes of the Airport Emergency Committee Meeting dated 2 March 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the minutes of the Airport Emergency Committee

ITEM 1.1.4: COMMITTEE RECOMMENDATION

THAT the CONFIRMED minutes of the Airport Emergency Committee meeting held on 2 March 2011 be RECEIVED.

CEO:

RESPONSIBLE OFFICER:

1.1.5: AIRPORT USERS FOCUS GROUP COMMITTEE

File Number (Name of Ward) : CS.MEE.3
Proponent : City of Albany
Attachment : Confirmed Minutes of the Airport Users Focus Group Committee dated 2 February 2011
Responsible Officer : Community Services Leader (L Hill)

IN BRIEF

- Receive the minutes of the Airport Users Focus Group Committee.

ITEM 1.1.5: COMMITTEE RECOMMENDATION

THAT the CONFIRMED minutes of the Airport Users Focus Group Committee meeting held on the 2 February 2011 be RECEIVED.

CEO:**RESPONSIBLE OFFICER:**

1.1.6: COMMUNITY FINANCIAL ASSISTANCE AND EVENT FUNDING PROGRAM COMMITTEE

File Number (Name of Ward) : FM.SPO.2 (All Wards)
Proponent : City of Albany
Attachment : Minutes of the Community Financial Assistance and Event Funding Program Committee Meeting dated 25 February 2011
Responsible Officer : Acting Executive Director Corporate Services (P Wignall)

IN BRIEF

- Receive the minutes of the Community Financial Assistance and Event Funding Program Committee

ITEM 1.1.6: COMMITTEE RECOMMENDATION

THAT the CONFIRMED minutes of the Community Financial Assistance and Event Funding Program Committee meeting held on 25 February 2011 be RECEIVED.

CEO:

RESPONSIBLE OFFICER:

1.1.7: COMMUNITY FINANCIAL ASSISTANCE AND EVENT FUNDING PROGRAM COMMITTEE
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File Number (Name of Ward) : FM.SPO.2 (All Wards)
Proponent : City of Albany
Attachments :

- Minutes of the Community Financial Assistance and Event Funding Program Committee Meeting – 17 June 2011
- Summary of the May 2011 Community Event Financial Assistance Program assessments

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

IN BRIEF

- Receive the minutes of the Community Financial Assistance and Event Funding Program Committee

ITEM 1.1.7: COMMITTEE RECOMMENDATION 1

<p> THAT the <u>UNCONFIRMED</u> minutes of the Community Financial Assistance and Event Funding Program Committee meeting held on 17 June 2011 be <u>NOTED</u>. </p>

CEO:	RESPONSIBLE OFFICER:
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ITEM 1.1.7: COMMITTEE RECOMMENDATION 2

THAT Council ADOPT the recommended funding allocations for the 2011/2012 Community Events Financial Assistance Program:

APPLICANT	DESCRIPTION	FUNDING REQUEST	AMOUNT FUNDED BY CITY
Nyabing Historical Society	To provide historical displays and entertainment for the current and former residents of Nyabing to celebrate its Centenary in 2012	\$10,000	Declined
Masters Swimming Albany Inc (formally Albany Aussie Masters)	City of Albany 4 km Harbour Swim. A swim from the foreshore Boat Shed to Princess Royal Sailing Club	\$2,000	\$2,000
Men's Resource Centre	Men's Resource Centre Australia Day Fun Run and Walk	\$10,000	Declined
Albany Primary School Parents & Citizens Assoc	April 2012 will see our school celebrate its 10 year anniversary. Albany primary School has been an icon in Albany for over 100 years but our current school site is comparatively new to commemorate. We are planning a celebratory fete with present and past students	\$3,000	Declined
Albany Vintage & Classic Motorcycle Club	Vintage Motorcycle Weekend including bike display on Saturday and Annual Hill climb Event on Sunday	\$2,000	\$2,000
Albany Classic Organising Committee (via VSCCWA) Icon Event	Iconic annual "Round the Houses" Motor Event and Hill climb plus community festival over the June long weekend	\$20,000	\$15,000
Albany Apex Club	The 60th Apex Carols by Candlelight - Ellen Cove (17th December 2011)	\$6,290	\$3,700
Albany Swim Club	Albany Short Course (25m)	\$1,000	\$1,000

ITEM 1.1.7: COMMITTEE RECOMMENDATION 2 CONTINUED.

APPLICANT	DESCRIPTION	FUNDING REQUEST	AMOUNT FUNDED BY CITY
Albany Maritime Foundation (AMF)	Festival of the Sea highlighting the regions connection with the ocean by showcasing local seafood and produce, activities, arts and crafts in a family environment of the waterfront	\$8,800	\$8,800
**Albany Speedway Club Inc	Host a round of the World Series Sprint Cars	\$15,000	\$4,000
Albany Sinfonia Inc	Concert	\$4,000	\$4,000
Community Support Network Inc	"Wear Blue Day" 12th October 2010. Community awareness raising of prevalence and impact of anxiety and depression in the workplace and broader community	\$2,500	Declined
Youth Focus	Hawaiian Ride for Youth	\$15,000	Declined
Artsouthwa Incorporated	2011 Southern Art & Craft Trail	\$3,500	\$3,500
Great Southern District Display Committee	District Display for Great Southern at Centenary Pavilion on Claremont Showgrounds for Perth Royal Show 1st - 8th October 2010	\$2,000	\$2,000
Parker Street Project	Yearly Events Calendar	\$15,000	Declined
Albany Agricultural Society Inc	2011 Albany Show and Trade Exhibition	\$15,000	\$8,000
Perth International Arts Festival Icon Event	Great Southern Festival	\$15,000	\$15,000
Albany Horseman's Assoc	Showjumping Weekend with State qualifying events to be held at Centennial Oval	\$3,500	\$1,000
RSL Albany Sub Branch	ANZAC Day 2012		\$10,000
	TOTAL OF ALL APPLICATIONS	\$153,590	\$80,000
	TOTAL OF ICON EVENTS	\$50,000	\$30,000
	TOTAL OF APPLICATIONS LESS ICON EVENTS	\$103,590	\$50,000

ITEM 1.1.7: COMMITTEE RECOMMENDATION 3

i. THAT Council **ADOPT** the recommended events, listed below, as Icon Events.

1. RSL Albany Sub Branch - ANZAC Day
2. Albany Classic Organising Committee
3. Perth International Arts Festival – Great Southern Festival
4. Albany Agricultural Society Inc – Albany Show and Trade Exhibition

ii. THAT at Council's 2012/2013 Budget deliberations, Council **AGREES** to removing the above listed Icon Events from the Community Financial Events Assistance program and consider funding for these events each year along with all other expenditure allocations.

1.2: PLANNING AND BUILDING REPORTS JUNE 2011

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

IN BRIEF

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

ITEM 1.2: RESPONSIBLE OFFICER RECOMMENDATION

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

CEO:

RESPONSIBLE OFFICER:

1.3: COMMON SEAL AND EXECUTED DOCUMENTS UNDER DELEGATION REPORTS

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

IN BRIEF

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

ITEM 1.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Common Seal Report for June 2011 be RECEIVED.

CEO:

1.4 CULL ROAD DEVELOPMENT – STAGE 1A ‘THE RIDGE’

- Proponent** : City of Albany
- Attachments** :
 - Albany Valuations Services Valuation Report – dated 12 May 2011 (**CONFIDENTIAL**)
 - Albany Valuations Services Valuation Report – dated 13 September 2010 (**CONFIDENTIAL**)
- Responsible Officer(s)** : Chief Executive Officer (F James)

IN BRIEF

- To advise Council of revised valuations for lots at ‘The Ridge’ – Cull Road.
- To seek Council endorsement to go out to tender for the remaining lots at ‘The Ridge’ – Cull Road Development, and then dependent upon such tender outcome, continue to sell by private treaty.

ITEM 1.4 : RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

That Council:

- **NOTE** that six of thirty one Stage 1A lots at ‘The Ridge’ – Cull Road have been sold or are under contract.
- **NOTE** the 12 May 2011 valuations by Albany Valuations Services for Stage 1A lots at ‘The Ridge’ – Cull Road.
-

ITEM 1.4 : RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY

That Council:

- **APPROVE** the sale of remaining Stage 1A lots at ‘The Ridge’ – Cull Road for sale by public tender and then continuation of sale by private treaty if not sold by tender.
- **DELEGATE** to the Chief Executive Officer the power to sell the remaining Stage 1A lots for no less than 95% of the 12 May 2011 valuation amount for each lot.

CEO:

RESPONSIBLE OFFICER:

BACKGROUND

1. The last valuation of Stage 1A lots at 'The Ridge' – Cull Road was performed by Albany Valuation Services Opteon. In September 2010 Albany Valuation Services Opteon completed another valuation as at 12 May 2011.
2. The last offer to sell Stage 1A lots by public tender at 'The Ridge' – Cull Road was on 12 January 2011, with tenders closing on 27 January 2011. No tenders were received. In accordance with legislation, the City then offered the lots for sale by private treaty.

DISCUSSION

3. At the OCM 16 November 2010 (Item 15.2), Council appointed Connection Realty as marketing and sales agent for Stage 1A lots at 'The Ridge'. Their Marketing Strategy consists of advertising regularly in both local newspapers by placing half page and full page advertisements at random intervals, internet advertising on multiple sites, one-off radio campaign, and a large 'For Sale' board on site. Sold blocks have 'SOLD' stickers placed on signs on the block.

Public Tender Process

4. Section 3.58 of the *Local Government Act 1995* requires public notice of properties offered by sale. The City complied with Section 3.58 of the *Local Government Act 1995* when the property lots were offered for sale by public tender. In January 2011 no tenders were received.
5. As no tenders were received, under Section 30 (2a) of the *Local Government (Functions and General) Regulations 1996* the City was then authorised to sell lots by private treaty for a period of six months, until 27 July 2011.
6. The public notice of sale requirements of Section 3.58 of the *Local Government Act 1995* could be detrimental to the future sale of lots and the recommended process is that the remaining lots again be offered for sale by public tender (with tenders to be received by 16 August 2011 and with no sales to occur by private treaty between the 27 July 2011 and 16 August 2011).
7. Tenders received would be processed by the appointed marketing and selling agent (*Connection Realty*). Any remaining lots would then be sold by private treaty (for another period of six months in compliance with legislation) by the marketing agent.

GOVERNMENT CONSULTATION

8. Nil

PUBLIC CONSULTATION / ENGAGEMENT

9. Nil

STATUTORY IMPLICATIONS

10. Section 3.58 of the *Local Government Act 1995* states that:

3.58. Disposing of property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) *Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Section 30 (2a) of the Local Government (Functions and General) Regulations 1996 states that:

30. Dispositions of property to which section 3.58 of Act does not apply

- (2a) *A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —*
- (a) *put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;*
 - (b) *the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or*
 - (c) *the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —*
 - (i) *the names of all other parties concerned;*

- (ii) *the consideration to be received by the local government for the disposition; and*
- (iii) *the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.*

STRATEGIC IMPLICATIONS

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

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

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

POLICY IMPLICATIONS

12. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Lots disposed of in accordance with Section 3.58 (4) of the Local Government Act 1995, so that the consideration and market value of the lots become "public knowledge".	Unlikely	Extreme	Extreme	To avoid negative impact on future sales, Council is requested to approve the offering of existing lots for sale only by public tender and then, dependent on tender outcomes, by private treaty.

FINANCIAL IMPLICATIONS

14. If lots are disposed of in accordance with Section 3.58 (4) of the *Local Government Act 1995*, information regarding the purchase price offered would be made public. This could compromise other lots' future sale negotiations with potential detrimental impact on the 2011-12 Budget with decreased sales proceeds.

LEGAL IMPLICATIONS

15. Nil

SUMMARY CONCLUSION

16. Note the reduced valuation for Stage 1A lots at 'The Ridge' – Cull Road. To maintain the current momentum in relation to lot sales, lots should be offered for sale by public tender in July – August 2011. Any remaining lots will then be sold by private treaty under the exemption provisions of Section 30 (2a) of the Local Government (Functions and General) Regulations 1996.

Consulted Reference	:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996
File Number (Name of Ward)	:	PRO357 (Vancouver Ward)

		STR276 (Vancouver Ward)
Previous Reference	:	OCM 15/02/2011 Item 2.4 – Cull Road Subdivision – Sale & Marketing OCM 16/11/2010 Item 15.2 – Urgent Item – Cull Road Subdivision – Sale and Marketing

1.5: REGIONAL CITIES ALLIANCE COMMITMENT – UWA CONTRACT

Proponent	: City of Albany
Attachments	: Draft Contract between Regional Cities Partners and UWA : (updated – April 2011 version) Signed Memorandum of Understanding - Regional Cities Alliance (29 March 2010)
Appendices	: Nil
Councillor Workstation	: N/A
Responsible Officer	: Chief Executive Officer (F James)

IN BRIEF

- In 2009, the City of Albany committed to membership of the Regional Cities Alliance.
- As part of Alliance's initiatives, the Alliance seeks to contract with the University of Western Australia. In doing so, it seeks continued commitment from each of the Alliance members to contribute an amount of up to \$50,000 per year for the four forward years.

ITEM 1.5: RESPONSIBLE OFFICER RECOMMENDATION 1**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT COUNCIL REAFFIRMS that it wishes to remain a member of the Regional Cities Alliance.

ITEM 1.5: RESPONSIBLE OFFICER RECOMMENDATION 2**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

- 1) **THAT COUNCIL endorse a forward budget commitment of four years, commencing in the 2011/12 financial year, for an amount of \$50,000 per year as the City of Albany's contribution towards the Regional Cities Alliance, including contributing to the partnership with the University of Western Australia to undertake research in regional development, urban planning and spatial analysis, with the aim of providing an explicit focus on the research needs of the Alliance. These needs being concentrated in:**
 - Economic, demographic and social analysis;
 - Service and infrastructure planning and delivery;
 - Strategic urban and regional planning; and
 - Governance.
- 2) **THAT COUNCIL agree to enter into a contract with the University of Western Australia, as part of its membership of the Regional Cities Alliance.**

CEO:

RESPONSIBLE OFFICER:

BACKGROUND

1. At its meeting dated 21 June 2011 the following recommendation was put to Council:
 1. *THAT COUNCIL endorse a forward budget commitment of four years, commencing in the 2011/12 financial year, for an amount of \$50,000 per year as the City of Albany's contribution towards the Regional Cities Alliance, including contributing to the partnership with the University of Western Australia.*
 2. *THAT COUNCIL agree to enter into a contract with the University of Western Australia, as part of its membership of the Regional Cities Alliance.*
2. The above recommendation was put to the vote and Lost 5-7; no alternate motion was put and therefore the proposal is represented to Council for determination. At the 21 June 2011 Ordinary Council Meeting the main issue of concern raised by Councillors was whether the contribution represented 'value for money'.
3. The City is aware that the Regional Cities Alliance has gained further support from the Shire of Broome, Shire of Roebourne (Karratha) and Town of Port Hedland to participate in various projects along with research opportunities. This further builds on the momentum of the Alliance and creates a platform to secure government investment in the infrastructure of regional cities. In the opinion of staff the proposed \$50,000 allocation represents good value for the City on the basis of:
 - The University of Western Australia have committed a 50% contribution towards research costs;
 - The research program funds are to be held in the UWA Hackett Foundation managed by a research management committee, meeting bi-annually to provide guidance to the overall program, with an additional "round table" report on progress;
 - Unspent funds would be held in trust by the Secretariat Local Government;
 - Significant Secretariat support provided to the Alliance group from the University of Western Australia;
 - The total research funds would be leveraged to gain further financial support by the State Government;
 - Additional Federal Government support of the development of a new program similar to the former Building Better Cities Program to support revitalisation and infrastructure enhancement initiatives of regional cities; and
 - The development of reports and discussion papers to provide evidence to support regional cities investment and infrastructure spend.
4. In addition, the Western Australian Regional Cities Alliance Report, 2009 identified several indicators highlighting the need to source further research data to submit in the development of the following State level documents/policies, which have little reference to regional cities:
 - Regional Development Policy;
 - Indicators of Regional Development in WA – supplementary Report; and
 - The Western Australian Regional Development Council Strategic Priorities 2008.
5. It is therefore considered important that Council consider supporting this long term strategy in collaboration with researchers, State and Federal Government agencies to develop, fund and implement an effective strategy to accommodate substantial economic and population

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growth in the regional areas and thereby provide a significant boost to the nation in the process.

6. Since the 21 June 2011 Council meeting, the City has received a request to meet with the Minister for Regional Development and alliance partners to further progress funding opportunities based on a regional approach. The State Government is supportive of the Regional Cities Alliance and it is considered that an alliance group with similar interests and challenges is likely to leverage funding opportunities for regional cities such as Albany into the future. The research to be undertaken through UWA will provide a strong basis to lobby state and federal governments to the benefit of the City.
7. An updated draft Memorandum of Understanding (April 2011) is attached to the item and replaces the previous Memorandum attached to the June OCM report.
8. If the City does not contribute to the research its membership status as a core member of the Regional Cities Alliance will be placed in doubt. It would place the City in a difficult position, being the only non-contributing member on the alliance. The City needs to ultimately decide whether it wishes to remain a member or cease membership.
9. In 2009 Council resolved to enter into an Alliance with three other Regional Cities - Geraldton, Bunbury and Kalgoorlie. In doing so, the Council resolved it “further develops the ‘Regional Cities Alliance’ proposal with our partners for high profile projects across WA”.
10. In June 2009, a scoping paper for the proposed Regional Cities Alliance Group was received by Council.
11. Since then, the City and members of Council have continued to promote and contribute to the Alliance.
12. The Alliance now seeks to sign a MOU with the University of Western Australia, to undertake research specific to the Alliance members’ needs, including research on demographics and population projections within the members’ regional areas.
13. Such demographics and population projection is a significant need of the City of Albany in advocacy to State and Federal Governments regarding funding and other support.

DISCUSSION

14. The Regional Alliance is in its second year of operation, and has had positive feedback from Government Ministers, and other stakeholders regarding its aims and collaborative partnership approach.
15. The Mayor and the CEO are the City’s member representatives for the Alliance. Meetings consist of four to six per year, some in regional locations and some in Perth (usually linked to other local government events such as Local Government Conference week).
16. The Alliance Cities are working to:
 - develop a collaborative framework to engage and partner with both the Western Australian and Australian Governments;
 - collaboratively achieve future sustainable regional development in Western Australia;

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- being increasingly accepted as a legitimate and respected group within the Local Government and Structural Reform processes.
17. Benefits of membership of the Regional Cities Alliance include:
 - Collective impact on State and Federal policy;
 - Leveraging of shared resources for projects/initiative;
 - Leading independent research into regional issues and needs; and
 - Local governments of similar size and scope “learning” from one another.
 18. Particularly, given State and Federal Governments’ increasing articulation and recognition of the infrastructure needs and associated funding requirements of regional centres, the Alliance is working towards developing viable alternatives to the Perth metropolitan area as locations for accommodating the State’s growing population.
 19. The Alliance is also actively participating in the State Population Policy Development to ensure the State’s future population growth and the associated demands for social, economic and environment amenity are distributed by Government in a sustainable fashion. However, strong advocacy on this issue must be accompanied by data evidence.
 20. The four Cities of the Alliance all have significant development potential including sustaining larger populations.
 21. The majority outputs of the Alliance to date have been:
 - I. The development and launch of a Regional Cities Alliance website which displays the advantages of regional living, particularly in the four member Cities, and encourages people to consider making a lifestyle choice through relocation.
 - II. Support and commitment from State Government Ministers to the concept of regional alliance, including proposed funding support to enhance the Alliance’s capacity to undertake initiatives and continue its collaboration.
 - III. An increased sense of collegiality and support amongst Alliance members for the benefit of all members.
 - IV. Discussions with the University of Western Australia and Government to enter into a research partnership between the Alliance and the University, which addresses issues of specific relevance to the Alliance members and Government.
 22. University of Western Australia is very experienced in urban and regional research with an international standing in the field. In the recent university ranking exercise, UWA was ranked in the top six in Australia in this field, and first in Western Australia, and regarded as “being equal or above world standard”.
 23. Research projects undertaken by University of Western Australia would be project specific, and agreed to each year by the Alliance. Specific objectives would be evaluated, and then the research methods designed.
 24. Research methods could include social and economic modelling, GIS based spatial analysis, various policy analysis techniques, survey based methods and possibly elements of urban design and archival research if this was considered by the Alliance to be an important priority.

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25. All research proposals would be peer reviewed, as would final reports. PhD and honours students working on research projects are required to have a proposal approved by a board of graduate studies, and their final thesis is examined by (in the case of the PhD) three examiners external to the University.
26. Specific benefits to Albany from contracting with University of Western Australia include:
- further consolidate University of Western Australia activities in Albany;
 - Provides a further opportunity to examine local issues and address local needs;
 - Exposes students in the region to post graduate research opportunity (perhaps aiding in the attraction of skilled people in the medium term) and
 - Provides access to expertise within an institution the City has already committed to partner with; and
 - When compared with the cost of consultants, this service would be vastly lower for the output.
27. The Alliance now seeks each member's commitment to contracting with the University to progress such research. The councils of the three other Alliance members have resolved to enter into contract with the University, in the terms of the attached Contract.

GOVERNMENT CONSULTATION

28. Government consultation has occurred regarding the membership and aims of the Alliance, the partnership with the University, and the future priorities of the Alliance.
29. No specific government consultation was necessary in respect of these recommendations.
30. The Alliance partners and Government may question the City of Albany's commitment to promoting sustainable regional development if is not prepared to enter a joint agreement with its Alliance partners, the aim of which is to contribute to research on various regional issues, including population projections supported by good research evidence and methodology.

PUBLIC CONSULTATION / ENGAGEMENT

31. No public consultation has occurred in respect of the Alliance. However, engagement with members of the public is occurring through the website.

STATUTORY IMPLICATIONS

32. Nil

STRATEGIC IMPLICATIONS

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

Economic Development;

Investment is complementary to Albany's sense of place and occurs within an up to date and effective planning framework.

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POLICY IMPLICATIONS

34. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Lack of continuing Council commitment to the Regional Cities Alliance, and subsequent loss of benefits from Alliance membership	Possible	Medium	High	Continued support to Alliance, including budget commitment.
Loss of marketing and promotional value provided to Albany through the Alliance	Likely.	High	Extreme	Increased self-promotion of Albany outside of the Alliance. This would have a cost Implication (unquantified)

FINANCIAL IMPLICATIONS

36. The costs incurred to date for Alliance membership include:

2009/10	\$2,541 – Original Budget \$15,000
2010/11	\$3,502 (to date) – Original Budget \$50,000

37. The Alliance seeks a further future commitment over the forward estimates period of up to \$50,000 per year, much of which will be applied to the contract arrangement with the University of Western Australia.

LEGAL IMPLICATIONS

38. While the Alliance partnership does not create legal relations between the four Cities, the entering of the contract with the University commits the City to legally binding arrangements, including the provision of the funds for the forward four years.

ALTERNATE OPTIONS

39. Council may continue (or not) its membership of the Alliance.
40. It is unlikely that, if the Council decides to not enter the Alliance arrangement with the University, the collegiality and positive partnership that currently exists between the four Cities will continue on a positive footing, given all other partners have agreed to contribute. It is probable the other members of the Alliance would not share with the City of Albany any of the University's research outcomes, without contribution to the cost.

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SUMMARY CONCLUSION

41. Given the short time the Alliance has been formed, it has had some positive outcomes, including articulated support from Government. The range of current and potential benefits of membership of the Alliance presently outweighs the expense of membership, and Council is encouraged to continue its membership of the Alliance including contracting with the University of Western Australia.

Consulted References	
File Number (Name of Ward)	
Previous Reference	OCM 18/08/2009 Item 16.2.1 OCM 16/06/2009 Item 14.2.1 OCM 17/08/2010 Mayors Report OCM 19/01/2010 Item 16.5.1 OCM 20/07/2010 Item 16.5.1 OCM 19/10/2010 Mayors Report OCM 21/06/2011 Item 1.4

Received
12/17/11
By
HAND

1.5: REGIONAL CITIES ALLIANCE- UWA CONTRACT

ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

DATE & TIME RECEIVED: 12:06PM ON WEDNESDAY 6 JULY 2011

ITEM 1.5: ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

THAT COUNCIL DEFERS consideration of the item to SEEK written advice from the Department of local Government as to whether this item can be considered without a rescission motion first being brought before Council.

Reason:

Council has received legal advice to the effect that when a motion has been lost after full consideration at a Council meeting, that does not represent a decision so it can be brought back for further consideration without the need for a rescission motion. I find the reasoning behind this advice to be flawed because, when a motion is rejected a positive decision has been made. In this case Council decided to spend the money on causes which were more in keeping with the best interests of the City.

To argue that to reject a motion is to fail to make a decision cannot be true because, if no decision was made then the usual officer statement under the heading "Alternate options" that Council can agree to the motion without modifications, agree to the motion with modifications or not agree to it becomes meaningless.

To make a decision simply means to make up one's mind or come to a conclusion(Oxford English Dictionary) and it is illogical to suggest that one cannot decide against a certain action in the same way that one can decide to do it. If that were so then if a person said they did not commit a particular crime it could be argued that they may have done so if the circumstances had been different, which, although true, would not be a valid reason for conviction.

Although I do not doubt that our solicitor is an expert in his field, so was the captain of the Titanic and being an expert is not the same as being infallible. I therefore believe that, in view of the potentially far reaching effects of this advice, it would be prudent for us to obtain a second opinion from our own Department before making decisions which could well be in breach of section 10 of the Local Government(Administration) Regulations 1996.

1.6: AUDIT COMMITTEE

File Number (Name of Ward) : FM.MEE.1 (All Wards)
Proponent : City of Albany
Attachments : Confirmed Minutes of the Audit Committee meetings held on 10 and 24 May and 14 June 2011
Responsible Officer(s) Chief Executive Officer (F James)

IN BRIEF

- To receive the confirmed Committee Minutes of the 10 and 24 May and 14 June 2011.
- To consider the recommendations of the Audit Committee.

ITEM 1.6: COMMITTEE RECOMMENDATION 1 VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the CONFIRMED minutes of the Audit Committee meetings held on 10 and 24 May and 14 June 2011, be confirmed as a true and accurate record of proceedings (Attachment A) noting that Cr J Bostock tabled a point of clarification in regards to discussions detailed in the minutes of the 10 May 2011 Committee meeting (Attachment B)

ITEM 1.6: COMMITTEE RECOMMENDATION 2 (from Audit Committee 28th June 2011) VOTING REQUIREMENT: SIMPLE MAJORITY

That COUNCIL call for nominations for Audit Committee membership at the next ordinary meeting of Council. (19th July 2011)

ITEM 1.6: COMMITTEE RECOMMENDATION 3 (from Audit Committee 28th June 2011) VOTING REQUIREMENT: ABSOLUTE MAJORITY

That COUNCIL APPOINT the following Councillors _____ to the Audit Committee.

CEO:

RESPONSIBLE

1.7: SPECIAL AUDIT COMMITTEE

File Number (Name of Ward) : FM.MEE.1 (All Wards)
Proponent : City of Albany
Responsible Officer(s) : Chief Executive Officer (F James)

IN BRIEF

- To consider the recommendations of the Special Audit Committee dated 28 June 2011.

Please note that the recommendations of the Committee will be included in the final agenda papers for Council consideration

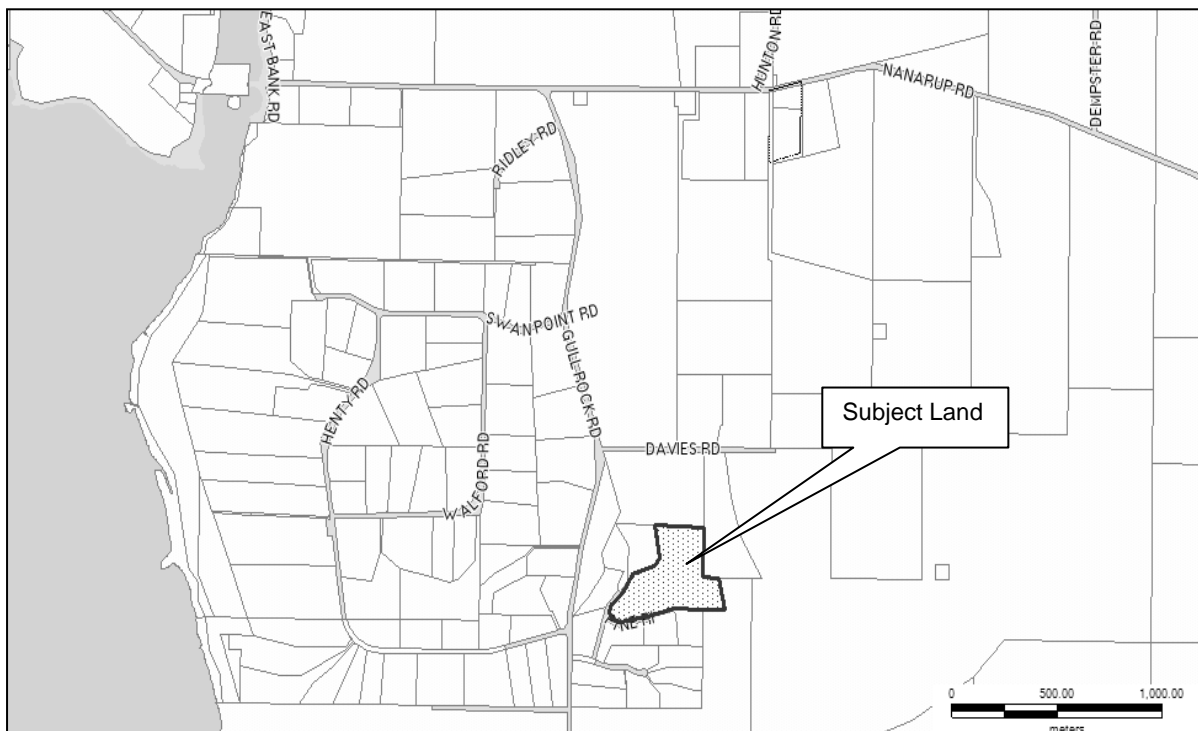
CEO:

RESPONSIBLE OFFICER:

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

Land Description	: Lot 600 Pine Rise, Kalgan
Proponent	: Harley Global
Owner/s	: P & S Liddiard
Business Entity Name	: N/A
Attachment(s)	: Schedule of Submissions : Modified Subdivision Guide Plan : Response from Dept of Agriculture and Foods WA : Additional response from DEC : Additional response from A & C Rowe (adjoining landowner)
Appendices	: Copy of OCM 14/12/10 – Item 1.2
Councillor Workstation	: Amendment Document (AMD275) : Copy of Submissions
Responsible Officer(s)	: E/Director Planning & Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- To determine whether to grant final approval to the proposed Scheme Amendment to rezone Lot 600 Pine Rise, Kalgan from the 'Special Use' and 'Rural' zones to the 'Special Rural' zone.

CEO:	RESPONSIBLE OFFICER:
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RECOMMENDATION

ITEM 2.1: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

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

BACKGROUND

1. Amendment 275 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 600 Pine Rise, Kalgan from the ‘Special Use’ and ‘Rural’ zones to ‘Special Rural’ zone. The lot would be incorporated into Special Rural Area No. 6, which would allow the provisions set out in Schedule I relating to this zone to appropriately control subdivision, development and use of the lot.
2. The document includes a proposed subdivision guide plan that proposes the lot to be divided into three lots, with all lots meeting the minimum lot size requirement of 2 hectares as per the provisions of Special Rural Area No.6.
3. The lot is just over 12.7 hectares in area, and is located approximately 12 km north-east of the Albany City Centre. The lot is currently accessed via Nanarup and Gull Rock Roads.
4. The lot is mostly surrounded by Special Rural lots that are also located within Special Rural Area No.6. The lot is bordered by two agricultural rural lots, with the northern rural lot currently being used for a turf farm. An ‘A’ Class Reserve (Reserve 28690), for the purpose of “Conservation of Flora” is located to the east of the site.
5. The proposed Scheme Amendment was initiated at the Ordinary Meeting of Council on 14 December 2010.
6. The proposed Scheme Amendment was considered by Council at its meeting dated 17 May 2011 for final approval, whereby the following was resolved:

“THAT this Item be deferred for one month to allow staff to liaise with the Department of Agriculture and Department of Environment and Conservation

whether there is a minimum buffer distance for proposed Lot A that is required to be met from the building envelope to the adjacent turf farm”.

DISCUSSION

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

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

14. Directly to the north of the site is a 'Rural' zoned property, which is currently used as a turf farm. Although the ALPS designates the site for rural residential purposes in the future, there may be a land use conflict between proposed Lot A and the turf farm in terms of noise, odours, dust etc, from the farming practises (fertilisers and machinery) in the interim period. At the time of initiation, a recommendation was made to modify the amending document by incorporating a new Scheme Provision for Special Rural Area No. 6, requiring the placement of a Section 70A Notification on the title of the subject land at the time of subdivision, to make potential purchasers of Lot A aware that they may be affected by the agricultural activity on Lot 21 Davies Road, Kalgan.
15. In accordance with Council's resolution of 17 May 2011 additional advice was sought from the Department of Agriculture and Food WA and the Department of Environment and Conservation in relation to the separation distances between the existing turf farm and its associated impact on the building envelope of Lot A, (a copy of their formal comments are attached to this report), and their submissions are dealt with in more detail in the attached Schedule of Submissions.
16. The proposal was referred to various government agencies and utility providers in accordance with established practice. Responses were received from:
 - Environmental Protection Agency;
 - Water Corporation;
 - Fire and Emergency Services Authority of Western Australia;
 - Department of Regional Development and Lands;
 - Western Power;
 - Department of Health;
 - Department of Environment and Conservation;
 - Department of Water; and
 - Department of Agriculture and Food.
17. At the closing of the public consultation period, some concerns had been raised over land capability, bush fire protection measures, the spread of invasive weeds and the possible effects that the adjacent turf farm may have on the site. These submissions are dealt with in more detail in the attached Schedule of Submissions.
18. Councillors should note that the proposed modifications set out in the attached Schedule of Submissions have already been discussed with the proponent, who is agreeable to the changes and has prepared a draft modified subdivision guide plan, which is also attached for information.

19. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the ALPS. It is recommended that the Amendment be adopted for final approval, subject to modifications.

GOVERNMENT CONSULTATION

20. The Scheme Amendment was referred to the following government agencies: Environmental Protection Agency; Water Corporation; Fire and Emergency Services Authority of Western Australia; Department of Regional Development and Lands; Western Power; Department of Health; Department of Agriculture and Food Western Australia; Department of Environment and Conservation; and Department of Water. A response was received from all government agencies.

PUBLIC CONSULTATION/ENGAGEMENT

21. The Amendment was advertised in accordance with the requirements of the *Town Planning Regulations 1967* from 10 February 2011 to 24 March 2011 by placement of sign on-site, direct referral to affected and adjoining/nearby landowners, relevant State Government agencies and advertisement in the local newspaper.
22. A total of two public submissions were received as attached. The submissions received are summarised and discussed with a recommendation for each submission in the attached Schedule of Submissions.

STATUTORY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

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

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

- *Providing for growth in urban areas, rural townsites and rural living areas as designated in ALPS.*

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

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

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

The ALPS expands on this by stating that: “The strategy’s objectives for Rural Living areas are to:

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 5, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

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

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

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

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

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

POLICY IMPLICATIONS

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

29. **SPP 1 – State Planning Framework**

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

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

30. **SPP 3 – Urban Growth and Settlement**

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

The key policy objectives in SPP 3 are as follows:

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

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

RISK IDENTIFICATION & MANAGEMENT

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Potential land-use conflict between the Turf farm and the building envelope for Lot A.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Proposed a Section 70A Notification on the title of the subject land at the time of subdivision, to make potential purchasers of Lot A aware that they may be affected by the agricultural activity on Lot 21 Davies Road, Kalgan.</i>

FINANCIAL

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

LEGAL IMPLICATIONS

34. There are no legal implications relating to this item.

ALTERNATE OPTIONS

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

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

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

SUMMARY CONCLUSION

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

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
File Number (Name of Ward)	AMD275 (Kalgan Ward)
Previous References	OCM 14/12/10 – Item 1.2 OCM 17/12/11 – Item 2.4

2.2: ALBANY WATERFRONT PLANNING FRAMEWORK (VERSION 2)

Land Description	: Albany Waterfront
Proponent	: Western Australian Land Authority/Landcorp
Owner	: Crown Land
Business Entity Name	: Landcorp
Attachments	: Letter from Dr Linley Lutton - Urbanix Design : Structure Plan (map only) and identified changes : Various photomontage images
Appendices	: Albany Waterfront Planning Framework Report 2 nd Edition
Councillor Workstation	: Currently approved Waterfront Planning Framework Report
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



CEO:	RESPONSIBLE OFFICER:
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IN BRIEF

- The City has received a revised Structure and Precinct Plan seeking modification to some parts of the adopted plans for the Albany Waterfront.
- Town Planning Scheme No. 1A requires Council approve the draft Structure and Precinct Plan for advertising purposes, prior to considering any submissions and deciding whether to adopt the plan.

RECOMMENDATION

**ITEM 2.2: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council:

- 1) Pursuant to the provisions of the Town Planning Scheme No. 1A **ADOPT** the modified Structure and Precinct Plan titled the ‘Albany Waterfront Planning Framework’ for the purposes of advertising for public comment for a period of 35-days subject to the images contained within the Attachments, and an overshadowing plan being prepared to identify the extent of overshadowing that is likely to result from the sixth storey of the short stay accommodation building, being inserted into the report; and
- 2) **REQUIRE** the proponents (Landcorp) undertake a manned public display in the Albany Public Library and Albany Entertainment Centre during the advertising period to assist public awareness of the proposed modifications to the plans.

BACKGROUND

1. The Albany Waterfront Project (AWP) is intended to deliver and integrate with the CBD, a protected boat harbour and land-backed waterfront development incorporating the entertainment/function centre, hotel/motel and short-stay serviced tourist apartments and commercial/retail/tourism spaces within the Albany foreshore between the Port to the east and the Anzac Peace Park to the west.
2. The City adopted the overall Concept Plan for the AWP in June 2005. This was followed by the adoption of the existing Structure Plan in May 2006 and subsequent Precinct Plan in September 2006. These plans provide the planning framework including land use and development controls and standards for the AWP. The Structure Plan provides the strategic background and long-term vision and objectives for the project whilst the Precinct Plan provides the detail including requirements for the individual precincts, permitted land uses and planning and design guidelines for the buildings to control private sector development within the project, inclusive of the completed Albany Entertainment Centre and marina/boat ramp facilities.
3. There are five Precinct Plans for the overall AWP as follows:

1. Entertainment Precinct	
This precinct covers the western side of the AWP and Toll Place and comprises the AEC, mixed use retail/commercial and public open space.	
Land Uses	Theatre/Entertainment Centre Market

	Shop Restaurant Office
Floor Area (m ² GFA)	3,300 AEC 2,200 retail/commercial
Building Height	AEC variable with fly tower being limited to seven-storeys Retail/commercial two-storeys and roof volume
2. Accommodation Precinct	
This precinct covers the eastern side of Toll Place comprises the hotel/motel and short-stay apartments.	
Land Uses	Hotel Motel Residential Building (short-stay only) Reception Centre Shop Restaurant Office
Floor Area (m ² GFA)	7,500 Hotel 4,600 Short-stay apartments
Building Height	Hotel/Motel five-storeys and roof volume Short-stay four-storeys and roof volume
3. Commercial Precinct	
This precinct covers the east section of the AWF and comprises maritime focussed mixed commercial/retail uses.	
Land Uses	Shop Restaurant Office Museum
Floor Area (m ² GFA)	4,000 Retail/commercial
Building Height	Retail/commercial two-storeys and roof volume
4. Town Jetty Precinct	
This precinct covers the central jetty and comprises maritime and commercial/retail uses.	
Land Uses	Shop Restaurant Office
Floor Area (m ² GFA)	1,800 Retail/commercial (cafe/restaurant)
Building Height	Retail/commercial one-storey and roof volume Concessions offices one-storey
5. Harbour Precinct	
This precinct covers the eastern side of the AWF and comprises maritime based light industrial uses complementing the Albany Port and includes the boat parking and launching facilities.	
Land Uses	Marina Marine Filling Station Marine Services Facility
Floor Area (m ² GFA)	200 Concessions offices 660 Duyfken Workshop

	12,000 Boat/fishing uses 150-pen Marina 60 Fishing platforms
Building Height	one-storey

4. Other minor or incidental uses may be permitted by Council within each precinct.
5. The proponents (Landcorp) have advised that following a lengthy marketing and promotion of the hotel/motel and apartment component of the AWP during 2010, they have recently completed an Expression of Interest process which did not yield a positive outcome. As a result, they now seek to modify the adopted plans to improve the potential take-up of the development and construction of hotel/motel and apartments within the AWP project.

DISCUSSION

6. Council needs to determine whether the modifications sought to the Structure and Precinct Plans reflects the direction it wishes to promote for the AWP.
7. The modifications proposed include:

Structure Plan	
Existing Plan	Proposed Change
Structure Plan included 125 hotel rooms and 50 short-stay apartment units.	Increased to 120 - 145 hotel rooms and 80 - 90 short-stay apartment units
Structure Plan contains provision for 700 car parking bays.	Increase to 792 car parking bays to cater for increase in rooms/units
Structure Plan includes total building area of 23,000m ² .	Increase in total building area to 31,000m ² due to increase in hotel, short-stay apartments and mixed use buildings
Structure Plan identifies a floor area of 7,500m ² of building area for Hotel, 4,600m ² for short stay serviced apartments within Accommodation Precinct and 4,000m ² of Mixed Use commercial and retail in the Commercial Precinct.	Increase in building area to 10,500m ² for Hotel, 6,800m ² for short stay apartments and 6,750m ² for Mixed Use.
Structure Plan identified heights in the Accommodation Precinct for Hotel of five-storeys with potential to use roof volume, Short Stay serviced apartments of four-storeys with potential to use roof volume and within Commercial Precinct two-storeys with potential to use roof volume.	Hotel to be five storeys without reference to roof volume. Short Stay serviced apartments to be increased to six-storeys and mixed use buildings in commercial precinct to be increased to three-storeys.
Structure Plan did not permit short-stay apartment units within Commercial Precinct.	Inclusion of short-stay apartment units within upper floors of mixed use buildings in Commercial Precinct.
Structure Plan required large pitched roofs.	Removed requirement for large pitch roofs to ensure prominence of Albany

Structure Plan	
Existing Plan	Proposed Change
	Entertainment Centre roof form.

Precinct Plan	
Existing Plan	Proposed Change
Section 4.1 Precinct Plan contains provision for 700 car parking bays within AWF.	Increased to 792 car parking bays.
Section 5.3 Precinct Plan states generally that roofs will have substantial overhangs creating strong shadow lines.	Clarifies that roofs specifically on single storey and two storey buildings should have such overhangs.
Section 5.5 Precinct Plan states that low pitch roofs (<5 degrees) are generally not acceptable, however if such a roof is proposed the quality of the 'fifth elevation' should not be compromised.	Accommodates roofs of <5 degrees on taller buildings such as hotel and short-stay apartments, with serious consideration given to the use of green roofs.
Section 5.6 Precinct Plan states that roof pitches should not be steeper than the roof pitch of adjacent railway station building.	Clarifies that roof pitches on lower buildings should not be steeper than the roof pitch of adjacent railway station building.
Section 18.1 Precinct Plan states that development will be subjected to noise from traffic and railway.	Adds that the use of double glazing is recommended.
<p>Accommodation Precinct</p> <p>Building Height: Hotel five-storeys Apartments four storeys</p> <p>Plot Ratio: Max 1.5:1</p> <p>Parking: 130 bays required</p> <p>Setbacks: 2.5m eastern boundary to apartment building wall Nil to all other boundaries</p> <p>Single-storey restriction to south-east corner of apartment building.</p>	<p>Building Height for apartments is increased to six-storeys.</p> <p>Plot Ratio increased to 2.5:1.</p> <p>Parking increased to 222 bays.</p> <p>Setback to six-storey apartment building wall increased to 12m.</p> <p>Single-storey restriction removed from south-east corner of apartment building</p>
<p>Commercial Precinct</p> <p>Building Height: two-storeys</p> <p>Land Use Table did not identify short term apartment units within this precinct.</p>	<p>Building Height increased to three-storeys.</p> <p>Land Use of 'Residential Building (short-stay accommodation only)' included in Land Use Table.</p>

8. The proposal includes additional hotel/motel and short-stay apartments within the AWP. The proponents have increased the building heights of these buildings to create a larger building floor area to enable the additional units to be provided. The street-level car parking area will be covered with a roof garden that services the hotel/motel above. The plans show a view corridor being maintained between the short-stay apartment building and retail/commercial buildings to the harbour.

9. The proposed modifications represent alterations to the building heights and design within the Accommodation and Commercial Precincts from the existing plans. Given the nature of the changes and the public interest in the AWP, staff recommends the proposal be advertised for comment to enable submissions to be received. This should include referral to relevant government agencies and those associated with the AWP.
10. The proponents should be required to conduct additional public display and information sessions during the advertising period to assist public awareness of the proposed modifications to the plans.

GOVERNMENT CONSULTATION

11. The revised plans shall be referred directly to relevant state departments and agencies for comment including Environmental Protection Authority, Main Roads WA, Albany Port Authority, Westnet Rail, Department of Water, Department of Transport, Great Southern Development Commission, Department for Planning and Department of Housing.

PUBLIC CONSULTATION / ENGAGEMENT

12. Clauses 4.42 and 4.50 of Town Planning Scheme No. 1A enable Council to make modifications to the adopted Structure and Precinct Plans.
13. The Scheme requires that to amend the adopted plans, Council must firstly accept the draft plans, then advertise them for public comment and consider any submissions received from the comment period prior to finally considering whether to adopt, or not, the amended Plans.
14. The Scheme requires modifications to the Structure Plan are made available for public comment for a minimum period of 21 days. The Scheme does not set any minimum period for modifications to the Precinct Plan. Given the nature of the proposed modifications, the importance of the project and its prominent position on the Albany Waterfront and likely public interest in the matter (evident from the advertising of the original plans), it is recommended that Council set an extended comment period of 35 days to ensure there is ample awareness of the proposed changes and adequate time for comment to be received.

STATUTORY IMPLICATIONS

15. The subject land is in the Foreshore Development Zone under Town Planning Scheme No. 1A.
16. The Scheme contains the following requirements for land in the Foreshore Development Zone:

STRUCTURE PLAN

4.40 For the purposes of guiding the development of land within the Foreshore Development Zone, the Council has adopted a Structure Plan for the whole of the area contained within the zone.

- 4.41 *The Structure Plan shows the intended general distribution of land uses, open spaces and major reserves within the Foreshore Development Zone, but does not precisely locate or dimension and land use or land parcel, nor does it reserve, or purport to reserve, land for any purpose.*
- 4.42 *The Structure Plan may be elaborated, amended or another plan substituted for it in the same manner as prescribed for modifications to the Central Area Policy Plan in Clause 4.29 of the Scheme Text.*
- 4.43 *The Foreshore Development Zone is divided into Precincts and the location and boundaries of the Precincts are also shown on the Structure Plan.*

PRECINCT PLANS

- 4.44 *No person shall carry out any development within the Foreshore Development Zone unless such development is in accordance with a Precinct Plan which has first been adopted by the Council.*
- 4.45 *A Precinct Plan may be prepared by the Council, or by any other person who may then submit the Precinct Plan to the Council for its approval and adoption.*
- 4.46 *The Council shall neither approve nor adopt a Precinct Plan unless it complies with, or is substantially in accordance with, the Structure Plan.*
- 4.47 *The Council shall neither approve nor adopt a Precinct Plan unless the Precinct Plan shows or otherwise clearly describes the following:*
- (a) *the proposed use of all land within the Precinct, including both public and privately owned land;*
 - (b) *the location and dimensions of any roads, pedestrian and cycle paths, car parking areas, public open spaces and other reserves;*
 - (c) *the number of cars which any car parking areas are designed to accommodate;*
 - (d) *the boundaries and approximate dimensions of any lots to be created through the subdivision of land within the Precinct; and*
 - (e) *the planned disposition of buildings in terms of height and setbacks from lot or reserve boundaries.*
- 4.48 *The Council may also require that a Precinct Plan show or otherwise described the following:*
- (a) *the type and colour of the paving materials which are proposed to be used in the construction of roads, paths and public open spaces;*
 - (b) *indicative designs of any buildings to be constructed;*
 - (c) *the location and form of outdoor furniture or any other artefact proposed to be placed within any public space;*
 - (d) *the location, quantities and species of any plants which are to be used for landscaping the Precinct; and*
 - (e) *any other detail which the Council, at its discretion, considers necessary or desirable for the Precinct Plan to show or describe.*
- 4.49 *The Council shall not adopt a Precinct Plan until after the following procedures have been completed:*
- (a) *The Council, having first approved the Precinct Plan, shall publish a notification once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the Precinct Plan*

may be inspected, and in what form and during what period submissions may be made.

(b) *The Council shall review the Precinct Plan in the light of any submissions received and shall then resolve either to formally adopt the Precinct Plan with or without modification, or not to adopt the Precinct Plan.*

(c) *Following final adoption of a Precinct Plan, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.*

4.50 *A Precinct Plan may be amended or another plan substituted for it in the same manner as provided for the approval and adoption of a Precinct Plan in Clause 4.48 and the provisions of that clause shall apply with the necessary changes to an amendment or substitution.*

4.51 *Where, in the opinion of the Council, an amendment to a Precinct Plan is minor and of little coincidence, the Council may approve the amendment without first carrying out the requirements of Clause 4.49.*

17. The proposed modifications affect components of both the existing Structure Plan and Precinct Plan for the Albany Waterfront project.

18. Statement of Planning Policy 2.6 (State Coastal Planning Policy) also identifies that within 300 metres of the coast buildings should not be higher than eight storeys, but for development between five and eight storeys the following criteria should be addressed:

- (a) There is broad community support for higher buildings following a process of full consultation;
- (b) The proposed development(s) is suitable for the location taking into account the built form, topography and landscape character of the surrounding area;
- (c) The location is part of a major tourist or activity node;
- (d) The amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and
- (e) There is visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.

19. In relation to the above the proposed revisions to the structure plan and precinct plan, involving the increase in height to the short stay accommodation building to 6 stories will:

- (a) Be advertised to the community to ascertain support or otherwise for the sixth storey component associated with the short-stay accommodation building;
- (b) Be located on flat ground and at a level within the broader landscape that is significantly lower than the residential and commercial buildings located to the north;
- (c) Be part of a significant tourist and activity node as identified within Council's adopted Tourist Accommodation Planning Strategy;
- (d) Involve only a marginal increase in overshadowing between a five storey and six storey building with the building being opposite the marina (this can be further demonstrated through an overshadowing plan being included within the report prior to advertising). The future building site is also part of an integrated waterfront development as set out in the Albany Waterfront Planning Framework.
- (e) As per the photomontage images taken from various vantage points there are breaks in the building mass between the AEC and the hotel (via Toll Place) and between the

short stay accommodation building and the commercial precinct to promote visual permeability.

STRATEGIC IMPLICATIONS

20. Albany Insight Corporate Plan 2008-2012

The vision for Albany is:

“By 2025 Albany will be ... Historic Albany – Home to a vibrant, resourceful and culturally diverse community driven by a spirit of generosity and opportunity, nestled around a spectacular natural harbour in a region of unique beauty.”

The major goals/themes from the Plan (to 2025) that relate to this item include:

1. Lifestyle & Environment

Albany will be Western Australia’s regional City of first choice offering a diverse range of healthy and active lifestyle opportunities, with energy efficient housing and development that respects our environment.

2. Economic Development

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

3. City Centre

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

21. The initiatives under each goal/theme that relate to this item (to be implemented over the next 4 years) include:

<i>1. Lifestyle & Environment</i>	
<i>Albany will be a City where ...</i>	<i>1.5 Development ...</i> <ul style="list-style-type: none"> • <i>responds to our unique historical and environmental values;</i> • <i>embraces environmentally responsible approaches to energy and water consumption; and</i> • <i>incorporates healthy lifestyle activities and access to green space.</i>
<i>2. Economic Development</i>	
<i>Albany will be a City where ...</i>	<i>2.2 Investment is complementary to Albany’s sense of place and occurs within an up to date and effective planning framework.</i> <i>2.5 Our unique cultural heritage attractions deliver world class tourism experiences.</i>
<i>3. City Centre</i>	
<i>Albany will be a City where ...</i>	<i>3.1 Family and pedestrian friendly.</i> <i>3.2 A vibrant cultural hub stimulated by attractive inner city residential and tourism accommodation.</i> <i>3.3 A unique and accessible retail experience.</i>

22. The AWP is included within the WA Planning Commission’s Lower Great Southern Strategy and Albany Local Planning Strategy as a strategic project for Albany.

23. The City’s Tourist Accommodation Planning Strategy identifies the site as a ‘*Local Strategic Site*’. The proposed modifications identified in the Albany Waterfront Planning Framework reinforce the intention to construct a significant Hotel and Short Stay Apartments on the site and respond to market expectations and needs.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><i>Modified Structure and Precinct Plans not adopted by Council.</i></p> <p><i>The completed Tourist Accommodation Planning Strategy (adopted by Council in July 2010) identified the AWF as a Local Strategic tourist site for development of a hotel and apartments for tourist accommodation purposes.</i></p> <p><i>An important outcome of the Tourist Strategy was the need to protect these sites for tourism development and ensure that the strategy reflects changing market expectations.</i></p> <p><i>If the current plans do not allow buildings that can meet market expectations/needs, it is unlikely that a tourism development will be constructed on the site.</i></p>	<i>Likely</i>	<i>Significant</i>	<i>High</i>	<i>Mitigation entirely dependent on Council.</i>
<p><i>Lack of community engagement and/or opposition to the proposed modified Structure and Precinct Plans.</i></p>	<i>Possible</i>	<i>Insignificant</i>	<i>Low</i>	<i>Extended advertising period and manned display by proponents undertaken.</i>

FINANCIAL IMPLICATIONS

25. The AWP is being developed by the State Government.

LEGAL IMPLICATIONS

26. There are no specific legal implications related to this item.

ALTERNATE OPTIONS

27. Council has the option of not adopting the proposed modifications which would leave in place the existing adopted Structure and Precinct Plan (from May/September 2006).
28. Council may also require changes to the draft plans prior to advertising or defer the request and seek additional information if deemed necessary.

SUMMARY CONCLUSION

29. It is recommended that Council accept the draft Structure and Precinct Plans for the purpose of advertising for public comment for 35 days and require the proponents to conduct additional public display and information sessions during the advertising period to assist public awareness of the proposed modifications to the plans.

Consulted References	:	Town Planning Scheme No. 1A Albany Waterfront Planning Framework Report (including Structure Plan Report & Precinct Plan Report) Albany Waterfront Memorandum of Agreement (September 2007)
File Number (Name of Ward)	:	ED.PJT.4 (Frederickstown Ward)
Previous Reference	:	OCM 19/09/06 - Item 11.1.2 OCM 20/06/06 - Item 11.1.1 OCM 16/05/06 - Item 11.3.1 OCM 21/03/06 - Item 11.3.2

2.2: ALBANY WATERFRONT PLANNING FRAMEWORK

ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 11:45 AM ON WEDNESDAY 6 JULY 2011

ITEM 2.2: ALTERNATE MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY

That Council:

- 1) Pursuant to the provisions of the Town Planning Scheme No. 1A **ADOPT** the modified Structure and Precinct Plan titled the 'Albany Waterfront Planning Framework' for the purposes of advertising for public comment for a period of 35-days subject to the images contained within the Attachments, and an overshadowing plan being prepared to identify the extent of overshadowing that is likely to result from the 6th storey of the short stay accommodation building, being inserted into the report;
- 2) **REQUIRE** the proponents (Landcorp) undertake a manned public display in the Albany Public Library and Albany Entertainment Centre during the advertising period to assist public awareness of the proposed modifications to the plans; and
- 3) **ACCEPT** the written comments expressed by a majority of respondents as the definitive blueprint for the final precinct plan.

Councillor's Reason:

We were elected to represent the people, not to think for them nor force our opinion on them. As a Council we have a history of ignoring the comments made following public advertising of development projects, which makes a mockery of undertaking the exercise at all.

The usual reason for not considering them seems to be that they do not include the "silent majority" although, like Father Christmas, this is merely a figment of the imagination. No one is in a position to determine the thought processes of those who fail to respond, so decisions can only be made based on the comments of those who do. Failure to act according to the clearly expressed wishes of the people will lead to a loss of confidence in the whole system and we must take them into account in the future.

Officer Report (G Bride)

- A. The Albany Entertainment Centre is not within the control of either the proponent or the City, and so to require a condition upon a proponent that may not be able to be fulfilled, despite the best efforts of the proponent, would be unfair. It is recommended that reference to the Centre be removed from the Motion if it proceeds.

Local Government is a democratic elected representative system, where Councillors represent the views, and make governance decisions on behalf, of their constituents.

To abdicate that responsibility through the automatic acceptance of public submissions is contrary to good governance. The purpose of public submissions should be to assist Council Members in their decision making. However those submissions are only one

DEVELOPMENT AND PLANNING SERVICES REPORTS

element that Council Members should use to fully inform themselves in making their independent decisions.

Until Council has the opportunity to review the submissions from the community through the public advertising process it is premature to consider any resolution based on such submissions. As per the Officer Report for Item 2.2, where development is proposed between six and eight stories within 300 metres of the coast (in this case Princess Royal Harbour) the Western Australian Planning Commission's Statement of Planning Policy 2.6 specifically identifies that such building height should receive '*broad community support*' after a process of '*full consultation*'. The release of the proposal to the community will enable Council to ascertain whether such broad community support for the sixth storey component exists.

2.3: INITIATION OF AMENDMENT – LOT 422 AFFLECK ROAD AND LOT 183 NANARUP ROAD, KALGAN

Land Description	: Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan
Proponent	: Dykstra Planning
Owner/s	: Golden Eight (WA) Pty Ltd and B & W Carman
Business Entity Name	: Golden Eight (WA) Pty Ltd
Director of Owner Company	: Nicola Pagano
Attachment(s)	: Subdivision Guide Plan (map only)
Appendices	: Amendment Document (AMD307)
Councillor Workstation	: Copy of OCM 16/11/10 – Item 1.4 (SAR 147) : Land Capability Study, Environmental Report and Local Water Management Strategy
Responsible Officer(s)	: E/Director Planning and Development Services (G Bride)

Maps and Diagrams:



IN BRIEF

- Determine whether to initiate the proposed Scheme Amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' zone and the 'Special Rural' to the 'Special Residential' zone.

CEO:	RESPONSIBLE OFFICER:
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ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

In pursuance of section 75 of the *Planning and Development Act 2005* resolves **TO INITIATE** Amendment No. 307 to Town Planning Scheme No. 3 without modification for the purposes of:

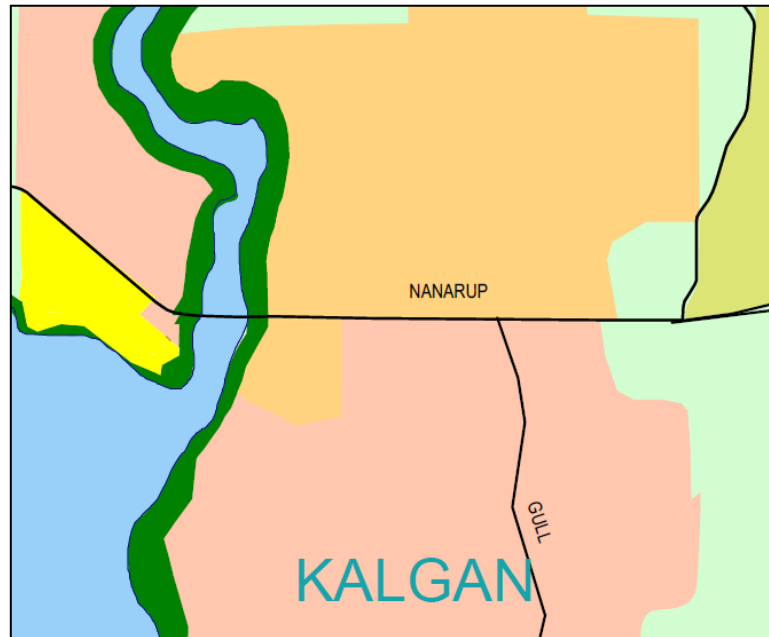
- 1) **Rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Special Rural' zone and the 'Rural' zone to the 'Special Residential' zone.**
- 2) **Amending Schedule IV – Special Residential Zones to include Special Provisions for Special Residential Area No. 21.**
- 3) **Amending the Scheme Maps accordingly.**

BACKGROUND

1. Amendment 307 proposes to amend Town Planning Scheme (TPS) No. 3 by rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Rural' zone and the 'Special Rural' to the 'Special Residential' zone.
2. A Scheme Amendment Request (SAR140) over the subject land was lodged with Council in 2008 requesting that the land be rezoned from 'Rural' to 'Special Rural' with the designation as a Special Control Area be considered. The designation as a Special Control Area related to an overlay plan that was intended to secure future development potential to a full urban standard, to meet the objectives of the draft Albany Local Planning Strategy (ALPS) which had earmarked the subject land as being suitable for future urban purposes.
3. Council considered SAR 140 at its Ordinary Meeting on 16 June 2009 and while there were concerns raised over the likely environmental impacts of the proposed overlay plan, there were also questions raised through the government consultation process as to the most appropriate future use for the subject land. Ultimately Council resolved not to support the formal submission of a Scheme Amendment and to review the designation of the subject land in the draft ALPS.
4. Following further discussion at the Planning and Environment Strategy and Policy Committee on 23 July 2009 and its Ordinary Meeting on 15 September 2009, Council resolved that the subject land should retain its 'Future Urban' designation in the draft ALPS.
5. At its meeting dated 15 June 2010 Council considered the final adoption of the Albany Local Planning Strategy (ALPS). As part of the adoption of the Strategy the City formally resolved the following in relation to the subject land:

"THAT Council for land at Lower Kalgan agrees to MODIFY the 'Future Urban designation to 'Special Residential' on the north side of Nanarup Road and Lots 181, 184 and Pt Lots 183 and 422 on the south side of Nanarup Road (as per attached plan), and "Rural Residential" on the remainder of land on the south side of Nanarup Road and to the west of the Kalgan River."

6. The excerpt from the ALPS (Map 9B) is attached below:



7. A further Scheme Amendment Request (SAR 147) over the subject land was considered at the Ordinary Council Meeting on 16 November 2010 and it was resolved that:

“The proponent be ADVISED that Council is prepared to entertain the submission of a formal scheme amendment to rezone Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the ‘Rural’ and ‘Special Rural’ zones to the ‘Special Rural’ and ‘Special Residential’ zones subject to the following matters being addressed:

- A. A detailed land capability and environmental report being prepared;*
 - B. The capacity of the land to be connected to reticulated water to be resolved;*
 - C. A fire management plan being prepared;*
 - D. The preparation of a Local Water Management Strategy in accordance with State Planning Policy 2.9 – Water Resources, Liveable Neighbourhoods (WAPC, 2007) and the Stormwater Management Manual for Western Australia (DOW 2004-2007); and*
 - E. The boundary of the foreshore reserve being mapped in consultation with Council and the Department of Water.”*
8. The matters outlined above have been addressed in the amending document and the detailed land capability report, which was prepared by Landform Research, with the exception of the boundary of the foreshore reserve being mapped in consultation with Council and the Department of Water. However, this can be addressed prior to finalisation of the Amendment.

DISCUSSION

9. The subject land has an area of 44.64ha, with Lot 422 abutting the foreshore reserve along the eastern bank of Oyster Harbour and the mouth of the Kalgan River. Lot 183 lies to the north, between Lot 422 and Nanarup Road. The land rises gently from the north and west, towards the centre of Lot 422, where it levels out to form a broad ridge continuing to the south-east.
10. Much of the subject land has been cleared of vegetation in the past and is now under pasture. However, there are still substantial stands of remnant native vegetation, with the largest of these extending along the southern boundary of Lot 422, before reaching north in a reverse L-shape, in the eastern half of the lot. Another substantial area of remnant vegetation stands adjacent to the northern boundary of Lot 422 at its mid-point.
11. A dwelling and associated outbuildings stand in a loose cluster between the western boundary and the centre of Lot 422, with access to Nanarup Road via Affleck Road, which reaches the lot at its north-west corner. There is also a 10m wide Right of Way connecting the north-east corner of the lot back to Nanarup Road, whilst the southern boundary abuts the Swan Point Road Reserve. However, the constructed road ends approximately 180m from the lot boundary.
12. A dwelling and large outbuilding stand at the south-western corner of Lot 183 and a dam lies at the south-eastern corner. The northern boundary of Lot 183 fronts Nanarup Road and an access track runs from near the north-western corner of the lot to the house.
13. The land to the west of Lot 183, Lot 183 itself, the land to the east of Lots 183 and 422 and the land to the south of Lot 422 form part of 'Special Rural' Zone No. 6, which is comprised of lots of 2ha and above. Lot 14 Swan Point road, which lies at the south-west corner of Lot 422, is zoned 'Rural'.
14. The area has been identified as being suitable for 'Special Residential' development in the Albany Local Planning Strategy (ALPS) and is consistent with the objectives of Section 8.3.5 of the ALPS.
15. The attached Subdivision Guide Plan identifies:
 - A total of 74 special residential lots (ranging from 2052m² to 1.2 hectares);
 - The provision of 1.0 hectare and larger blocks at the interface of the subject land with the existing Swan Point Special Rural Area (consistent with lot sizes applicable to the Special Rural zone);
 - A widened foreshore reserve area adjacent to the Kalgan River which adds a further 2 hectares to the existing foreshore reserve;
 - The identification of two public recreation reserves that conserve the stands of very good and excellent vegetation identified in the land capability and environmental report;
 - The provision of a clear road hierarchy with a new and well positioned access point identified off Nanarup Road and integration back into the existing special rural area;
 - A subdivision overlay over Lot 181 and 184 to identify that the proposed subdivision guide plan will allow for these landowners to be serviced by a new road on their southern boundaries; and

- Indicative drainage design as recommended in the Local Water Management Strategy.
16. The subdivision guide plan and supporting information addresses the issues identified by Council as part of the Scheme Amendment Request. The foreshore reserve has been widened significantly and will be considered by the Department of Water as part of the advertising process should Council initiate the amendment.
 17. The land capability assessment has confirmed that the subject land is suitable for subdivision to 2000m² lots. It is generally characterised by sandy soils over silt, with a water table depth in excess of 1000mm and is considered to have 'high' land capability for dwellings and effluent disposal. Only proposed Lot 12 is described as having 'low' land capability, although the southern portion of this lot is of 'high' capability, providing an area suitable for effluent disposal.
 18. Given that the proposal is consistent with the objectives of the ALPS and would 'round-off' an established rural residential area, staff would recommend that Council initiate Amendment No. 307 without modification.

GOVERNMENT CONSULTATION

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

PUBLIC CONSULTATION / ENGAGEMENT

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

STATUTORY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

26. Council's decision on the Scheme Amendment should be consistent with the objectives of the ALPS as the principal land use planning strategy for the City.

27. Section 8.3.1 – *Strategic Settlement Direction* sets the following Strategic Objective:

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

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

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

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

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

The ALPS expands on this by stating that: “The strategy’s objectives for Rural Living areas are to:

- *Discourage the creation of additional rural townsites for living purposes.*
- *Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.*
- *Avoid the development of Rural Living areas on future and potential long-term urban areas.*
- *Provide compact growth of selected existing rural townsites in accordance with Table 5, based on land capability and available services and facilities.*
- *Minimise potential for generating land-use conflicts.*

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

Existing Special Rural and Special Residential zones in the City’s current Town Planning Scheme are fragmented and located within or next to rural areas on the periphery of the Albany urban area, along the King and Kalgan Rivers and around Princess Royal and Oyster Harbours. These zones are at different stages of development and not required to be

connected to reticulated sewerage. Some of the outer areas, such as Millbrook and most of Gull Rock, are also not connected to reticulated water”.

29. The proposal is considered to be consistent with Section 8.3.5 of the ALPS, as it:
- discourages the creation of additional rural town sites for living purposes;
 - avoids the development of a Rural Living area on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity;
 - avoids the development of a Rural Living area on future and potential long-term urban areas, as the land has been identified in the ALPS as suitable for Special Residential purposes; and
 - will create lot sizes, particularly on the periphery of the subject land, similar to those adjoining the subject land, which are being used for similar rural residential living purposes, therefore minimising the potential for generating land-use conflicts.

POLICY IMPLICATIONS

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

31. SPP 1 – State Planning Framework

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

SPP1 describes the factors which represent good and responsible decision-making in land use planning:

“Environment

The protection of environmental assets and the wise use and management of resources are essential to encourage more ecologically sustainable land use and development. Planning should contribute to a more sustainable future by:

- promoting the conservation of ecological systems and the biodiversity they support including ecosystems, habitats, species and genetic diversity;*
- State Planning Framework Policy 5*
- assisting in the conservation and management of natural resources, including air quality, energy, waterways and water quality, land, agriculture and minerals, to support both environmental quality and sustainable development over the long term;*
- protecting areas and sites with significant historic, architectural, aesthetic, scientific and cultural values from inappropriate land use and development;*

- v. *adopting a risk-management approach which aims to avoid or minimise environmental degradation and hazards; and*
- vi. *preventing environmental problems which might arise as a result of siting incompatible land uses close together.*

Community

Planning anticipates and responds to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities. Planning should recognise the need for and, as far as practicable, contribute towards more sustainable communities by:

- i. *accommodating future population growth and providing housing choice and diversity to suit the needs of different households, including specialist housing needs, and the services they require;*
- ii. *providing land for a range of accessible community resources, including affordable housing, places of employment, open space, education, health, cultural and community services;*
- iii. *integrating land use and transport planning and promoting patterns of land use which reduce the need for transport, promote the use of public transport and reduce the dependence on private cars;*
- iv. *encouraging safe environments, high standards of urban design and a sense of neighbourhood and community identity;*
- v. *promoting commercial areas as the focus for shopping, employment and community activities at the local, district and regional levels; and*
- vi. *providing effective systems of community consultation at appropriate stages in the planning and development process.*

Economy

Planning should contribute to the economic well-being of the State, regions and local communities by supporting economic development through the provision of land, facilitating decisions and resolving land use conflicts. In particular, planning should provide for economic development by:

- i. *providing suitable zoned and serviced land for industry, business and other employment and wealth generating activities;*
- ii. *protecting agricultural land resources from inappropriate uses;*
- iii. *avoiding land use conflicts by separating sensitive and incompatible uses from industry and other economic activities with off-site impacts;*
- iv. *promoting local employment opportunities in order to reduce the time and cost of travel to work;*
- v. *providing sites for tourism accommodation and facilities taking account of their special location and servicing needs; and*
- vi. *ensuring that plans and policies are clear and certain, decisions are made in accordance with plans and policies, and decisions are made expeditiously.*

Infrastructure

Planning should ensure that physical and community infrastructure by both public and private agencies is coordinated and provided in a way that is efficient, equitable, accessible and timely. This means:

- i. planning for land use and development in a manner that allows for the logical and efficient provision and maintenance of infrastructure, including the setting aside of land for the construction of future transport routes and essential services;*
- ii. protecting key infrastructure, including ports, airports, roads, railways and service corridors, from inappropriate land use and development;*
- iii. facilitating the efficient use of existing urban infrastructure and human services and preventing development in areas which are not well serviced, where services and facilities are difficult to provide economically and which creates unnecessary demands for infrastructure and human services; and*
- iv. encouraging consultation with providers of infrastructure, to ensure they have regard to planning policies and strategic land use planning when making their investment decisions, in order to ensure that land use and development are closely integrated with the provision of infrastructure services.”*

It is considered that the proposal will:

- prevent environmental problems which might arise as a result of siting incompatible land uses close together;
- accommodate future population growth and providing housing choice and diversity to suit the needs of different households, including specialist housing needs, and the services they require; and
- avoid land use conflicts by separating sensitive and incompatible uses from industry and other economic activities with off-site impacts.

32. SPP 3 – Urban Growth and Settlement

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

The key policy objectives in SPP 3 are as follows:

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

employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.

- *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.”*

It is considered that the proposal will achieve the following objectives:

- *“To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities.”*

RISK IDENTIFICATION & MITIGATION

33. There are no identifiable risks associated with this proposal as Council’s decision will be forwarded to the Western Australian Planning Commission, with the Minister for Planning ultimately deciding whether to finally approve the amendment.

FINANCIAL IMPLICATIONS

34. There are no financial implications directly relating to this item. However, should Council support the Scheme Amendment, the City of Albany will be liable for maintaining the road network and public open space once the three year developer maintenance period is complete.

LEGAL IMPLICATIONS

35. Under Part 5 of the *Planning and Development Act 2005*, and specifically section 75, Council can amend its Local Planning Scheme.

ALTERNATE OPTIONS

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

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

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

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

SUMMARY CONCLUSION

39. Staff would recommend that Council initiate Amendment No. 307 without modification, on the basis that rezoning of the land would create a logical extension of an established rural residential area, in keeping with the objectives of Section 8.3.5 of the ALPS.

Consulted References	WA Planning Commission (WAPC) Statements of Planning Policy (SPP's) SPP1 & SPP 3
File Number (Name of Ward)	AMD307 (Kalgan Ward)
Previous References	OCM 16/06/09 – Item 11.2.1 OCM 15/09/09 – Item 15.5.2 OCM 15/06/10 – Item 13.2.8 OCM 16/11/10 – Item 1.4 (SAR 147)

2.4: ADOPTION OF LOCAL PLANNING POLICY – HOLIDAY HOMES

Proponent	: City of Albany
Attachments	: Draft Local Planning Policy – Holiday Homes : Western Australian Planning Commission – Planning Bulletin 99
Appendices	: Submissions Received on this Policy
Responsible Officer	: E/Director Planning & Development Services (G Bride)

IN BRIEF

- Consider the adoption of the draft local planning policy titled 'Holiday Homes' in line with the Western Australian Planning Commission's recommendations, through its Planning Bulletin 99 (Holiday Homes Guidelines).

ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT the Local Planning Policy LPP 2K - Holiday Homes and incorporate the Policy within its consolidated Local Planning Policy Manual.

CEO:

RESPONSIBLE OFFICER:

BACKGROUND

1. At its meeting dated 19 April 2011 Council resolved to lay the Responsible Officer Recommendation 2 on the Table. Responsible Officer Recommendation 2 was:

“THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT policy LPP2(F) Holiday Homes within the Local Planning Policy Manual (April 2011) as per the amendments identified within the attached schedule of submissions.”

2. This Local Planning Policy is now represented to Council for consideration as to whether it should be adopted with modifications, adopted without modifications or not adopted.

DISCUSSION

3. The Policy as advertised is consistent with WAPC Planning Bulletin 99 and is similar to policies recently prepared by other local governments on Holiday Homes.
4. In summary the new policy proposes to introduce:
 - Requirements for proponents to lodge management plans with their application identifying a code of conduct for guests, the management of disruptive noise and/or behaviour, the day to day management of the premises inclusive of key availability, cleaning and waste management and how complaints from adjacent neighbours will be handled (inclusive of maximum response times).
 - An initial 12 month approval period to review the operation of the holiday home, prior to consideration of a 5 year renewal.
 - The maximum number of guests being restricted to six persons.
 - Preferred areas for holiday homes which are close to the City Centre or areas of high amenity (within close proximity to popular swimming beaches / national parks etc).
 - Minimum parking requirements and driveway standards.
 - Advertising requirements.
 - Application requirements and standard conditions of approval.
5. Two submissions were received suggesting minor amendments to the Policy. The main issue raised is that whilst the Policy includes a statement that holiday homes should not become the predominant use in residential areas, this is not further quantified or measured. A similar policy provision has consistently been applied by other local governments in relation to holiday homes, and the imposition of an arbitrary target or ratio is not considered helpful in quantifying this statement. This provision is considered acceptable in its current form; the term ‘predominant’ implies that holiday homes should not outnumber permanent residences as a guide in the decision making process. Staff will seek to maintain a register and will be able to track the density of such accommodation within certain suburbs and streets.

6. Some additional comments relating to landlord accessibility in handling complaints and the advertising of proposals seeking planning consent renewal after the 12 month approval period has expired have been supported.

GOVERNMENT CONSULTATION

7. No submissions from government agencies were received.

PUBLIC CONSULTATION / ENGAGEMENT

8. As stated above two submissions were received in relation to this Policy. A copy of these submissions is found within the Appendices Booklet.

STATUTORY IMPLICATIONS

9. Clauses 6.9 of the City of Albany Town Planning Scheme No. 3 and 7.21 of Town Planning Scheme No. 1A set out the processes to adopt local planning policies.

STRATEGIC IMPLICATIONS

10. Within the Albany Local Planning Strategy, under Section 5.4, the proposal is considered to be consistent with the following principle:

“Albany will remain the premier tourism destination on the South Coast and will provide a complete tourism experience.”

POLICY IMPLICATIONS

11. Should the draft policy be adopted by Council it will be incorporated into Council’s recently adopted Local Planning Policy Manual.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Local Planning Policy is not adopted and the new safeguards to protect neighbour amenity are not introduced.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation entirely dependent on Council.</i>

FINANCIAL IMPLICATIONS

12. The Local Planning Policy has been prepared internally by staff within existing budget lines.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

13. Council has the option of not adopting the draft local planning policy which would mean Council would not have a planning policy in place in response to holiday home applications. Planning Bulletin 99 was prepared by the Western Australian Planning Commission to guide consistency amongst local governments when dealing with such applications; this model policy has been adopted by many local governments to address growing concerns from residents in sought after tourist destinations (such as Albany) about the impacts on neighbourhood character and amenity associated with such proposals.

SUMMARY CONCLUSION

14. It is important that Council adopts the Local Planning Policy 2K Holiday Homes to provide assurances to affected residents and guidance to proponents wishing to utilise their residences for short stay accommodation.

Consulted References	Town Planning Scheme No. 1A and 3
File Number (Name of Ward)	STR 047 (All Wards)
Previous Reference	OCM 16/03/10 – Item 13.5.1 OCM 14/12/10 – Item 1.6 OCM 19/04/11 – Item 1.1

2.4: ADOPTION OF LOCAL PLANNING POLICY – HOLIDAY HOMES

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 10:00AM ON WEDNESDAY 6 JULY 2011

**ITEM 2.4: ALTERNATE MOTION BY COUNCILLOR BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT the Local Planning Policy LPP 2K - Holiday Homes and incorporate the Policy within its consolidated Local Planning Policy Manual, subject to the following modifications:

K2.1(6) being modified to the following:

Holiday Homes shall be limited to ‘detached’ single residential dwellings on freehold lots.

Councillor Reason:

To clarify and ensure that the “holiday homes” regime is confined to detached houses, because to allow a mix of residential and holiday apartments in the same building is to deliver a recipe for conflict of use and a disincentive to bona fide tourism development.

Officer Report (G Bride)

The additional word ‘detached’ has no effect, except reinforcing this specific policy statement.

2.4: ADOPTION OF LOCAL PLANNING POLICY – HOLIDAY HOMES

ALTERNATE MOTION BY COUNCILLOR SUTTON

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 8:00PM ON TUESDAY 5 JULY 2011

ITEM 2.4: ALTERNATE MOTION BY COUNCILLOR SUTTON VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT the Local Planning Policy LPP 2K - Holiday Homes and incorporate the Policy within its consolidated Local Planning Policy Manual, subject to the following modifications:

1. K2.1(2), K2.4(4) and K2.8(1) being deleted so that the requirement for approvals to be limited to an initial 12 month period and for renewals after five years is not required.
2. K2.8(4) being changed to state the following:
“The maximum stay for any one person is restricted to three months within any 12 month period”.

Councillor Reason:

The 12 month restriction and five year renewal period will involve considerable staff resources to monitor and review and provide uncertainty and an unnecessary burden for holiday accommodation operators.

It is also important to clarify that whilst a company may book out a holiday home for a period longer than three months, the three month time period would apply to each individual person who stays in the premises.

Officer Report (G Bride)

It is accepted that the 12 month initial approval period and five year renewal would have an impact on staff resources, however this is likely to be minimal. Like most other planning approvals with this restriction being removed as proposed by the alternate motion, the proponent would receive planning consent in perpetuity, although there will be conditions of approval that the proponent would need to comply with whilst operating the use.

The reason for the 12 month initial approval period was to monitor the management of the holiday accommodation prior to considering approval for a further five year period, to ensure the proponent abides by the commitments at time of application.

It is accepted that the change of wording from ‘tenant’ to ‘person’ provides greater clarity in relation to the three month time period restriction within the policy.

**2.5: ADOPTION OF LOCAL PLANNING POLICY – FRENCHMAN BAY
TOURIST DEVELOPMENT SITE**

Proponent	: City of Albany
Attachments	: Draft Local Planning Policy – Frenchman Bay Tourist Development Site
Appendices	: Letter from Frenchman Bay Association
Councillor Workstation	: N/A
Responsible Officer	: E/Director Planning & Development Services (G Bride)

IN BRIEF

- Consider the adoption of the draft local planning policy titled ‘Frenchman Bay Tourist Development Site’.

ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT the Local Planning Policy LPP 7P – Frenchman Bay Tourist Development Site and incorporate the Policy within its consolidated Local Planning Policy Manual, subject to the following modifications:

1. Paragraph 2 of P1.3 (Setbacks) being modified to state:

All development on the Land is to be set back a minimum of 75 metres from the high water mark (as per Appendix A attached). A greater setback may be required if recommended by any relevant public authority or in an applicable policy.

CEO:	RESPONSIBLE OFFICER:
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BACKGROUND

1. At its meeting dated 19 April 2011 Council resolved to delete Local Planning Policy 7N 'Frenchman Bay Tourist Development Site' from the list of policies to be adopted for final approval.

"THAT Responsible Officer Recommendation 2 Lay on the Table, and Point 7N of Responsible Officer Recommendation 1 be DELETED."

2. This Local Planning Policy is now presented to Council for reconsideration as to whether it should be adopted with modifications, adopted without modifications or not adopted.
3. Since the April 2011 Council Meeting a letter has been received from the Frenchman Bay Association providing comments on the Policy (refer Appendices Booklet). Although this submission was not received within the public submission period, when the original consolidated Local Planning Policy Manual was advertised, the contents of the letter have been considered.

DISCUSSION

4. The policy proposes to introduce the following development controls to the site:
 - Building Heights (ranging from 1 to 3 stories);
 - Bulk and Scale;
 - Development Setbacks (including setbacks from the springs and coast);
 - Land uses (reinforcement of the site for holiday accommodation uses);
 - Materials and Colours; and
 - Application requirements relating to the visual representation of the development.
5. Since the policy was last presented to Council, Staff have reviewed the content of the Policy taking into account the approved development for the site (as issued by Council in October 2009) and the final adoption of Amendment No. 295 to Town Planning Scheme No. 3 (November 2010).
6. Amendment No. 295 introduced specific development controls over the site relating to coastal setbacks, building heights over the eastern portion of the site and setbacks from Vancouver Spring.
7. Staff have made several minor modifications (as identified in red in the attached policy document) to reflect the scheme provisions within Amendment No. 295 and the approved development application over the site. The main changes to the policy to that presented to Council in April include:

- The delineation of the 75m coastal setback from the high water mark;
 - The delineation of the Vancouver Spring catchment area;
 - The reduction in the building footprint (not lot area) that can be considered for 3 storey development from 50% to 25%;
 - The imposition of specific building heights over the eastern portion of the site, which is the most visually exposed; and
 - The attachment of the constraints plan that was included in Amendment No. 295.
8. There has been a change in the Western Australian Planning Commission's position on sea level rise since the 75m setback for coastal processes was determined for the subject land, which was supported by Council and the Department of Planning (Coastal Branch). For this reason there may be the need for a larger coastal setback which will need to be determined at the time of development. The wording identified in the amended officer recommendation acknowledges this scenario and is consistent with the wording that was supported by Council as part of the final adoption of Amendment No. 295, at its November 2010 Ordinary Council Meeting.

GOVERNMENT CONSULTATION

9. No submissions from government agencies were received.

PUBLIC CONSULTATION / ENGAGEMENT

10. No submissions were received during the advertising period on this specific policy as part of the advertising of the Local Planning Policy Manual; however a letter has since been received by the Frenchman Bay Association.

STATUTORY IMPLICATIONS

11. Clauses 6.9 of the City of Albany Town Planning Scheme No. 3 and 7.21 of Town Planning Scheme No. 1A set out the processes to adopt local planning policies.

STRATEGIC IMPLICATIONS

12. Within the Albany Local Planning Strategy, under Section 5.4, the proposal is considered to be consistent with the following principle:

“Albany will remain the premier tourism destination on the South Coast and will provide a complete tourism experience.”

13. Council's Tourist Accommodation Planning Strategy identifies the subject site as a 'Local Strategic Site', which is the highest rating in Council's strategy. The Strategy identifies that the site should be retained for tourist uses only.

POLICY IMPLICATIONS

14. Should the draft policy be adopted by Council it will be incorporated into Council's recently adopted Local Planning Policy Manual.

15. The policy should be read in conjunction with Policy 2F – Significant Tourist Accommodation Sites.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Local Planning Policy is not adopted and there is no specific policy direction for development on this site.</i>	<i>Possible</i>	<i>Low</i>	<i>Minor</i>	<i>Mitigation entirely dependent on Council.</i>

FINANCIAL IMPLICATIONS

16. The Local Planning Policy has been prepared internally by staff within existing budget lines.

LEGAL IMPLICATIONS

17. There are no legal implications related to this item.

ALTERNATE OPTIONS

18. Council has the option of not adopting the draft local planning policy.

SUMMARY CONCLUSION

19. It is important that Council adopts the Local Planning Policy 7P ‘Frenchman Bay Tourist Development Site’ to provide direction on the future development of the site.

Land Description	N/A
Owner	N/A
Business Entity Name	N/A
Consulted References	Town Planning Scheme No. 1A and 3
File Number (Name of Ward)	STR 047 (All Wards)
Previous Reference	OCM 16/03/10 – Item 13.5.1 OCM 14/12/10 – Item 1.6 OCM 19/04/11 – Item 1.1

2.5: ADOPTION OF LOCAL PLANNING POLICY – FRENCHMAN BAY TOURIST DEVELOPMENT SITE

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME RECEIVED: 8:00AM ON WEDNESDAY 6 JULY 2011

ITEM 2.5: ALTERNATE MOTION BY COUNCILLOR J BOSTOCK VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council pursuant to Clause 7.21 of Town Planning Scheme No. 1A and Clause 6.9 of Town Planning Scheme No. 3, resolves to ADOPT the Local Planning Policy LPP 7P – Frenchman Bay Tourist Development Site and incorporate the Policy within its consolidated Local Planning Policy Manual, subject to the following modifications:

- 1. P1.2 (Building Heights) being modified so that all reference to 3 storey components being able to be considered are deleted.**
- 2. Paragraph 2 of P1.3 (Setbacks) being modified to state:**

All development on the Land is to be set back a minimum of 75 metres from the high water mark (as per Appendix A attached). A greater setback may be required if recommended by any relevant public authority or in an applicable policy.

- 3. Introduce new P1.9 (Effluent Disposal) stating the following:**

Where reticulated sewerage is not to be provided, the number of bedrooms/units that can be accommodated on the site will need to be determined by a suitably qualified environmental professional to the satisfaction of Council, the Department of Health and the Department of Water.

Councillor Reason:

1. Council has previously considered a three storey development proposal and found it unacceptable from the point of view of the impact of visual amenity.
2. SPP 2.6 is currently being revised as the State's major Coastal Planning Policy, any changes will impact on all new coastal developments.
3. It is important that this policy includes reference to sewerage capability as it is likely to be the most important factor in terms of development restriction on the site.

Officer Report (G Bride)

The proposed policy as originally prepared by an independent consultant on behalf of Council recommended that no more than 50% of the building footprint could be considered for three storey development only where certain criteria has been achieved (refer P1.2(1) to (4)). Staff have proposed a reduction to 25% of the building footprint that could be considered for three storeys subject to the same criteria being applied.

ORDINARY COUNCIL MEETING AGENDA – 19/07/2011
REFER DISCLAIMER
PLANNING AND DEVELOPMENT SERVICES REPORTS

Council can certainly remove any reference to a three storey component entirely, which is unlikely to affect the redevelopment of the site given the size of the subject land and the fact that the previous development approval entailed no more than two storeys.

Point 2 is consistent with the amended Responsible Officer recommendation.

Point 3 would be a standard application requirement.

2.6: CITY OF ALBANY LOCAL GOVERNMENT PROPERTY LOCAL LAW 2011

Land Description : Whole of Municipality
Proponent : City of Albany
Attachment : Draft City of Albany Local Government Property Local Law 2011
Responsible Officer : E/Director Planning & Development Services (G Bride)

IN BRIEF

- Council is requested to resolve to adopt the *City of Albany Local Government Property Local Law 2011* that is not significantly different from what was proposed.

**ITEM 2.6: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council in accordance with Section 3.12 of the *Local Government Act 1995 (as amended)*, agrees—

- 1. To adopt the *City of Albany Local Government Property Local Law 2011* (as detailed in the appendices) that is not significantly different from what was proposed;**
- 2. Advertise the *City of Albany Local Government Property Local Law 2011* in the *Government Gazette*;**
- 3. Provide a copy of the *City of Albany Local Government Property Local Law 2011* to all relevant Ministers;**
- 4. Give local public notice stating the :**
 - (a) title of the local law;**
 - (b) summarising the purpose and effect of the local law;**
 - (c) specifying the dates the local law; and**
 - (d) advising where copies of the local law may be inspected or obtained.**

CEO:

RESPONSIBLE OFFICER:

1. Council at its Ordinary Meeting of 15 February 2011 commenced the process to make the *City of Albany Local Government Property Local Law 2011*.
2. As required by s3.12(3) of the *Local Government Act 1995*, state-wide public notice was given for a period commencing 26 March 2011 and concluding on 13 May 2011 stating that:
 - (a) the City was proposing to make the *Local Government Property Local Law 2011* and a summary of its purpose and effect;
 - (b) a copy of the proposed local law could be inspected or obtained at the City's offices; and
 - (c) written submissions about the proposed local law may be made to the City until 13 May 2011.
3. A local public notice was also published in the Great Southern Weekender newspaper.

DISCUSSION

4. At the close of the advertising period for community submissions no comment on the proposed *City of Albany Local Government Property Local Law 2011* had been received.
5. A submission from the Department of Local Government provided the following feedback, which has been incorporated into the proposed local law:
 - minor formatting changes to reflect current drafting standards; and
 - recommendations to include the following in the local law:

Clause 1.5	Inclusion of definitions for: <ul style="list-style-type: none"> • Costs; • Local public notice; and • Nuisance
Clause 2.7(e)	The clause has been expanded to include other modernised toys and propulsion methods.
Clause 4.1	Clause has been amended and subclause (c) has been added.
Clause 4.3	Inclusion of a definition for an "animal"..
Item 18 – Schedule 1	Re-wording of prescribed offence

6. Council can now proceed to adopt the *City of Albany Local Government Property Local Law 2011* as it is considered not significantly different from what was proposed.
7. Section 3.12 of the Act requires the person presiding at a Council meeting to give notice to the meeting of the purpose and effect of the proposed amendment local law.

Purpose

8. The purpose of the local law is to regulate the care, control and management of all property of the local government except thoroughfares.

Effect

9. The effect of the local law is to establish the requirements with which any person using or being on local government property within the district must comply with.

GOVERNMENT CONSULTATION

10. As required by section 3.12(3)(b) of the *Local Government Act 1995*, a copy of the proposed local law was provided to the Minister for Local Government and a submission was received from the Department of Local Government.

PUBLIC CONSULTATION / ENGAGEMENT

11. A local and state-wide public notice was published in the Great Southern Weekender and the West Australian newspapers respectively inviting submissions from the community on the proposed *Local Government Property Local Law 2011* by 13 May 2011.
12. At the close of the advertising period for community submissions no comment on the proposed *Local Government Property Local Law 2011* had been received.

STATUTORY IMPLICATIONS

13. Section 3.12 of the Local Government Act states—

“3.12 Procedure for Making Local Laws

- (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 give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (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 law* that is not significantly different from what was proposed.
(* Absolute 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 local 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*

STRATEGIC IMPLICATIONS

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

Community Vision:
Nil.

Priority Goals and Objectives

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

Objective 4.3 The City of Albany will deliver excellent community services that meet the needs and interests of our diverse communities.

City of Albany Mission Statement

At the City of Albany we respect community needs and foster community involvement in decision making.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

Risk	(L)	(C)	Risk Rating	Mitigation
<i>If the proposed local law is not adopted the current Local Government Property Local Law 2001 will continue albeit sections are out-of-date.</i>	Possible	Minor	Medium	<i>Adoption of the Local Government Property Local Law 2011 by Council.</i>

FINANCIAL IMPLICATIONS

15. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the local law. This cost would be approximately \$1000 in addition to staff time finalising the adoption of the proposed local law.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

16. Council has two options in relation to the adoption of the *Local Government Property Local Law 2011*:
1. Option One: **AGREE** to adopt the *Local Government Property Local Law 2011*;
 2. Option Two: **REFUSE** to adopt the *Local Government Property Local Law 2011*.
18. Section 3.16 of the *Local Government Act 1995* requires that all of the local laws of a local government must be reviewed within an eight year period after their commencement to determine if they should remain unchanged or be repealed or amended.

SUMMARY CONCLUSION

19. It is recommended that Council resolve to adopt the *City of Albany Local Government Property Local Law 2011*.

Consulted References	<i>City of Albany Local Government Property Local Law 2001</i>
File Number (Name of Ward)	All Wards
Previous Reference	OCM 15/02/2011 – Item 1.9

4.1: LIST OF ACCOUNTS FOR PAYMENT

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

ITEM 4.1: RESPONSIBLE OFFICER RECOMMENDATION

The list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 21st June 2011 totalling \$3,099,895.51 be RECEIVED.

BACKGROUND

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

DISCUSSION

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

Municipal Fund

Trust	Totalling	\$20,977.60
Cheques	Totalling	\$88,977.46
Electronic Fund Transfer	Totalling	\$2,145,801.85
Credit Cards	Totalling	\$7,204.10
Payroll	Totalling	\$836,934.50
	TOTAL	<u>\$3,099,895.51</u>

- As at 21st June 2011, the total outstanding creditors, stands at **\$680,747.95** and made up follows:

Current	\$ 474,104.65
30 Days	\$198,243.48
60 Days	\$2121.34
90 Days	\$6278.48
TOTAL	\$680,747.95

CEO:

RESPONSIBLE OFFICER:

4. Cancelled cheques – 27358, 27209, 27401 & 27409 - Cheque 27358 cancelled due to incorrect spelling of surname – replaced with cheque 27370, 27209 no longer required, 27401 incorrect amount replaced with cheque number 27405 and 27409 cancelled and paid for by EFT.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

POLICY IMPLICATIONS

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

SUMMARY CONCLUSION

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

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.2: FINANCIAL ACTIVITY STATEMENT – 31 MAY 2011

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

IN BRIEF

- Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 May 2011.
- The June Financial Activity Statement will not be available for this Ordinary Council Meeting as it will take several months to finalise the financial year end (including audit). The 30 June 2011 financial information will be made available to Council in the audited Annual Accounts.
- The financial information for 31 May 2011 was omitted from the June OCM in error. It is included in this item.

ITEM 4.2: RESPONSIBLE OFFICER RECOMMENDATION

The Financial Activity Statement for the period ending 31 May 2011 be RECEIVED.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 May 2011 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Performance, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

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

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

CEO:

RESPONSIBLE OFFICER:

6. STATEMENT OF FINANCIAL ACTIVITY – AS AT 31 MAY 2011

	Actual Year to Date 31-May-11	Current Budget Year to Date 31-May-11	Current Budget vs Actual Variance	
REVENUE				
Operating Grants, Subsidies and Cont	2,918,827	3,218,350	-299,523	X
Fees and Charges	6,783,312	6,677,722	105,590	X
Service Charges	3,740,226	3,727,907	12,319	√
Interest Earnings	929,195	663,889	265,306	√
Other Revenue	1,649,443	572,975	1,076,468	√
	16,021,003	14,860,843	1,160,160	
EXPENDITURE				
Employee Costs	13,351,828	14,255,077	-903,249	√
Materials and Contracts	9,374,594	11,447,364	-2,072,770	√
Utility Charges	1,264,674	1,304,513	-39,839	√
Interest Expenses	635,883	579,260	56,623	X
Insurance Expenses	543,200	526,393	16,807	X
Other Expenditure	790,830	-167,654	958,484	X
Depreciation	10,289,652	11,305,237	-1,015,585	√
	36,250,661	39,250,190	-2,999,529	
Adjustment for Non-cash Revenue and Expenditure:				
Depreciation	-10,289,652	-11,305,237	1,015,585	
CAPITAL REVENUE				
Non-Operating Grants, Subsidies and Cont	8,400,487	8,618,767	-218,280	X
Proceeds from asset disposals	918,088	534,306	383,782	X
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	14,282	29,050	-14,768	
Transfers from Reserves (Restricted Assets)	5,690,072	5,780,786	-90,714	√
	15,022,929	14,962,909	60,020	
CAPITAL EXPENDITURE				
Capital Expenditure	15,565,112	18,713,843	-3,148,731	√
Repayment of Loans	641,269	641,269	0	√
Transfers to Reserves (Restricted Assets)	3,833,365	3,549,128	284,237	√
	20,039,746	22,904,240	-2,864,494	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	1,578,986	1,578,986	n/a	
LESS Net Current Assets Year to Date	10,734,042	4,714,643	n/a	
Amount Raised from Rates	-24,111,881	-24,161,098	49,217	

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

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

7. CITY OF ALBANY – NET CURRENT ASSETS – AS AT 31 MAY 2011

	Actual 31-May-11	Actual 30-Jun-10
NET CURRENT ASSETS		
Composition of Net Current Asset Position		
CURRENT ASSETS		
Cash - Unrestricted	8,756,235	2,445,735
Cash - Restricted	6,064,870	8,268,976
Receivables	2,372,047	3,428,043
Inventories	4,334,083	4,607,191
Total Current Assets	21,527,235	18,749,944
LESS: CURRENT LIABILITIES		
Payables and Provisions	4,728,322	8,901,982
	16,798,913	9,847,962
Less: Cash - Restricted - Trust	(1,141,289)	(1,488,688)
Less: Cash - Restricted - Reserves	(4,923,581)	(6,780,288)
NET CURRENT ASSET POSITION	10,734,043	1,578,986
NET CURRENT ASSETS PER BALANCE SHEET	13,803,646	5,898,549
Difference	3,069,603	4,319,563
Difference Represented by:		
Restricted Cash (Trust)	1,141,289	1,488,688
Reserve Funds - Financial Assets	1,054,480	1,054,480
Reserve Funds - Other	3,869,101	5,725,809
Self Supporting Loans (part of Receivables and Other)	(14,282)	
	6,050,588	8,268,976
Less:		
Borrowings	1,890,837	2,532,106
Trust Liabilities	1,090,148	1,417,307
Difference	3,069,603	4,319,563

8. CITY OF ALBANY - BALANCE SHEET – AS AT 31 MAY 2011

	Actual 31-May-11	Budget 30-Jun-11	Actual 30-Jun-10	Actual 30-Jun-09
CURRENT ASSETS				
Cash - Municipal	8,756,236	1,800,755	2,445,735	477,330
Restricted cash (Trust)	1,141,289	1,483,498	1,488,688	1,987,438
Reserve Funds - Financial Assets	1,054,480	800,755	1,054,480	1,170,755
Reserve Funds - Other	3,869,101	7,197,963	5,725,809	7,360,046
Receivables & Other	2,357,765	1,600,000	3,428,043	2,912,825
Investment Land	3,523,483	0	3,523,483	0
Stock on hand	810,600	800,000	1,083,708	1,033,538
	21,512,954	13,682,971	18,749,944	14,941,932
CURRENT LIABILITIES				
Borrowings	1,890,837	5,638,175	2,532,106	5,887,897
Creditors prov - Annual leave & LSL	2,399,768	2,286,053	2,245,816	2,023,128
Trust Liabilities	1,090,148	1,546,383	1,417,307	1,930,516
Creditors prov & accruals	2,328,555	3,101,240	6,656,166	4,190,792
	7,709,308	12,571,851	12,851,395	14,032,333
NET CURRENT ASSETS	13,803,646	1,111,120	5,898,549	909,599
NON CURRENT ASSETS				
Receivables	77,272	150,000	77,272	106,322
Pensioners Deferred Rates	320,922	280,000	320,922	292,616
Investment Land	2,220,758	2,150,000	2,220,758	2,150,000
Property, Plant & Equip	79,809,083	72,666,174	68,034,400	67,901,036
Infrastructure Assets	181,606,707	196,047,672	188,881,619	186,048,239
Local Govt House Shares	19,501	19,501	19,501	19,501
	264,054,243	271,313,347	259,554,473	256,517,714
NON CURRENT LIABILITIES				
Borrowings	18,264,569	12,626,394	18,264,569	15,996,675
Creditors & Provisions	364,846	260,000	364,845	259,838
	18,629,415	12,886,394	18,629,414	16,256,513
NET ASSETS	259,228,474	259,538,073	246,823,608	241,170,800
EQUITY				
Accumulated Surplus	235,530,259	232,764,720	221,268,686	212,131,561
Reserves	4,923,582	7,998,719	6,780,289	10,264,605
Asset revaluation Reserve	18,774,633	18,774,634	18,774,634	18,774,634
	259,228,474	259,538,073	246,823,608	241,170,800

9. INCOME STATEMENT FOR PERIOD ENDED – AS AT 31 MAY 2011

Nature / Type	YTD Actual 2010/11	Budget-Total 2010/11	Actual 2009/10
INCOME			
Rates	24,111,881	25,574,053	21,575,584
Grants & Subsidies	2,573,247	3,196,680	3,424,202
Contributions. Reimb & Donations	345,580	349,738	395,475
Fees & Charges	6,783,312	7,280,601	7,091,836
Service Charges	3,740,226	3,735,000	3,011,136
Interest Earned	929,195	680,000	904,653
Other Revenue / Income	1,649,443	520,615	399,264
	40,132,884	41,336,687	36,802,149
EXPENDITURE			
Employee Costs	13,351,828	15,240,526	14,308,136
Utilities	1,264,674	1,362,613	1,335,373
Interest Expenses	635,883	1,101,799	1,180,372
Depreciation on non current assets	10,289,652	12,334,000	11,226,465
Contracts & materials	9,374,594	13,274,398	10,516,730
Insurance expenses	543,200	511,098	476,810
Other Expenses	811,070	(273,177)	1,251,142
	36,270,901	43,551,257	40,295,028
Change in net assets from operations	3,861,983	(2,214,570)	(3,492,878)
Grants and Subsidies - non-operating	7,718,177	9,156,877	5,876,907
Contributions Reimbursements and Donations - non-operating	682,310	2,689,416	3,408,787
Profit/Loss on Asset Disposals	142,397	1,541,004	(23,732)
Fair value - Investments adjustment	0	0	(116,275)
Cash Backing of Reserves	0	0	1,651,060
	12,404,867	11,172,727	7,303,869

10. PORTFOLIO VALUATION – MARKET VALUE – AS AT 31 MAY 2011

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Mar-11	Market Value Apr-11	Market Value May-11	Latest Monthly Variation
MUNICIPAL ACCOUNT							
CBA	16/02/2011	1,000,000	5.61%				
NAB	4/03/2011	1,500,000	6.07%				
NAB	16/03/2011	1,000,000	6.07%				
CBA	18/03/2011	1,000,000	5.70%				
Bendigo	28/03/2011	1,000,000	6.05%				
CBA	28/03/2011	1,000,000	5.82%				
CBA	29/03/2011	1,000,000	5.82%				
Bankwest	7/04/2011	1,500,000	6.00%	1,500,000			
Bendigo	7/04/2011	1,000,000	6.00%	1,000,000			
CBA	18/04/2011	1,000,000	5.71%	1,000,000			
ANZ	20/04/2011	1,000,000	6.20%	1,000,000			
CBA	26/04/2011	1,000,000	5.70%	1,000,000			
Bankwest	7/05/2011	1,500,000	5.50%		1,500,000		
NAB	11/05/2011	1,000,000	6.21%	1,000,000	1,000,000		
CBA	18/05/2011	1,000,000	5.68%		1,000,000		
CBA	27/05/2011	1,000,000	5.70%		1,000,000		
Bankwest	7/06/2011	1,500,000	5.50%			1,500,000	
CBA	17/06/2011	1,000,000	5.70%			1,000,000	
CBA	27/06/2011	1,000,000	5.73%			1,000,000	
NAB	20/08/2011	1,000,000	6.07%	1,500,000	1,500,000	1,500,000	
				8,000,000	6,000,000	5,000,000	n/a

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Mar-11	Market Value Apr-11	Market Value May-11	Latest Monthly Variation
RESERVES ACCOUNT							
Bankwest	24/06/2010	1,500,000	5.25%				
Bendigo	23/11/2010	1,500,000	5.85%				
Bendigo	16/12/2010	1,000,000	5.70%				
ANZ	12/05/2011	500,000	6.20%	500,000	500,000		
Bendigo	24/05/2011	1,500,000	6.30%	1,500,000	1,500,000		
ANZ	16/03/2011	1,000,000	6.10%	1,000,000	1,000,000		
ANZ	11/06/2011	500,000	5.21%			500,000	
Bendigo	23/06/2011	1,500,000	5.50%			1,500,000	
ANZ	16/06/2011	1,000,000	6.05%			1,000,000	
				3,000,000	3,000,000	3,000,000	n/a
COMMERCIAL SECURITIES - CDOs (New York Mellon)¹							
Saphire (Endeavour) AAA	4/08/2011	413,160	9.10%	4	4	4	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA) ²	20/09/2014	1,002,060	9.12%	307,100	10	10	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
		2,118,046		622,234	315,144	315,144	0

Security	Maturity Date	Security Cost (Incl accrued interest)	Current Interest %	Market Value Mar-11	Market Value Apr-11	Market Value May-11	Latest Monthly Variation
COMMERCIAL SECURITIES - CDOs - Other							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	144,500	144,500	144,500	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	0	0	0	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,750	68,750	68,750	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	123,000	123,000	123,000	0
		1,324,656		336,250	336,250	336,250	0
PORTFOLIO TOTAL		3,442,702		11,958,484	9,651,394	8,651,394	0

Notes

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

At the time of compiling this report, the City had not received current valuations, despite requests.

2. The City has been advised that there has been a change in the pricing process for securities in early termination.

These securities no longer have a price source and therefore cannot be priced using last known prices.

The City has asked for further explanation of the change in pricing process but is yet to receive this information.

11. FINANCIAL RATIOS - AS AT 31 MAY 2011

CITY OF ALBANY FINANCIAL RATIOS	30-Jun-09	30-Jun-10	31-May-11	Benchmark
Liquidity Ratios				
Current Ratio ¹	73.7%	117.2%	233.4%	>100%
Untied Cash to trade creditors Ratio ²	19.7%	51.2%	552.0%	>100%
Financial Position Ratio				
Debt Ratio ³	11.2%	11.3%	9.2%	<100%
Debt Ratios				
Debt Service Ratio ⁴	11.1%	6.2%	6.3%	<10%
Gross Debt to Revenue Ratio ⁵	63.2%	56.9%	50.2%	<60%
Gross Debt to Economically Realisable Assets ⁶	26.2%	23.7%	19.4%	<30%
Coverage Ratio				
Rate Coverage Ratio ⁷	58.5%	110.4%	60.3%	>33%
Effectiveness Ratio				
Outstanding Rates Ratio ⁸	3.7%	3.1%	4.9%	<5%

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

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS Expenditure for the period ending 31 May 2011 has been incurred in accordance with the 2010/11 current budget parameters. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

13. VARIANCES TO BUDGET IN EXCESS OF \$100,000 - AS AT 31 MAY 2011

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
Grand Total DIRECTOR CORPORATE	12,536,995	11,216,062	10,945,904	6,716,240	4,229,664	39%		
102720. IT-OPERATING COSTS	277,590	279,150	244,968	131,713	113,255	46%	✓	Saxxon consulting, proof of concept and network configuration for Shared Resourcing and VOIP put on hold. DMS invoices not yet charged. Web development not completed due to delay of internet stage 2.
106030. INTEREST ON INVESTMENTS	(450,000)	(450,000)	(412,470)	(574,513)	162,043	39%	✓	Due to a number of large grant receipts, most investment term deposits have been rolled over for an extra 2 or 3 months (on 30 day terms).
106640. INFORMATION TECHNOLOGY	537,833	532,333	487,412	198,823	288,590	59%	✓	New disaster recovery rack not yet invoiced. Shared resource and council mergers project put on hold. VOIP project not starting until next year. Single point of entry for planning cancelled. DIY not commenced. PC's not purchased due to delay in hardware tender. This will not occur this financial year. Additional ESX server not yet required as server upgrades proved sufficient. Software not yet required. Saving of \$13,500 on reticulation design software. North Road generator requirements reduced so project spend

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
								reduced.
137930. A/PORT-LANDING FEES	(979,308)	(1,148,000)	(1,046,141)	(1,159,313)	113,172	11%	✓	Continued trend in higher landing fees, due to better fee collection process, and more passenger use.
158130. DAY CARE CENTRE INCOME	(802,140)	(802,140)	(735,238)	(630,947)	(104,291)	-14%	×	Quarterly and yearly payments from government benefits and programs are yet to be received, and further income is due from parents.
164020. LIB - SALARIES	796,992	796,992	730,519	630,465	100,054	14%	✓	The library has been below optimal staffing level for large part of the year. This is reflected in the under budget wage costs.
174420. ROADS- DEPREC	8,301,762	8,301,762	7,609,386	6,661,887	947,449	12%	✓	Not all new roads have been capitalised. This is a year end adjust made to annual accounts.
Total DIRECTOR CORPORATE	7,682,729	7,510,097	6,878,436	528,114	1,620,322	24%	✓	
DIRECTOR WORKS & SERVICES								
100040. ROAD SAFETY	589,000	809,000	515,583	225,009	290,574	56%	✓	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
119150. GRANTS - WASTE PROJECTS	(10,000)	(205,000)	(205,000)	(97,500)	(107,500)	-52%	×	Part Funding for South Stirling Waste Site, remainder funding to be received in budget 11/12.
119530. REFUSE – INC HANRAHAN RD	(800,000)	(1,169,000)	(1,074,337)	(1,177,460)	103,123	10%	✓	More refuse received at Hanrahan Road due to Bakers Junction opening hours being revised

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
131140. ROADS-CONSTRUCTION	501,000	501,000	497,229	291,031	206,198	41%	✓	Year to date expenditure is below budget. This is only a timing difference, and annual expenditure is expected to be in line with budget
134830. Road Funds	(694,000)	(694,000)	(310,250)	(832,695)	522,445	168%	✓	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
134850. ASSET FUNDING - REGIONAL ROAD GROUP	(759,167)	(812,670)	(812,670)	(512,534)	(300,136)	-37%	×	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
135440. Passenger Vehicles Purchase	658,265	658,265	355,461	481,164	(125,703)	-35%	×	Year to date expenditure is above budget. This is only a timing difference, and annual expenditure is expected to be in line with budget
135640. Major Plant Purchase	1,790,000	1,790,000	1,790,000	1,689,748	100,252	6%	✓	Remaining plant purchases to be deferred until new financial year
138070. Waste Minimisation Contract	2,070,000	2,118,000	1,923,254	1,797,435	125,819	7%	✓	Timing issue with project
141150. Road Funding - Other	(117,000)	(2,183,000)	(2,183,000)	(1,840,000)	(343,000)	-16%	×	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
141750. Major Plant Proceeds	(600,000)	(620,000)	(257,400)	(477,023)	219,623	85%	✓	Year to date income is above budget. This is only a timing difference, and annual income is expected to be in line with budget

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
144350. Federal Black Spot Funding	(456,000)	(300,000)	(208,800)	(364,800)	156,000	75%	✓	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
147320. FUEL & OIL	703,677	703,677	628,143	513,826	114,317	18%	✓	Year to date expenditure is below budget due to fuel prices remaining relatively stable and plant being under utilised due to lack of staff.
147920. PLANT-ALLOCATE TO W/SERV.	(3,135,832)	(3,135,832)	(2,874,293)	(2,619,193)	(255,100)	-9%	×	Any under-recoveries in relation to Plant Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered. Plant cost recoveries for the year to date are lower than budgeted due to some Council plant being unavailable for use due to lack of staff to operate
149120. WO-LESS ALLOC.W/SERVICES	(2,735,417)	(2,735,417)	(2,507,279)	(2,287,420)	(219,859)	-9%	×	Any under-recoveries in relation to Works Labour Charge-out are addressed in June. Additional charge-outs may be required to align with costs to be recovered.
149840. ASSET UPGRADE-REGIONAL RD	1,936,497	2,195,502	2,101,393	1,714,721	386,672	18%	✓	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.
149940. ASSET PRESERVATION	3,344,638	5,222,774	5,189,233	4,198,993	990,240	19%	✓	Balance of funding received once jobs completed. Related jobs expected to be finished before end of financial year.

Account	Original Budget	Current Budget	YTD Budgets	YTD Actuals	YTD Variance	YTD % Variance	Variance Ticks	
150140. DRAINAGE CONSTRUCTION	1,834,247	822,795	795,132	449,371	345,761	43%	✓	Year to date expenditure is below budget. This is only a timing difference, and annual expenditure is expected to be in line with budget
152140. WASTE/TIPS PROJECTS	444,974	663,060	660,129	246,833	413,296	63%	✓	Leachate Management Project delayed awaiting DEC approval, and carried over to next year; South Stirling delayed awaiting SWALSC approval
167640. Peace Park	289,384	193,811	161,940	58,620	103,320	64%	✓	Funding for Peace Park Lone Pine awaiting signing, before works can commence
197930. CONTRIBUTIONS - MAIN ROADS	0	(117,000)	(117,000)	0	(117,000)	-100%	×	Bridge works investigation being undertaken by Main Roads – delay in invoicing
Total DIRECTOR WORKS & SERVICES	4,854,266	3,705,965	4,067,468	1,458,126	2,609,342	64%		

POLICY IMPLICATIONS

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

File Number (Name of Ward)	FM.FIR.2 - All Wards
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4.3 2011-12 BUDGET ADOPTION

Proponent : City of Albany
Attachment : 2011/2012 Budget documents
Responsible Officer : Chief Executive Officer (Faileen James)

IN BRIEF

- The City Executive has worked with Council members through workshops in preparing the 2011-12 draft Budget for adoption.

ITEM 4.3 RESPONSIBLE OFFICER RECOMMENDATION 1 VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- NOTES** the three public submissions regarding the proposed differential rate.
- NOTES** the previously delegated expenditure of \$1.25 million per week from 1 July 2011 until the 2011-12 Budget is adopted by Council (OCM 21 June 2011 Item 4.5).

ITEM 4.3 RESPONSIBLE OFFICER RECOMMENDATION 2 VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council **APPROVES** the 2011-12 Budget.

BACKGROUND

- City Executive staff working with Council has spent considerable time in the last three months preparing a draft 2011/12 budget for endorsement by Council.
- Gross Rental Value (GRV) for properties has also been received from the Valuer General. The last GRV revaluation was undertaken four years ago.
- As the GRV amounts have, in some instances, significantly changed, with a resultant potential impact on Rates Revenue, considerable analysis and scenario modelling on Rates Revenue occurred.
- Under section 6.36 of the *Local Government Act 1995*, the City is required to advertise the proposed differential rates amounts for the 2011/12 financial year. Those proposed amounts were advertised for a period of 21 days in compliance with legislation.

DISCUSSION

- Through Council workshops, Council members have considered various factors in developing a financially responsible budget while ensuring compliance with occupational health and staffing requirements, continuation of the various services provided by the City, cost-saving initiatives and new capital projects that are “project ready”.

CEO:

RESPONSIBLE OFFICER:

- Particularly, the Council considered issues relating to:

- a. Maintenance of existing infrastructure, particularly roads and drainage infrastructure;
 - b. New Capital Works projects;
 - c. Employee costs, balanced against the need for sufficient staff resources to undertake current and planned projects and initiatives and current service provision, while ensuring employment equity and OHS;
 - d. Rate amount increases, and in particular the impact that the GRV changes will have on families and land owners; and
 - e. Mayoral Allowance, including changes to legislation regarding provision of a Mayoral Vehicle for use.
7. Capital Expenditure within this budget includes:
- a. Pathways projects – City contribution of \$419,030 (including carryovers) to supplement State Government funding, making a total proposed budget expenditure for pathways of \$1,498,497;
 - b. Road repair and improvement projects – City contribution of \$1,874,414 (including carryovers) to supplement State Government funding, making a total proposed budget expenditure in this area of \$5,691,989;
 - c. City contribution of \$1,134,570 (including carryovers) to Flood Management projects; and
 - d. City contribution of \$106,721 (including carryovers) to improve the City's developed Reserves.
8. The above projects are in addition to "usual maintenance" expenditure on roads, drainage and other infrastructure.
9. In respect of employee costs, the budget envisages employment of 254 FTE staff in 2011/12. This is compared to 250 in 2010/11 and 251 in 2009/10.
10. Employee costs have risen over the past three years predominantly as a result of wage increases negotiated through enterprise bargaining and general CPI. This budget envisages total employee costs of \$18,006,796 (compared to \$16,866,380 in 2010/11 and \$15,561,821 in 2009/10).
11. Total operating employee costs comprise 38% of the total operating expenditure, which is comparable to the 38% in the Australian Bureau of Statistics, Government Finance Statistics, Western Australia Local General Government Operating Statement 2009-10.
12. Full time equivalent (FTE) employees in 2009-10 totalled 250, of which 16 were Manager or Supervisor level. In 2010-11 FTE employees totalled 250, including 19 Manager / Supervisors. The projection for FTE in the 2011-12 Budget is 254, with 17 Managers / Supervisors.
13. Operating employee costs increased by 9% in 2010-11 when compared to 2009-10. This increase incorporated an allowance of 5% for EBA negotiated salary increases. Operating employee costs are projected to increase by 9% in 2011-12 when compared to 2010-11. Slightly more than 5% of this increase results from either finalised or yet to be finalised but anticipated EBA negotiated salary increases.
14. The City will be adopting a new staff training and development framework. This framework will enable equitable application of the training budget across all City staff, address areas of critical skills shortage, and ensure maintenance of mandatory or legislated qualifications or skills.

15. Overall, the training and development budget is 1% of gross salaries and wages, which is marginally less than last financial year.
16. The budget allocates \$10,000 to the ANZAC Centenary Reserve (current balance of \$150,000). In addition to the monetary contribution within the budget, in-kind staff time committed to this event will amount to approximately \$116,000 in salary costs in 2011-12. A significant component of that salary amount is the full time engagement of a project liaison officer for the planning, design and project management of the significant infrastructure work planned for City of Albany assets to enable the Centenary events, including the Mt Clarence and Forts precincts.
17. Issues of waste management remain a challenge for the City. As the City grows, a very strategic approach to good-practice and sustainable waste management is needed. Alternate future waste refuse sites will need investigating and regional waste management strategies considered. This budget anticipates that.
18. There has been considerable debate at Council workshops on an appropriate amount for the Mayoral Allowance. In 2010/11 the Mayoral Allowance was \$28,400, with the 2011/12 budget allowing an amount up to \$65,000.
19. In addition to a proposed change in the Allowance, changes have occurred to Legislation which specifically allows for the provision of a motor vehicle to the Mayor for Council business, with more rigorous accounting and vehicle usage recording requirements.
20. Principal Loan Repayments of \$7.1 million include two loans of \$1.5 million each and one loan of \$3.3 million. The proposed Budget 2011-12 includes loan re-financing of \$3.8 million and the remaining commitment to be funded from Cull Rd sales and general revenue.
21. Section 6.11 of the *Local Government Act 1995* allows a local government to set aside money for a purpose in a future financial year and requires the local government to establish and maintain a reserve account for each such purpose. An absolute majority decision of Council is required to use the money for another purpose. Section 6.2 (4) (e) of the *Local Government Act 1995* requires the annual budget to incorporate details of:

'...the amounts to be set aside in, or used from, reserve accounts and of the purpose for which they are to be set aside or used.'

Any change to the use of reserves (as defined in a budget) will only be as a result of Council resolution.

22. The 2011-12 Budget proposes the use of \$1.3 million from the Airport Reserve to partially fund the security upgrade to the Airport. Aviation Transport Security Regulations 2005 (as amended) require that passenger and cabin baggage screening must apply to passengers departing on aircraft over 20,000 kg. This will be effective from 1 July 2012. The aircraft currently operated by Skywest have a maximum weight of 20,800 kg meaning that, by 1 July 2012, Albany Airport is required to have passenger and checked baggage screening.
23. The Reserves Balance at 30 June 2012 is estimated to be \$4.8 million compared to an estimated balance of \$6.5 million at 30 June 2011. Major movements include a decrease in the Airport Reserve to fund the Security Upgrade (\$1.3 million) and an increase in the Refuse Reserve to fund future capital expenditure on waste sites (\$0.9 million).
24. Section 3.59 of the *Local Government Act 1995*, defines a trading undertaking as:

'An activity carried on by a local government with a view to producing a profit...'

Regulation 9 of the *Local Government (Financial Management) Regulations 1996* requires separate financial records to be kept for each trading undertaking and each major land transaction. Regulation 27 of the *Local Government (Financial Management) Regulations 1996* details the disclosure requirements in the annual budget for trading undertakings. Apart from the Cull Road development, the City does not currently have any trading undertakings; it is a social enterprise which operates for the benefit of the community, with any surplus derived from activities being re-invested for social benefit. The City has many business units which it subsidises or which operate on a break-even basis. None of the City's business units are operated with a view to making a "profit" and, accordingly, none are reported separately.

20. The City has received the Valuer General's updated Gross Rental Value amounts for the Albany area. Council uses valuations provided by the Valuer General in its calculation of rates.
21. Council has balanced the impact any rates amount will have on families and land owners because of the revaluation of the Gross Rental Value (GRV) with the need to ensure that the City continues to provide a sustainable level of service.
22. Every four years the Valuer General performs a revaluation of GRV properties which include homes, commercial properties and vacant residential land. The last GRV increase occurred in 2007/08 year which saw an increase in residential property GRVs by 37% and residential vacant land GRVs by 185%.
23. This year the revaluations have seen a further increase in residential property GRVs by 33%.

GOVERNMENT CONSULTATION

24. Under Section 3.59 of the *Local Government Act 1995* and Regulation 7 of the *Local Government (Functions and General) Regulations 1996*:

'...an agreement, or several agreements for a common purpose, under which a local government is to –

- (a) *acquire or dispose of an interest in land; or*
- (b) *develop land'*

...which is more, or worth more, than the prescribed amount' of \$1,000,000.

The Department of Local Government was consulted and advised that the Cull Road development is a Major Land Transaction, under legislation. As such, the Budget includes separate disclosure relating to Cull Rd.

PUBLIC CONSULTATION / ENGAGEMENT

25. At the OCM on 21 June 2011, the Audit Committee recommendation at Item 1.5 to advertise proposed differential rates was adopted.
26. Differential rates were advertised in accordance with section 6.36 of the *Local Government Act 1995*) with three submissions received.
27. A schedule of these submissions forms part of this item.

STATUTORY IMPLICATIONS

28. Local Government Act 1995, s 6.2(1) states that:

- (1) *During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt*, in the form and manner prescribed, a budget for its municipal fund for the financial year ending on the 30 June next following that 31 August.*

Local Government Act 1995, s 6.8(1) states that:

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
- (a) *is incurred in a financial year before the adoption of the annual budget by the local government;*
 - (b) *is authorised in advance by resolution*;* or
 - (c) *is authorised in advance by the mayor or president in an emergency.*

STRATEGIC IMPLICATIONS

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

Priority Goals and Objectives:

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

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

City of Albany Mission and Values Statement:

At the City of Albany we apply Council funds carefully.

POLICY IMPLICATIONS

28. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Council does not endorse the 2011-12 Budget.	Unlikely	Extreme	Extreme	<ul style="list-style-type: none"> • Further delegated authority to the CEO to incur expenditure under the <i>Local Government Act 1995</i> until Budget endorsement. • Hold a special Council meeting prior to 31 August 2011 to reconsider the Budget.

FINANCIAL IMPLICATIONS

30. The 2011-12 Budget sets the parameters for expenditure of City resources.

LEGAL IMPLICATIONS

31. The City must meet its legislative and debt obligations through endorsement of a budget. Failure to do so incurs considerable risks to the City.

ALTERNATE OPTIONS

32. Council could refuse to endorse the budget, but this would mean that the “business” of the City will be significantly impacted, and the City and Council will incur considerable risk in doing so.

SUMMARY CONCLUSION

33. Endorsement of the budget provides delegated authority to the CEO to incur expenditure from 1 July 2011 until 30 June 2012.

Consulted References	Local Government Act 1995 Local Government (Financial Management) Regulations 1996.
File Number (Name of Ward)	FM.BUG.2
Previous Reference	

**DIFFERENTIAL RATES PROPOSAL
SCHEDULE OF SUBMISSIONS**

Name of Submitter	Summary of Submission	Officer Comment	Officer Recommendation
Mr Warren Marshall	<p>Mr Marshall provided the following comments/requests:</p> <ul style="list-style-type: none"> • That the rate increase should be applied to specific priorities and projects. • That the past practice of basing rates increases on CPI plus 1% is not personally supported. • That the rates proposal is in accord with the Five Year Plan (acknowledging that the change in leadership at the City may not make this possible) • That greater transparency of process and more intense modelling be applied to proposed rates increases. • That the City make more effort to consider relief for those who cannot afford to pay their rates • That the practice of offering a prize as an incentive for early payment is discriminatory. 	<ul style="list-style-type: none"> • Specific projects have been identified to utilise the funds provided by the rate increase. • The Five Year Plan will be completed following Council endorsement of the Strategic Plan. • The City has had discussions in recent weeks with a financial counselling agency and makes considerable effort to accommodate payment plans for those in difficult financial circumstances. 	<ul style="list-style-type: none"> • That Council note Mr Marshall's comments.

DIFFERENTIAL RATES PROPOSAL

SCHEDULE OF SUBMISSIONS

Name of Submitter	Summary of Submission	Officer Comment	Officer Recommendation
Mr Rod Hedderwick – Harley Global	<p>Mr Hedderwick provided the following comments/requests:</p> <ul style="list-style-type: none"> • Increasing the rates on vacant land will not promote development of land but may discourage creation of developable lots thereby reducing the choice in the land bank and escalating prices to the detriment of orderly sustainable growth of Albany • That the final effective and payable rate on vacant land increase ideally by a maximum of 5% on the previous year and certainly no more than 9%. • It is recognised that there will be a difference in individual rates due to the revaluation and that council may need to change the c/\$ levy across the board for vacant GRV land as a result of the old 5% and new 3% figure applied by the VG. 	<ul style="list-style-type: none"> • The increase in rate revenue is proposed to be 5%. 	<ul style="list-style-type: none"> • That Council note Mr Hedderwick's comments.
Mr Matthew Swainston	<ul style="list-style-type: none"> • As proposed some years ago, it would be fair to have Council rates go up by CPI + 1% every year. 		<ul style="list-style-type: none"> • That Council note Mr Swainston's comments.

4.3: 2011-12 BUDGET ADOPTION**ALTERNATE MOTION BY COUNCILLOR D BOSTOCK**

DATE & TIME RECEIVED: 11:45 AM ON WEDNESDAY 6 JULY 2011

**ITEM 4.3: ALTERNATE MOTION BY COUNCILLOR D BOSTOCK
ABSOLUTE MAJORITY**

THAT prior to the adoption of the budget for financial year 2011-2012, Council DIRECTS the CEO to adopt the following:

- 1. Total salary cost for the year will be maintained at the same level as 2010-11, plus CPI.**
- 2. Salary increases, incurred as a result of negotiations, in excess of CPI will be matched by an equal reduction in the number of staff so that total salary levels will not be increased. Any reduction in expenditure in order to achieve these savings will be decided by the CEO, with the following proviso: Reduction in services will not be made at the expense of core City Activities, including roads, footpaths, drainage, ALAC or the library, without the specific approval of Council.**
- 3. Contracts for new Staff will not include the provision of any vehicle for private use without the specific approval of Council.**
- 4. Current Staff whose contract does not include private use of a vehicle will not be entitled to such use without specific approval of Council.**
- 5. The CEO will not appoint additional members of Staff, other than those required to fill existing positions which become vacant, without the specific approval of Council.**
- 6. No outside consultants will be appointed without specific approval of Council.**

Councillor's Reason:

We will not be able to support continued increases of rates above CPI indefinitely without incurring the wrath of our constituents. Indeed we should not do so, particularly when times are difficult and may deteriorate further. It is our role and duty to ensure that ratepayer funds are spend efficiently and that the burden of debt is reduced substantially, which will necessitate careful control over expenditure for the foreseeable future.

Officers Report (F James)

Section 2.7 (2) (a) of the Local Government Act 1995 (the Act) refers to the role of Council:

2.7. Role of council

(1) *The council —*

(a) **governs** *the local government's affairs; and*

CORPORATE SERVICES REPORTS

(b) *is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to (a) **oversee** the allocation of the local government's finances and resources*

Section 5.41(d) of the Local Government Act 1995 the functions of the CEO include:

- **manage** the day to day operations of the local government (management being separate to governance).
- be responsible for the employment, management supervision, direction and dismissal of other employees

A resolution that seeks to usurp the functions of the CEO would be contrary to legislation. Further, given Council is a governance body it, nor its individual members, are sufficiently "close" to the day to day operations of the City to fully appreciate the staffing and associated resource needs of "running the business" of the City.

Consistent with the CEO's legislative functions, the CEO has advised Council over several budget workshops of the staffing levels required for the day to day operations of the City, and the potential occupational health and safety problems that may arise if staffing is not of an adequate level to perform current City services and functions.

Should Council choose not to allocate an adequate budget amount for provision of those services and functions, Council must also resolve what priority services and functions it will provide, and what services and functions it will limit the provision of, or cease to provide. The Councillor's proposed motion intimates that the City has "core activities"; however, Council as a whole has not made any such resolution on what those activities are. For example, the Councillor makes no mention of the Vancouver Arts Centre, the City of Albany Daycare Centre, the City's Regional Airport, the City's responsibilities in respect of fire safety and local law enforcement, the City's obligations under Town Planning legislation, the maintenance and improvement of reserves, support of Community organisations, or the various Civic and Community functions and events the City supports, and so it is unclear if all or any of those services and functions would be considered "non-core" by the Councillor.

It is not operationally feasible, nor in line with societal occupational and health safety expectations, to expect a significant reduction in staffing numbers while at the same time not expecting any reduction in services or function.

Council has also been advised of the existing impact and potential impact of Collective Bargaining Agreement negotiations.

Council has already endorsed two Collective Bargaining Agreements that provide salary increases greater than CPI. The negotiation for one Agreement remains outstanding, which impacts 65% of the City's employees.

Considerable negotiation has occurred between the CEO and the Staff's Consultative Committee over the past five months to ensure the staff are fairly recompensed (compared to market rates) for their employment, while ensuring value for rate-payer funds. The CEO, on behalf of the City and Council, and employees have held those negotiations in the spirit of respect and fairness. For Council to resolve any decision that would make those negotiations now farcical would be contrary to all good employment practices, and seriously impact the reputation of the City. If such resolution was to be made, Council can expect significant backlash from employees, similar to that experienced by the City at the beginning of this year.

Under the draft budget, the City's proposed operating employee costs is in line with the Australian Bureau of Statistics, Government Finance Statistics, Western Australia Local General Government

CORPORATE SERVICES REPORTS

Operating Statement 2009-10 benchmark of 38%. The City's proposed operating employee costs as a percentage of Gross Operating Expenses are 38%.

The City routinely engages consultants or contractors where it does not have the internal expertise, or capacity to perform its functions. This includes routine engagement of civil engineering skills. To limit the capacity of the CEO to appropriately appoint such entities within allocated budgets will significantly impact the efficacy of the operations of the City.

The CEO is in the process of reviewing motor vehicle use across the City, both generally and personal employee-use. A revised policy on motor vehicle use will be developed in the near future, once further analysis has been undertaken, and legal advice received on employment law contract terms and employee policies that the City has previously committed to.

Good employment practices, including remuneration negotiations, commonly involve appropriate use by employees of employer-owned vehicles. To limit the CEO's capacity to fully negotiate and utilise that advantage (without additional cost to the City).would be detrimental to the City, and some employees

4.3: 2011-12 BUDGET ADOPTION

ALTERNATE MOTION BY MAYOR MILTON EVANS

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 11:00AM ON WEDNESDAY 6 JULY 2011

ITEM 4.3: ALTERNATE MOTION BY MAYOR MILTON EVANS

VOTING REQUIREMENT: SIMPLE MAJORITY

That on endorsement of the adopted 2011-12 Budget, (on whatever date) Council **AGREE** to quarantine the amount of \$36,600 allocated to Mayoral allowances and sitting fees (described in the Budget as the Mayoral salary), until the matter is further considered regarding the allocation of those funds.

Mayor's Reason:

In light of:

- Rate increases of 9% in 2009-10 and 2010-11,
- The proposed rate increase of 5% for 2011-12, and
- The moratorium on community financial assistance,

the inclusion in the Budget 2011-12 of an increase in Mayoral payments lacks empathy and is inappropriate.

4.3: 2011-12 BUDGET ADOPTION

ALTERNATE MOTION BY COUNCILLOR LEAVESLEY

DATE & TIME REQUEST FOR ALTERNATE MOTION RECEIVED: 4.31 AM ON WEDNESDAY 6 JULY 2011

ITEM 4.3: ALTERNATE MOTION BY COUNCILLOR LEAVESLEY

VOTING REQUIREMENT:ABSOLUTE MAJORITY

The Budget be adopted as is but subject to the addition of the following conditions (1-5 to be considered en bloc and 8-9 to be considered en bloc, 6,7,10,11 and 12 to be considered separately).

1.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 117,000 – line item182820 allocated to CEO Salaries, until the matter is further considered and approval given to the allocation of those funds.

2.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 70,000 – line item195820 allocated to PRO Salaries, until the matter is further considered and approval given to the allocation of those funds.

3.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 247,000 – line item101320 allocated to Corp SVC Salaries, until the matter is further considered and approval given to the allocation of those funds.

4.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 100,000 – line item184020 allocated to Finance Salaries, until the matter is further considered and approval given to the allocation of those funds.

5.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 100,000 – line item122320 allocated to Development Salaries, until the matter is further considered and approval given to the allocation of those funds.

6.THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$ 36,600 – line item181020 allocated to Member fees and allowances, until the matter is further considered and approval given to the allocation of those funds.

7. THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$3,000,000 – line item 7544 allocated to Airport upgrade terminal management until the matter is further considered and approval

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given to the allocation of those funds.

8. THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$20,000 – line item 52A allocated to the Mt Romance Art Prize, until the matter is further considered and approval given to the allocation of those funds.

9. THAT pursuant to the adopted 2011-12 Budget, Council agree to quarantine the amount of \$30,000 – line item 52B allocated to the Albany Art Prize, until the matter is further considered and approval given to the allocation of those funds. (Note funds from 52A and 52B to be allocated to the Regional Cities Alliance Commitment – UWA Contract)

10. THAT pursuant to the adopted 2011-12 Budget, Council agree to allocate appropriate funds to prepare for the costs relating to the City's pending management of the AEC.

11. THAT pursuant to the adopted 2011-12 Budget, Council agree to upwardly review the allocation of funds in relation to asset management within a 6 month timeframe from the adoption of the 2011/12 budget.

12. THAT pursuant to the adopted 2011-12 Budget, Council agree to upwardly review the allocation of funds in relation to the ANZAC centenary celebrations.

Councillor's Reason:

It is my opinion that the proposed 2011/12 budget is not moving towards putting the City of Albany on a sustainable financial footing. I believe it would be irresponsible of Council to unconditionally support a budget that fails to start to address funding gaps in asset management, that sees employee costs accelerating three times the rate of our numbers of ratepayers and fails to prepare for the additional costs related to the City's operation of the Albany Entertainment Centre.

Officer's Report (F James)

The motion refers to specific "line items". These are (presumably) references to working documents created by the City Executive for budget workshops with Council. Those references and working documents do not form part of the budget presented for endorsement.

Consistent with the CEO's legislative functions, the CEO has advised Council over several budget workshops of the resources required for the day to day and capital operations of the City.

Should Council choose not to allocate an adequate budget amount for provision of the City's services and functions, including allocating appropriate staff expenses, Council must resolve what services and functions it will limit the provision of, or cease to provide.

Aviation Transport Security Regulations 2005 (as amended) require that passenger and cabin baggage screening will apply to passengers departing on aircraft over 20,000 kg (effective from 1 July 2012). The aircraft currently operated by Skywest have a maximum weight of 20,800 kg and thus Albany Airport is required to install passenger and checked baggage screening. Any delay

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caused by quarantining of funds to progress this project will adversely affect the City's ability to meet the legislative deadline, incurring significant economic and reputational risk to the City.

Agreement regarding the future control, management and ownership of the Albany Entertainment Centre has not been reached with the State Government. The City has no legal obligation to assume any liability in respect of the Entertainment Centre on a particular date. Communication between the State Government and its officers, and the City, is continuing in respect of this matter. Should Council resolve to support condition 10 in the above motion, it will have to reprioritise expenditure and or increase revenue.

The Council has previously endorsed several Asset Management Plans. However, the Plans require considerable review and amendment, including improved analysis of assets currently held, improved maintenance and capital expenditure analysis, and analysis of the timing of such expenditure. Because of their lack of rigour, implementation of those Plans has not occurred, in some cases at all, or alternatively consistently. The CEO intends to undertake Plans' reviews, and develop further specific Asset Management Plans over the next 12 months. This is a considerable body of work, and to complete it properly would not be possible within six months, without additional budget allocation for additional staff or consultant engagement. In parallel to the revision and development of the Asset Management Plans, the City's Executive will be developing its five year Finance Plan.

The current budget proposes an allocation of \$10,000 to the Anzac Centenary Reserve, in addition to staff salaries in the amount of approximately \$116,000, for the work of staff directly related to the Centenary work. Should Council resolve to support condition 12 in the above motion, it will have to reprioritise expenditure and or increase revenue.

XIV. MOTIONS WITH NOTICE

Nil.

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

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

**ITEM 15.1: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

Reason:

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

Officer's Comment:

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

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

Notice of Motion submitted in accordance with:

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

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

15.2: NOTICE OF MOTION BY COUNCILLOR LEAVESLEY – AGENDA BRIEFING

NOTICE OF MOTION TO REVOKE A PREVIOUS DECISION OF COUNCIL

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

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

ITEM 15.2: REVOCATION MOTION BY COUNCILLOR LEAVESLEY

VOTING REQUIREMENT: ABSOLUTE MAJORITY

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

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

Be revoked.

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

Reason:

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

ITEM 15.2: MOTION BY COUNCILLOR LEAVESLEY – BRIEFING AGENDA

VOTING REQUIREMENT: SIMPLE MAJORITY

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

Reason: Refer to revocation motion.

Officer's Comment:

At its Ordinary Council Meeting of 21st June 2011 Council resolved.

- (i) Gives the opportunity to the Chief Executive Officer to fully implement the new process adopted by Council at the 15 February 2011 Ordinary Meeting of Council, being:

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

- (ii) Reviews the new process at the 11 October 2011 Ordinary Meeting of Council.

For this Motion to succeed a further revocation motion in respect of the above would be required.

The need for improvement within Council meeting processes and timelines was identified by the CEO shortly after her commencement in February 2011 and over the past three months, as she has observed increased numbers of Council meeting and Agenda Briefing sessions.

The intent behind the changes previously presented to Council was to allow Elected Members greater time to scrutinise Officer Reports and conduct appropriate additional research into the cause and effect of an Officer recommendation or Elected Member's motion.

There were recent queries raised by a Councillor at a Council meeting, regarding providing Officer Reports and Councillor Motions within required “notice” periods. As a consequence, the CEO identified a further deficiency within the Council Meeting process specifically relating to agenda development and release.

Those changes allow:

- In the subsequent week to the Briefing Session, the City's Officers will refine their reports to incorporate, where appropriate, more information to address feedback from the public and Council Members provided at the Agenda Briefing Session. Report refinement will allow Members to have the fullest available information they require to consider the recommendations to Council. This is what has occurred process wise for some time.
- The papers (including the Agenda) for the Council meeting will then be finalised on the Tuesday ONE week before the Council meeting, and distributed to Councillors and the public. This further allows both groups increased time to read, consider and discuss the papers, and prepare themselves for debate on any item.

At the Council meeting, the public will (like now) be able to question any Council paper.

The CEO's recommendation to Council has been that Council trial this process for six months.

The *Local Government Act 1995* and Regulations, and the Council's Standing Orders are not definitive on “notice” timeline requirements, as part of the Agenda development process, and this lack of clarity causes legal uncertainty. Accordingly, the CEO determined that to make that

process clearer, the agenda should be marked “draft” and all Officer Reports will also be draft documents, until the finalised agenda and Reports (and Council Member Motions) are distributed to Council Members and the public under the cover of the finalised agenda.

Under Clause 3.3(2) of the Standing Orders “the purpose of the agenda briefing session is to provide an opportunity for elected members and persons in the public gallery to ask questions on the content of the **proposed** agenda” – the use of the word “proposed” clearly indicates that any agenda that may be provided at an agenda briefing session is not the finalised document. The use of the word “proposed” supports the position that an agenda can be draft until the final distribution of the Council papers.

The CEO agrees with Council that significant work needs to be undertaken to make the Standing Orders much clearer, less ambiguous and provide definitive “rules” for meeting process. Until that occurs and new Standing Orders are made local law, the CEO proposes meeting processes improvements that are possible within the current Standing Orders should be embraced.

Ultimately, in support of the Council’s wish for increased transparency and quality of information provision for Albany’s citizens, clause 1.3 of the Standing Orders should be considered.

Clause 1.3 of the standing Orders state:

” (1) The purpose of (the Standing Orders) is to provide a set of procedures to assist in the good conduct of meetings of the Council....

(2) ...intended to result in:

- (a) better decision-making by the Council;
- (b) orderly and efficient conduct of meetings dealing with business of the Council;
- (c) greater community participation and understanding of the business of the Council; and
- (d) more open and accountable local government.”

Clause 1.3 forms the basis of Council’s recent decision for meeting process changes, including ensuring processes are in place to provide increased time for sharing and consideration of information that will go before Council at its meetings. The processes resolved by Council at their meeting of 15 February 2011 is intended to reflect and implement the spirit and intent of clause 1.3.

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

**ITEM 15.3: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

Reason:

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

Officer's Comment:

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

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

XVI. URGENT BUSINESS TO BE APPROVED BY DECISION OF THE MEETING

16.1 NOTICE OF MOTION BY COUNCILLOR DUFTY – REMOVAL OF POLICE OFFICERS FROM PCYC

**ITEM 16.1: DRAFT MOTION BY COUNCILLOR DUFTY
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

That Item 16.1 be ACCEPTED as an urgent item.

Councillor's Reason:

Given the recent decision that the local police officer will be removed from the Albany PCYC it's important to advise the Minister for Police and the Police Commissioner of Council's position on the matter and the value it places on the operation of the PCYC.

ITEM 16.1: NOTICE OF MOTION BY COUNCILLOR DUFTY

That Council write to the Hon. Minister for Police and the WA Police Commissioner requesting the reconsideration of the decision to remove police officers from PCYC centres, with particular reference to the Albany PCYC, as the decision will have a detrimental impact on the effective operation of the PCYC and be a retrograde step in the development of our youth within the City.

Councillors Reason:

The decision will destroy the operation of the Albany PCYC. The uniformed police officers have been instrumental in steering young people away from crime and it's critical they remain on-site. One child a year that doesn't turn to crime would more than cover the cost of wages for the police officer.

PCYCs are the link between the WA Police force and the community and have been instrumental in giving young people the opportunity to engage with society and provide a pathway to future employment.

**16.2 NOTICE OF MOTION BY COUNCILLOR D BOSTOCK –
REINSTATE AGENDA ITEM 5.6 FUNDING FOR MILLS PARK, LITTLE
GROVE**

**ITEM 16.2: MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

That Item 16.2 be ACCEPTED as an urgent item.

Councillor's Reason:

The residents of Little Grove have spent a considerable amount of time and effort in producing a comprehensive plan for the development of Mills Park and were naturally disappointed when the request for funding was withdrawn from the agenda, due to concerns over possible problems with native title claims. A brief history of the park may, however, serve to allay Council's fears on this score.

The land for the park was alienated from the Crown many years ago and was owned freehold by Mrs Mills, who, in 1975 bequeathed it to the Shire for use as a public recreation area. On amalgamation the park was transferred to the City of Albany and has been under our care and control since then.

In December 1996 the Native Titles Act was passed and this resulted in all land still under the control of the Crown (about 92% of all the land in WA) being subject to its provisions. Land which had already been vested in other authorities, such as Mills Park was, however, exempt and it would be a great pity if the City missed out on this substantial funding opportunity due to a misunderstanding of the legal position. According to the Manager of the Native Title Unit, Dept of Lands, native title claims over Mills Park have been extinguished so there is no reason why we should not approve the project for that reason.

I understand that the preparation for the project has already been substantially completed and all that is now required is the approval of Council.

The matter is urgent because the necessary application must be approved by the end of June.

Officer's Comment (F. James):

1. At the Ordinary Council Meeting of 21st June 2011, Councillor D Bostock sought endorsement by Council of a resolution to reinstate an Officer's Report in respect of Regional and Local Community Infrastructure Program Funding for Mills Park. (See page 191 of the June Council Minutes).

2. A request for the presentation of the above motion was received after 12 noon on 6th July 2011 (see clause 5.2 of Standing Orders) and accordingly for the motion to be considered, it would have to satisfy clause 3.6 of the Standing Orders (that is to be considered an "urgent" item requiring an absolute majority for consideration).

There is no "urgency" to this matter, as anticipated by the Standing Orders. The Mills park project is one of multiple projects that the City has considered for future work, subject to funding.

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REFER DISCLAIMER

There is no Council funding for the Mills park project allocated in the 2010/11 budget nor the 2011/12 draft budget.

16.3: CULL ROAD DEVELOPMENT

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME REQUEST FOR MOTION RECEIVED: 12.31PM ON WEDNESDAY 6 JULY 2011

**ITEM 16.3: REQUEST FOR MOTION BY COUNCILLOR J BOSTOCK
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

Prior to further action to facilitate the sale of Stage 1A or any part of Cull Road, the CEO will evaluate our current position with regard to this major land transaction and formulate a revised Business Plan as required by the Local Government Act s 3.59.

Reason:

This project has been ongoing for a number of years, the original Business Plan being prepared in September 2006. In April 2009 Council resolved that significant changed circumstances demanded a revised Business Plan and that no sale of all or any part of Cull Road subdivision could take place until this was provided.

Since then Council contrary to that resolution approved the sale of Stage 1A, however the current depressed property market is resulting in those blocks being sold at a loss, it remains therefore essential that this business transaction is re-evaluated to ensure that we are acting in the best interests of our ratepayers and that our current action is the best possible business decision.

Officer Report (F JAMES):

Under s5.2(2) of the Standing Orders, a “request for an alternative motion must be received by the CEO or their delegate no later than 12 noon on the day following the relevant agenda briefing session”. The CEO has not provided delegation to any staff member. The request for this motion was received at 12.31pm on 6 July, and accordingly not in compliance with the Standing Orders. For Council to consider and support this motion, it would need absolute majority support under s3.6 of the Standing Orders, as an urgent item.

The report item 1.4 has been prepared to ensure that Council meets its obligations under Section 3.58 of the *Local Government Act 1995*. The Responsible Officer Recommendation ensures that Council can continue to sell the created lots (that have individual certificates of title) associated with Stage 1A, initially via public tender and if not sold by this process, private treaty. This recommendation is consistent with the previous Council resolutions of 20 July and 16 November 2010.

To date purchase interest remains constant although not excessive, probably indicating that the lots are selling at a price that is market value, not considered either too low or too high by buyers.

If the alternate motion is adopted the City would not be able to sell any lots that are not already under a contract for sale until a Business Plan was adopted. This would result in a loss of marketing momentum and reduces the ability for Council to reduce its debt through the sale of such lots during this period. The 2011/12 draft budget envisages continuing sales of Cull Rd lots, preferably as quickly as possible.

The Business Plan titled '*Major Land Transaction, Business Plan for the Subdivision of the property located at 34-66 Cull Road, Lockyer*' dated September 2006 and adopted 21 Nov 2006 proposed to sell Stage 1A lots only at this stage, which is being implemented. As per Council's resolution of 15 February 2011, the sale of the balance of Lot 9001 is to be deferred pending a review of development options for the land and further traffic and hydrology studies which will commence soon regarding Cull Rd. It would be appropriate to review the Business Plan after that.

The development of a Business Plan at this stage would achieve little. The costs incurred on the Cull Road to date are "sunk" costs, never to be recovered except through sale of lots. There is no intent at this point to consider sale of any lots beyond Stage 1A, or to incur any further expenses beyond those already spent or committed by Council. Accordingly, the best business option at this point would be to maximise the sales of the lots in Stage 1A to generate revenue as quickly as possible, which Council can use to pay down debt. Any delay in debt repayment incurs ongoing interest expense to the City.

16.4: REGIONAL CITIES ALLIANCE – UWA CONTRACT

ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

DATE & TIME REQUEST FOR ALTERNATE MOTION RECEIVED: 12:06PM ON WEDNESDAY 6 JULY 2011

ITEM 16.4: ALTERNATE MOTION BY COUNCILLOR D BOSTOCK
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT COUNCIL DEFERS consideration of the item to SEEK written advice from the Department of Local Government as to whether this item can be considered without a rescission motion first being brought before Council.

Reason:

Council considered this particular proposal at the 21 June 2011 Ordinary Council Meeting and the motion was lost. In order to consider the proposal again, I am of the understanding that a rescission motion is required in accordance with Standing Orders 2009, clause 6.1 and that the legal advice received has not been subject to a tested definitive opinion in a court of law.

Officer Report (F JAMES)

Under s5.2(2) of the Standing Orders, a “request for an alternative motion must be received by the CEO or their delegate no later than 12 noon on the day following the relevant agenda briefing session”. The CEO has not provided delegation to any staff member. The request for this motion was received at 12.06pm on 6 July, and accordingly not in compliance with the Standing Orders. For Council to consider and support this motion, it would need absolute majority support under s3.6 of the Standing Orders, as an urgent item.

“Legal advice” is not able to be “subjected to a tested definitive opinion in a court of law”. The courts will only consider filed legal claims. Therefore, from a risk mitigation perspective the best the City can do is seek legal “advice” as it is not in a position to file a legal claim.

Further, on the Councillor’s reasoning, one could argue that the only truly “tested definitive opinion” of the law is the opinion of the High Court, the highest Court in Australia. The (im)practicalities of bringing a legal claim and appealing (eventually) to the High Court would be nonsensical.

As per legal advice received and distributed to all Councillors under confidential cover, Council does have the ability to consider the item at this Council meeting without the need for a rescission motion.

Staff have also contacted the Department of Local Government and received a similar view to that position found within the legal advice.

16.5: REGIONAL CITIES ALLIANCE – UWA CONTRACT

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME REQUEST FOR ALTERNATE MOTION RECEIVED: 12.31PM ON WEDNESDAY 6 JULY 2011

ITEM 16.5: ALTERNATE MOTION BY COUNCILLOR J BOSTOCK (RECOMMENDATION 2) VOTING REQUIREMENT: ABSOLUTE MAJORITY

- 1) THAT **COUNCIL DOES NOT** endorse a forward budget commitment of four years, commencing in the 2011/12 financial year, for an amount of \$50,000 per year as the City of Albany's contribution towards the Regional Cities Alliance, including contributing to the partnership with the University of Western Australia to undertake research in regional development, urban planning and spatial analysis, with the aim of providing an explicit focus on the research needs of the Alliance. These needs being concentrated in:
 - Economic, demographic and social analysis;
 - Service and infrastructure planning and delivery;
 - Strategic urban and regional planning; and
 - Governance.
- 2) THAT **COUNCIL DOES NOT** agree to enter into a contract with the University of Western Australia, as part of its membership of the Regional Cities Alliance.

Reason:

This alternative motion is simply to uphold a previous majority vote of Council. At the June 2011 Ordinary Council Meeting Council spoke on this issue and by majority vote did not support this financial commitment.

The concerns raised at last month's meeting linger, whilst more information has been forthcoming, the direct benefit to our community remains obscure. It is important that our involvement with the alliance is mutually beneficial, but our need to work co-operatively must not override our duty to our ratepayers. It is clearly difficult to support this expenditure as essential, yet our current financial position demands observance of strict prudence. Reducing our debt and recovering financial security must be our absolute priority; this requires sacrifice and renders us unable to follow all opportunities.

This is our responsibility to our ratepayers; it is not a demonstration of our lack of commitment to the concept of the Regional Cities Alliance but a fiscally competent decision.

Officer Report (F JAMES)

Under s5.2(2) of the Standing Orders, a "request for an alternative motion must be received by the CEO or their delegate no later than 12 noon on the day following the relevant agenda briefing session". The CEO has not provided delegation to any staff member. The request for

this motion was received at 12.31pm on 6 July, and accordingly not in compliance with the Standing Orders. For Council to consider and support this motion, it would need absolute majority support under s3.6 of the Standing Orders, as an urgent item.

The effect of the resolution is that the City, as a non-contributing member, is highly unlikely to gain the benefit of the research that will be undertaken by UWA specifically for the Regional Alliance. Conversations with other Member Representatives of the Alliance have also indicated that to remain a member of the Alliance, Members expect full commitment to all initiatives.

16.6: INITIATION OF AMENDMENT – LOT 422 AFFLECK ROAD AND LOT 183 NANARUP ROAD, KALGAN

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 13:19 PM ON WEDNESDAY 6 JULY 2011

**ITEM 16.6: ALTERNATE MOTION BY COUNCILLOR J BOSTOCK
VOTING MAJORITY: ABSOLUTE MAJORITY**

That Council:

- 1) In pursuance of *Regulation 13(1)(b)* of the *Town Planning Regulations 1967* resolves **NOT TO PROCEED** with Amendment No. 307 to Town Planning Scheme No. 3 for the purposes of:
 - i. Rezoning Lot 422 Affleck Road and Lot 183 Nanarup Road, Kalgan from the 'Special Rural' zone and the 'Rural' zone to the 'Special Residential' zone.
 - ii. Amending Schedule IV – Special Residential Zones to include Special Provisions for Special Residential Area No. 21.
 - iii. Amending the Scheme Maps accordingly.
- 2) **ADVISE** the Western Australian Planning Commission that it does not wish to proceed with the amendment primarily on the basis that the proposed density as depicted on the Subdivision Guide Plan is inconsistent with the prevailing lot size found within the adjacent Special Rural Zone (Area No. 6 – Swan Point), and in turn will promote land use conflict.

Councillor's Reason:

1. This site is adjacent to Oyster Harbour and the mouth of the Kalgan River, a listed wetland of regional significance. Department of Water highlighted that it is flood prone.
2. It is an environmental sensitive area of value for nature conservation and biodiversity.
3. Threatened species are known to occur within the vicinity, Western Ring Tailed Possum, Forest Red-tailed Cockatoo, Baudins Black Cockatoo, and Carnabys Black Cockatoo indicating a requirement to observe the Federal EPBC Act, before any development is considered.
4. The land is bordered to the West by Oyster Harbour, North, East and South are zoned Special Rural, Area 6 with detailed specification in TPS 3 in controlling development. Lot 422 stands as an oasis in our scheme indicating purposeful planning.
5. Scheme Amendments, particularly rezoning are the most fundamental and important step in planning and as such demand the closest scrutiny. In 2009 a SAR to rezone to Rural Residential was refused due to environmental concerns raised by Department of Environment and Conservation, Department of Water and Department of Planning, the

later particularly highlighting the land was unsuitable for higher density and were not supportive of the suggestion of “Future Urban”.

6. The current SAR is for Special Residential representing increased density.
7. Any alteration to the planning scheme must be done in relation to current conditions and thinking and in line with strategic planning.
8. ALPS, our local strategic plan details the area as suitable for “Special Residential” but this appears to be an anomaly as I have detailed below.
9. The Lower Great Southern Strategy which takes precedence depicts the area as “Agricultural Land of State and Regional Significance” This state document requires Local Governments to mark such areas as “Priority Agriculture” in their TPS and also requires recognition in ALPS. In April 2008 WAPC demanded modifications to ALPS, one of which was the inclusion of all Priority Agricultural areas to be in line with the State Strategy; this was agreed and endorsed by Council.
10. I note that our new Planning Scheme has protected this area it remains an oasis, being depicted as “General Agriculture” as a seriously entertained planning document Council must consider this, particularly when considering a change to our current scheme.
11. Thus the strategic direction is to maintain protection of this land and this is supported by Clause 8.3.5 in ALPS “Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.”
12. ALPS also highlight the current oversupply of Special Rural and Special Residential Lots and warned that Rural Residential subdivision for speculative reasons can impact on agricultural land values and increase rates. ALPS supports the subdivision of EXISTING land zoned for Special Residential and Special Rural in the City’s current Town Planning Schemes and proof of demand before more lots are created.

In conclusion the land is environmental sensitive and is currently properly protected against inappropriate development. There is an oversupply of rural subdivisions; proliferation of unsold building blocks is detrimental to our economy, environment and is contrary to good planning. Being 18 kilometres from the City in flies in the face of our strongest planning imperative, that of consolidation.

Officer Report (G Bride)

Under s5.2(2) of the Standing Orders, a “request for an alternative motion must be received by the CEO or their delegate no later than 12 noon on the day following the relevant agenda briefing session”. The CEO has not provided delegation to any staff member. The request for this motion was received at 1.19 pm on 6 July, and accordingly not in compliance with the Standing Orders. For Council to consider and support this motion, it would need absolute majority support under s3.6 of the Standing Orders, as an urgent item.

The current proposal is consistent with Council’s adopted Albany Local Planning Strategy which identifies the land as being suitable for Special Residential development. The proposal has ensured lots on the periphery are at least 1 hectare, which is the minimum size associated with Special Rural development to reduce land use conflict and retain the amenity (as reasonably can be achieved for adjacent lots). The adjacent land holdings will be consulted when the document is advertised after the Environmental Protection Authority has considered whether the proposal should be formally assessed.

The proposal does pay due regard to the remnant vegetation found on the site and will involve the increase of the foreshore reserve in this area. The land capability study submitted with the report does identify that the land has good retention facilities for effluent disposal.

The new planning scheme has intentionally not sought to rezone land as identified in Council's Planning Strategy, as it is up to landowners to bring forward rezoning proposals with detailed land capability and environmental studies. The ALPS represents Council's position on the future use of the land. The proposal is to amend the current scheme.

The land is surrounded to the east and south by existing special rural development and to the north by smaller rural lots and therefore the need to retain the lot for agriculture production is limited.

16.7: 2011-12 BUDGET ADOPTION

ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

DATE & TIME REQUEST FOR ALTERNATIVE MOTION RECEIVED: 12.31PM ON WEDNESDAY 6 JULY 2011

ITEM 16.7: ALTERNATE MOTION BY COUNCILLOR J BOSTOCK VOTING MAJORITY: ABSOLUTE MAJORITY

Whilst the decision of Council with regard to rate increase remains intact, thus allowing preparation of Rate Notices, Council require the CEO to amend the 2011-12 Budget to reflect the overriding need to observe cost saving measures and strict prudence; while maintaining or improving the current level of direct services to the community; providing inbuilt protection of city assets and a detailed planned reduction of our current debt. These priorities are to be delivered within the confines of the following limitations.

- 1. The CEO shall not cause or allow any organisational practice, activity, decision or circumstance that is contrary to Council priorities.**
- 2. The CEO shall not incur debt in an amount that cannot be repaid by certain and otherwise unencumbered revenues within 60 days.**
- 3. With respect to the actual ongoing financial conditions and activities the CEO shall not cause or allow the development of financial jeopardy or material deviation of actual expenditure from Council priorities and the adopted budget.**
- 4. The CEO shall not cause or allow City assets to be unprotected, inadequately maintained or unnecessarily risked.**
- 5. The CEO shall not enter into any grant or contract arrangements that could fail to protect or could jeopardise the delivery of community services and Council priorities.**
- 6. The CEO will not allow the use of long term reserves.**
- 7. The CEO will not conduct inter-fund shifting in amounts greater than can be restored to a condition of fund balance by certain or otherwise unencumbered revenues within 30 days.**
- 8. The CEO will not allow increased expenditure in administrative costs to adversely impact on our key responsibilities and direct provision of community services.**

Reason:

It has been suggested that we cannot afford asset management; it is in my view that to ignore this crucial aspect of responsibility is unacceptable; we must afford it and protect our long term future. Whilst we carry a large debt our ability to deliver to the community or take advantage of grant or other opportunities is severely compromised. Our priority therefore must be to improve and strengthen our financial position, this will not eventuate without serious steps to monitor and curtail our spending.

Strict prudence demands a paradigm shift in the way we view expenditure, we can no longer afford the luxury of running with every good idea, and we must concentrate on our core services and our responsibility to our ratepayers. Financial control must be a priority, all expenditure judged against, cost effectiveness, its benefit to the community and its necessity, “Can we live without it?”

Increased revenue should equate to an enhanced level of service, higher rates become more palatable when improvements to our roads, footpaths and services can be observed.

It is time for consolidation, to get back to basics; only with financial stability and proper delivery of principal services can we progress to the privilege of strategic planning and implementation of major projects and initiatives.

Officer’s Report (F James)

Under s5.2(2) of the Standing Orders, a “request for an alternative motion must be received by the CEO or their delegate no later than 12 noon on the day following the relevant agenda briefing session”. The CEO has not provided delegation to any staff member. The request for this motion was received at 12.31 pm on 6 July, and accordingly not in compliance with the Standing Orders. For Council to consider and support this motion, it would need absolute majority support under s3.6 of the Standing Orders, as an urgent item.

Section 2.7 (2) (a) of the *Local Government Act 1995* (the Act) refers to the role of Council:

2.7. Role of council

(1) *The council —*

- (a) ***governs*** the local government’s affairs; and
- (b) *is responsible for the performance of the local government’s functions.*

(2) *Without limiting subsection (1), the council is to (a) **oversee** the allocation of the local government’s finances and resources*

Section 5.41(d) of the Act defines the functions of the CEO which include:

- Advising the Council in relation to the functions of a local government under the Act and other written laws
- Ensuring that advice and information is available to the Council so that informed decisions can be made
- Causing Council decisions to be implemented
- Managing the day to day operations of the local government
- Ensuring that records and documents of the local government are properly kept for the purposes of the Act and any other written law
- Performing any other function specified or delegated by the local government or imposed under the Act or any other written law, as a function to be performed by the CEO

A resolution that seeks to usurp the functions of the CEO would be contrary to legislation. Further, given Council is a governance body it, nor its individual members, are sufficiently “close” to the day to day operations of the City to fully appreciate the operational resource needs, risk management activities or operational fiscal processes of “running the business” of the City.

Consistent with the CEO's legislative functions, the CEO has advised Council over several budget workshops of the resources required for operations of the City, and processes the CEO intends to implement to improve financial stewardship and reporting.

Should Council choose not to allocate an adequate budget amount for provision of City services and functions, Council must also resolve what priority services and functions it will provide, and what services and functions it will limit the provision of, or cease to provide.

This motion, and the "limitations" stated to in the motion, refer to:

- "Council priorities", but it is unclear from the motion what those priorities are.

The City is currently conducting a strategic planning process, seeking community views on what should be the City's priorities. That community feedback will be considered shortly by Council, and Council will be requested to consider endorsement of the Strategic Plan which will set out community and Council recommended priorities.

- "Financial jeopardy and material deviation" although no definition is given on what constitutes such "jeopardy", or what would be considered "material".

A CEO cannot be expected to implement any Council decision where the terms are not definitively clear. Similarly, a CEO can only ensure assets are "protected", adequately maintained and not "unnecessarily risked" (as stated in this motion) if the CEO has clear guidance from Council on the level of protection, maintenance and risk the Council is prepared to bear.

Similarly, in respect of limitation 7 in the motion, it is unclear what the Councillor intends. The CEO is required to act within approved budget. Likewise, in limitation 8 in the motion, it is unclear what constitutes "administrative costs", nor what would constitute "adverse impact on...key responsibilities".

Under section 6.11 of the Act, which allows for the creation of Reserve accounts, an absolute majority decision of Council is required to use the funds in those Reserves for any other purpose than that for which the Reserve was established. Such a resolution includes the annual budget adoption – section 6.2 of the Act requires the budget to incorporate details of amounts to be set aside in, and used from Reserve accounts.

This legislative obligation is reinforced in the *Local Government (Financial Management) Regulations 1996*. Under Regulation 12, a payment may only be made from the municipal fund or the trust fund if the local government has delegated to the CEO the exercise of its power to make payments from those funds, or if the payment is authorised in advance by a resolution of the Council.

Transfers to and from Reserves occur of necessity during the normal course of the business of the City, in line with the approved budget. To impose any further restriction on the CEO beyond the rigorous safeguards stated in legislation would unnecessarily decrease the efficiency of the City's operations.

Under Local Government (Financial Management) Regulation 5, the CEO has certain duties:

5 . *Financial management duties of the CEO*

(1) Efficient systems and procedures are to be established by the CEO of a local government —

(a) for the proper collection of all money owing to the local government;

(b) for the safe custody and security of all money collected or held by the local government;

(c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);

(d) to ensure proper accounting for municipal or trust —

(i) revenue received or receivable;

(ii) expenses paid or payable; and

(iii) assets and liabilities;

(e) to ensure proper authorisation for the incurring of liabilities and the making of payments;

(f) for the maintenance of payroll, stock control and costing records; and

(g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.

(2) The CEO is to —

(a) ensure that the resources of the local government are effectively and efficiently managed;

(b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and

(c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews.

These legislative obligations should be sufficient to provide Council with assurance that the CEO MUST act in the best interests of the City, including ensuring strong financial stewardship.

It is unclear from the Councillor's reasons who suggested to the Councillor that the City "cannot afford asset management" – the statement is incorrect. The CEO has advised Council that, given the City's asset value base, it will need to prioritise its asset management, making difficult decisions balancing replacement and maintenance. This draft budget proposes expenditure on asset management of \$7.5 million (net of external funding and including road maintenance).

The budget anticipates repayment of debt, thus over the long term improving and strengthening the City's financial position. This draft budget proposes net repayment of debt in the amount of \$3.3 million.

XVII. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.

Nil.

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

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

XX. NEXT ORDINARY MEETING DATE

Tuesday 16 August 2011 at 7pm.

XXI. CLOSURE OF MEETING

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

Meeting Date	Item Number	Details/Status
15/06/2010	15.2.3	Lot 5 Rufus Street - Claim for Subdivision Design Changes. CEO LIAISING WITH LAND OWNER/DEVELOPER REGARDING POSSIBLE SOLUTIONS.
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. REQUIRES FURTHER CONSIDERATION BY COUNCIL PENDING THE COMPLETION OF THE AIRPORT MASTERPLAN/BUSINESS PLAN.
15/02/2011	4.11	Padre White Lookout Project. CEO to undertake further investigation of this project, including detailed budget analysis for project scope and provide further advice to council. CEO HAS RECEIVED FURTHER ADVICE FROM GSDC, AND WORKS AND SERVICES TO CONSIDER.
19/04/2011	1.1	Adoption of Draft Local Planning Policy Manual. REGARDS HOLIDAY ACCOMMODATION AND FRENCHMAN BAY CARAVAN PARK POLICIES, THIS WILL BE PRESENTED TO JULY 2011 OCM (ITEMS 2.4 & 2.5)
19/04/2011	4.7	Audit Committee Recommendations. That Council request the Chief Executive Officer to further review the investment of Surplus Funds Policy through the Finance Strategy Committee, prior to recommendation to Council. PENDING.- AWAITING ENDORSEMENT OF CITY OF ALBANY STRATEGIC PLAN, BUDGET AND FIVE YEAR (FINANCE) PLAN.
17/05/2011	3.1	Albany Leisure and Aquatic Centre. That the Business Plan be Brought back to Council for the Approval of the Recommendation. PENDING COMPLETION OF BUSINESS PLAN. TO BE PRESENTED TO OCM.
July 2010	18.3	Notice of Motion by Councillor Paver-Review Standing Orders Local Law 2009 before the December 2010 Council Meeting. OUTSTANDING.- INSUFFICIENT STAFF RESOURCES AT PRESENT TO COMPLETE THIS WORK AND COUNCIL AWAITS THE MODEL STANDING ORDERS BY THE DEPT OF LOCAL GOVT.
21/06/2011	5.5	Public Closure of Clydesdale Road at South Coast Highway. LAI D ON THE TABLE FOR A PERIOD OF ONE MONTH FOR PUBLIC CONSULTATION. TO BE BROUGHT BACK TO THE AUGUST 2011 OCM.