



---

# MINUTES

---

## ORDINARY MEETING OF COUNCIL

Held on  
Tuesday, 19 May 2009  
7.00pm  
City of Albany Council Chambers

**SYNERGY REF: AM808579**

---

## **DISCLAIMER**

---

No responsibility whatsoever is implied or accepted by the City of Albany for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with Staff. The City of Albany disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the City of Albany during the course of any meeting is not intended to be and is not taken as notice of approval from the City of Albany. The City of Albany warns that anyone who has an application lodged with the City of Albany must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the City of Albany in respect of the application.

## TABLE OF CONTENTS

		Pg#	Rec Pg#
1.0	<b>Declaration of Opening</b>	6	
2.0	<b>Record of Attendance/Apologies/Leave of Absence (Previously Approved)</b>	6	
3.0	<b>Opening Prayer</b>	6	
4.0	<b>Response to Previous Public Questions Taken On Notice</b>	6	
5.0	<b>Public Question Time</b>	7	
6.0	<b>Confirmation Of Minutes of Previous Meeting</b>	10	
7.0	<b>Applications For Leave Of Absence</b>	10	
8.0	<b>Disclosure of Financial Interests</b>	10	
9.0	<b>Matters for Which Meeting May Be Closed</b>	10	
10.0	<b>Petitions/Deputations/Presentations</b>	10	
<b>11.0</b>	<b>REPORTS DEVELOPMENT SERVICES</b>	<b>11</b>	
11.1	<b>Development</b>		
11.1.1	Development Application – Proposed Holiday Accommodation - Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay	12	132-135
11.1.2	Development Application – Change of use from Single House to Restaurant (with Bar) – 11 Flinders Parade, Middleton Beach	42	50-52
11.2	<b>Development Policy</b>		
11.2.1	Initiation Of Scheme Amendment – Establishment of a Special Site for the Spencer Park Neighbourhood Centre	54	60
11.3	<b>Health, Building &amp; Rangers</b>	61	
	Nil.		
11.4	<b>Emergency Management</b>	61	
	Nil		
11.5	<b>Development Service Committees</b>		
11.5.1	Planning and Environment Strategy and Policy Committee Meeting Minutes – 23 April 2009	62	62-67
<b>12.0</b>	<b>REPORTS – CORPORATE &amp; COMMUNITY SERVICES</b>	<b>69</b>	
12.1	<b>Finance</b>		
12.1.1	List of Accounts for Payment	70	72
12.1.2	Financial Activity Statement – Month Ending 30 April 2009	73	76
12.1.3	2008/2009 Third Quarter Budget Review	81	83
12.2	<b>Administration</b>		
	Nil	84	

	Pg#	Rec Pg#
<b>12.3 Library Services</b>		
Nil	84	
<b>12.4 Day Care Centre</b>		
Nil	84	
<b>12.5 Town Hall</b>		
Nil	84	
<b>12.6 Recreation Services</b>		
Nil	84	
<b>12.7 Economic Development</b>		
Nil.	84	
<b>12.8 Tourism &amp; Visitors Centre</b>		
Nil	84	
<b>12.9 Airport Management</b>		
Nil.	84	
<b>12.10 Contract Management</b>		
Nil.	84	
<b>12.11 Property Management</b>		
12.11.1 Grant new sub-licence to Ocean Broadband Ltd for wireless broadband internet service	85	89
<b>12.12 Corporate &amp; Community Services Committee</b>		
12.12.1 Seniors Advisory Committee Meeting Minutes – April 2009	90	90
12.12.2 Community and Economic Development Strategy and Policy Committee Meeting Minutes – April 2009	91	91
12.12.3 Albany Town Hall Theatre Advisory Committee Meeting Minutes - April 2009	92	92
12.12.4 Albany Tourism Marketing Advisory Committee (ATMAC) Meeting Minutes – February 2009	93	93
12.12.5 Albany Tourism Marketing Advisory Committee (ATMAC) Meeting Minutes – April 2009	94	94
<b>13.0 REPORTS – WORKS &amp; SERVICES</b>	<b>95</b>	
<b>13.1 Waste Management</b>		
Nil	96	
<b>13.2 Capital Works</b>		
Nil	96	
<b>13.3 Reserves, Planning &amp; Management</b>		
13.3.1 Partial Dedication of Road & Part Closure of Right of Way – Lot 66 Little Oxford Street, Gledhow	97	100

	Pg#	Rec Pg#
13.3.2 Part Closure of Sibbald Road, Bayonet Head	102	104
<b>13.4 Works &amp; Services Committees</b>		
13.4.1 Asset Management & City Services Strategy and Policy Committee Meeting Minutes – April 2009	105	105
<b>14.0 REPORTS – GENERAL MANAGEMENT SERVICES</b>	<b>106</b>	
<b>14.1 Corporate Governance</b>		
Nil.	107	
<b>14.2 General Management Services Committees</b>		
Nil.	107	
<b>15.0 MONTHLY REPORT/INFORMATION BULLETIN</b>	108	
<b>16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>		
Nil	108	
<b>17.0 MAYOR’S REPORT</b>	108	
<b>18.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING</b>		
18.1 Adoption of Standing Orders Local Law 2009	109	127-128
18.2 Proposal to seek funding to refurbishment the former Shire of Albany Mercer Road facilities under the federal government jobs initiative.	129	131
<b>19.0 CLOSED DOORS</b>		
19.1 Development Application – Proposed Holiday Accommodation - Lots 2 And 1823 Frenchman Bay Road, Frenchman Bay	132	132-135
<b>20.0 NEXT ORDINARY MEETING DATES</b>	135	
<b>21.0 CLOSURE OF MEETING</b>	135	
<b>APPENDIX</b>		
<b>A. STATUS REPORT ON DEFERRED ITEMS FROM PREVIOUS MEETINGS</b>	136	
<b>B. DISCLOSURE OF INTEREST</b>	136	
<b>C. SUMMARY OF ACCOUNTS</b>	137	
<b>D. TABLED DOCUMENTS</b>		138-160

**1.0 DECLARATION OF OPENING**

The Mayor declared the meeting open at 7.03pm.

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

**Mayor** M Evans, JP

**Councillors:**

Breaksea Ward	VACANT
Breaksea Ward	J Bostock
Frederickstown Ward	VA Torr
Frederickstown Ward	D Price
Kalgan Ward	R Buegge
Vancouver Ward	K Stanton
Vancouver Ward	R Paver
West Ward	D Duffy
West Ward	D Wolfe
Yakamia Ward	J Matla
Yakamia Ward	G Kidman

**Staff:**

Executive Director Corporate & Community Services	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Director Development Services	R Fenn
Executive Manager Planning Services	G Bride
Manager Executive Services	S Jamieson
Minutes Secretary	S Smith
McLeods Lawyers (Guest)	C Slarke

**Public Gallery and Media:**

4 media representatives were in attendance and approximately 45 members of the public.

**Apologies/Leave of Absence:**

Kalgan Ward	J Walker (Leave of Absence)
-------------	-----------------------------

**3.0 OPENING PRAYER**

The Deputy Mayor, Des Wolfe read the opening prayer:

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

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

Nil.

## 5.0 PUBLIC QUESTION TIME

### **Speaker One. Mr Graham Harvey, CEO, Chamber of Commerce and Industry, Albany**

Mr Harvey addressed Council in support of the development application detailed at report item 11.1.1 – Development Application – Proposed Holiday Accommodation – Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay.

Mr Harvey made the following points in support of the development application:

- Albany has experienced major delays to planned holiday accommodation;
- The Waterfront development could be delayed up to 5 years; and
- Albany is currently being bypassed for conferences and the ACCI has to refer applicants to other regional centres.

Mr Harvey raised concern of Councillor Paver's impartiality in regards to the Frenchman Bay application and questioned if Councillor Paver's involvement in the debate was impartial as he sourced an income from the tourism industry and has previously disclosed an interest from similar issues that has barred him from discussion and decision making.

### **Speaker Two. Mr Richard Vogwell, La Peruse Drive, Frenchman Bay**

Mr Vogwell addressed council in opposition to the development application detailed at report item 11.1.1 – Development Application – Proposed Holiday Accommodation – Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay.

Mr Vogwell tabled a letter from the Frenchman Bay association opposing the development **(detailed at Appendix D)**.

### **Speaker 3. Mr John Tonkin, Albany.**

Mr Tonkin addressed council in opposition to the development application detailed at report item 11.1.1 – Development Application – Proposed Holiday Accommodation – Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay.

Mr Tonkin requested Council to refuse the application in its current state; however stated that he would support low key development, not a 5 Star resort. Mr Tonkin tabled his address opposing the development. **(detailed at Appendix D)**

### **Speaker 4. Mrs Patricia Allen, Little Grove**

Mrs Allen spoke against public open space (POS) being defined in the Little Grove Structure Plan, the policy of cash payments in lieu of providing POS and identifying POS on her property.

Mrs Allen requested the Executive Director Development Services respond.

*Executive Director Development Services Response: It is a statement of fact that The Western Australian Planning Commission (WAPC), made an independent decision to make it a requirement to define POS on the structure plan.*

Item 5.0 continued.

**Speaker 5. Ms Jane Nesbitt, Little Grove.**

Ms Nesbitt spoke against report item 11.5.1 - Committee Recommendation 4, in particular Council identifying POS on her property. Ms Nesbit queried why POS cannot be addressed on receipt of a development application and that the decision to place POS on her property is morally wrong.

Ms Nesbit requested Council to take POS of her land and apologise.

**Speaker 6. Ms Juliet Albany, Duke St, Albany**

Ms Albany stated to Council that she was upset that she was dismissed in an uncourteous manner by the Mayor at the April Ordinary Council Meeting and therefore requested extra time be allocated to her address.

*Mayor Response: The Mayor advised Ms Albany that she was not dismissed in an uncourteous manner. You exceeded your allocated time limit and you did not acknowledge the Chair's request to finalise your address.*

Ms Albany stated that the City of Albany planning department is negligent in their performance of duties and made negative comments regarding the Executive Director of Development Services integrity.

*Note: On two separate occasions the Mayor warned Ms Albany that her comments were inappropriate and asked her to refrain from defamatory comments and abide by the allocated time.*

**Speaker 7. Mr Henry Dykstra**

Mr Dykstra addressed council in support of the development application detailed at report item 11.1.1 – Development Application – Proposed Holiday Accommodation – Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay.

Mr Dykstra advised Council that the project team had complied with Council requests to provide extra information and that the planning process was conducted in an orderly manner.

Mr Dykstra raised concern that Councillors opposed to the development have lobbied State Agencies to discredit the application and advised that no technical officer has advised against the application.

Mr Dykstra requested Council to make a decision either for or against the development.

*Public question time was extended by a show of hands.*

**Speaker 8. Mr Raymond Nesbit, 44 Grove St, Little Grove**

Mr Nesbit spoke against report item 11.5.1 - Committee Recommendation 4, in particular Council identifying POS on his property.

Mr Nesbit questioned what legislation gives Council the right to impose POS on his property.

*Executive Director Development Services Response: The structure plan endorsed by the Western Australian Planning Commission (WAPC).*



Item 5.0 continued.

Mr Nesbit requested Council to support Councillor Stanton's alternate motion, being:

*"The submissions be received, the issues be tabled and the recommendations and modifications contained therein be either noted, upheld or dismissed as detailed, except that references to, and areas of, designated Public Open Space (POS) over Lot 17 Grove Street West and Lot 18 Wilson Street, Little Grove for a neighbourhood park shall be removed from the Little Grove Structure Plan"*

**Speaker 9. Mr Michael Roberts, Middleton Rd**

Mr Roberts addressed Council in support of the Mayors alternate motion to support the Development Application – 11.1.2. Change of use from single house to restaurant (with Bar) – 11 FLINDERS PARADE, MIDDLETON BEACH as more public activity is needed in the Middleton Beach to reduce car hoon activity.

**Speaker 10. Mr Charlie Davis, Frenchman Bay.**

Mr Davis addressed council in opposition to the development application detailed at report item 11.1.1 – Development Application – Proposed Holiday Accommodation – Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay.

Mr Davis requested Council to consider:

- What will this development cost the City of Albany;
- Has consideration been made to upgrade boat launching facilities to accommodate the potential increased demand as a result of the development; and
- The cost to upgrade the road to the subject site.

Mr Davis stated that staff at Whale World have informed him that tourist mainly request information on caravan parks, not 5 star resorts.

*Public Question time closed at 7.51pm.*

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR MATLA**

**THAT the minutes of the Ordinary Council Meeting held on the April 2009;**

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

**MOTION CARRIED 11-0**

## 7.0 APPLICATIONS FOR LEAVE OF ABSENCE

One application for a leave of absence was received by Councillor Bostock.

### VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED COUNCILLOR BOSTOCK  
SECONDED COUNCILLOR PAVER**

**THAT Council GRANT Councillor Bostock a leave of absence from the June 2009 Ordinary Council meeting.**

**MOTION CARRIED 11-0**

## 8.0 DISCLOSURE OF FINANCIAL INTERESTS

- |            |         |   |
|------------|---------|---|
| Cllr Paver | 11.1.2  | Impartial - Councillor Paver owns a tourism marketing business. Councillor Paver left the Chamber.  |
| Cllr Paver | 11.1.1  | Impartial – Councillor Paver owns a tourism marketing business. Councillor Paver remained in the Chamber, participating in the debate and vote. |
| Cllr Paver | 12.12.4 | Financial – Councillor Paver supplies marketing services to the City of Albany in the field of tourism. Councillor Paver left the Chamber.      |
| Cllr Wolfe | 12.11.1 | Financial – Councillor Wolfe owns the subject leased area. Councillor Wolfe left the Chamber.   |

## 9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

- 19.1 OCM Item 11.1.1 - Development Application – Proposed Holiday Accommodation - Lots 2 And 1823 Frenchman Bay Road, Frenchman Bay

## 10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

A petition was received from Mr Ray Nesbitt. The petition stated:

*“We the undersigned are **OPPOSED** to the adoption of the Little Grove Conceptual Structure Plan.*

*We oppose the small block sizes of 300m<sup>2</sup> as it would destroy the natural beauty of the environment including loss of natural vegetation and wildlife.*

*We oppose any public open space or roads being put on Lots 17 and 18 (private property).*

*More community consultation is required.”*

Petition is registered as LT8081508.

---

# **DEVELOPMENT SERVICES**

## **Reports**

---

**DEVELOPMENT SERVICES REPORTS**

**11.0 REPORTS – DEVELOPMENT SERVICES**

**11.1 - DEVELOPMENT**

**ITEM NUMBER:** 11.1.1

**ITEM TITLE:** DEVELOPMENT APPLICATION – PROPOSED HOLIDAY ACCOMMODATION - LOTS 2 AND 1823 FRENCHMAN BAY ROAD, FRENCHMAN BAY

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

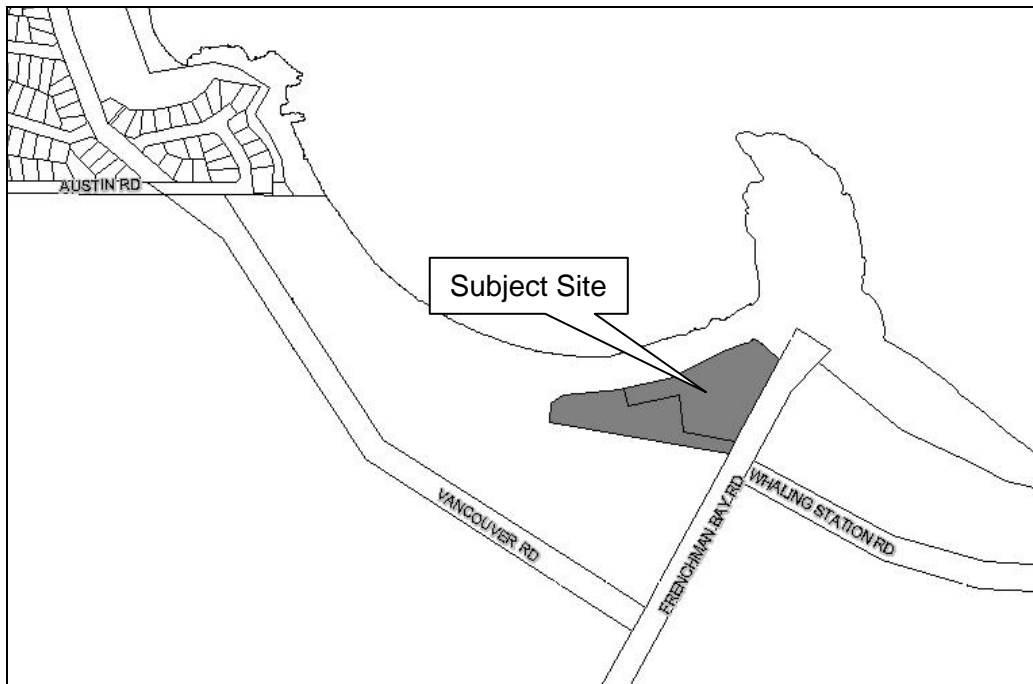
**Quasi-Judicial Function:** Council determining an application within a clearly defined statutory framework, abiding the principles of natural justice, acting only within the discretion afforded it under law, and giving full consideration to Council policies and strategies relevant to the matter at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

- File Number or Name of Ward** : A6135 (Vancouver Ward)
- Summary of Key Issues** : Development approval being sought for a holiday accommodation complex
- Land Description** : Lots 2 and 1823 Frenchman Bay Road, Frenchman Bay
- Proponent** : Dyskstra Planning
- Owner** : Frenchman Bay 5 Star Resort Unit Trust
- Reporting Officer(s)** : Executive Director Development Services (R Fenn) & Executive Services Manager – Councillor and Planning Liaison (G Bride)
- Disclosure of Interest** : Nil
- Previous Reference** : Item 11.1.1 OCM 17/02/09
- Bulletin Attachment(s)** :  
 1. Site plan and elevations  
 2. Plans A, B and C (plans detailing building heights and agency requirements)  
 3. Proponent letter and accompanied environmental report (4/11/2008)  
 4. Advice received from Department of Water (24/04/2009)  
 5. Letter from Tourism WA (5/05/09)  
 6. Letter from architect / detailed floor plans (06/05/09)
- Consulted Reference(s)** :  
 1. Residential Design Code Policy  
 2. Local Rural Strategy  
 3. Albany Local Planning Strategy  
 4. Town Planning Scheme No. 3  
 5. Draft Tourism Accommodation Planning Strategy  
 6. WAPC State Planning Policy 2.6 & 3.1 and DC Policy 6.1  
 7. Draft Whalers Beach/Frenchman Bay Landscape Plan (2002)  
 8. Woolstores to Frenchman Bay Management Plan (2000)  
 9. Visual Landscape Planning in WA Manual
- Councillor Lounge** :  
 1. Staging Plan  
 2. Previously submitted Government Agency and written submissions.  
 3. Large Copy of site plans/elevations at original scale.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**Maps and Diagrams:**



**BACKGROUND**

1. At its meeting dated 17 February 2009, Council considered the above proposal and resolved:

*“THAT Council LAY THIS ITEM ON THE TABLE for a period of AT LEAST one (1) month to allow time for officers to prepare an additional report that will address the Councillor’s succinct questions.”*

2. Since the above resolution was passed, Councillors have submitted numerous questions for staff’s consideration which are discussed in this report. Further to the questions raised a site meeting was also conducted with Councillors on 7 April 2009.
3. The main issues raised in questions submitted to staff include:
  - (a) Whether the whole of the site is zoned ‘Special Site’;
  - (b) The ability for Council to approve ‘Holiday Accommodation’ within the ‘Special Site’ zoning applicable to the land;
  - (c) The appropriateness of the scale and density of the site;
  - (d) Whether there is sufficient information to resolve the visual amenity issue;
  - (e) Whether an additional setback should be applied to accommodate recreational requirements, and whether the existing foreshore reserve should be widened;
  - (f) Whether the development will impact on the springs within the adjacent reserve;
  - (g) The economical sustainability of the project;
  - (h) The proponents plans for developing the eastern extremity of the site ( of land not subject to the development under consideration);
  - (i) The development’s compliance with Council’s strategic planning framework (namely visual amenity statements in the Albany Local Planning Strategy and the Local Rural Strategy);
  - (j) The impact of the tourism activity on the locality; and
  - (k) Whether the development can achieve fire separation requirements.

**DEVELOPMENT SERVICES REPORTS**

## Item 11.1.1 continued

4. The proposed development comprises a 100 unit resort development which is described on the plans as:
  - 21 beach houses;
  - 62 apartments,
  - Manager's unit; and
  - Village Centre (which includes 16 apartments) a shop, café/restaurant and function room (250 person capacity), office/administration facilities (for approximately 15 staff), pool and fitness centre and a central reception.
5. Each unit of accommodation has 1 assigned car parking bay and 1 visitor bay, and the "Village Centre" has 63 bays (all up a total of 268 bays are provided). Three coach parking bays are also proposed to be provided. There is no defined car parking ratio for 'Holiday Accommodation' within the Scheme, however the provision of 1 parking bay and 1 visitor bay per unit would appear to be more than sufficient given the unlikely scenario that guests would require the parking of more than two vehicles per unit. Tourism WA have suggested that a higher parking ratio should be applied based on one parking bay per bedroom which would produce a car parking yield of 306 bays (or 3 parking bays per unit, which appears to be excessive). The function centre at a maximum occupancy of 250 people, and a provision of 63 bays, would meet the standard formula of 1 bay per 4 seats/people that is applicable to other similar uses such as restaurants, cinemas and churches.
6. The application has been revised several times since lodgement in February 2006. It has been subject to assessment by several State Government agencies, including the Environment Protection Authority. Modifications to the application have been sought by various State Government Departments, including an increased coastal setback and the connection of the proposal to sewer mains. The comments and review of the submissions of the state government agencies are discussed in Paragraphs 76 to 84 of this report.
7. A staging plan has been submitted by the proponent, which shows five stages, with no time lines applied to each of those stages.
8. The development has been estimated at approximately \$68 million, and the proposal is outside of staff's delegated authority. It requires assessment by Council.
9. The site consists of two lots comprising 3.26 hectares. An application for a boundary alignment to create a lot on the eastern extremity of the site has been lodged with the Western Australian Planning Commission and is currently on deferment pending the outcome of this application (staff have advised the Department of Planning and Infrastructure that the City of Albany does not support this application being approved). This position is further reinforced through proposed condition (xxvi) of the officer's recommendation which requires the two existing lots to be amalgamated into one land parcel.
10. A total of 32 letters have been received from the community following the formal consultation period that has been undertaken for the project (this is in addition to the 71 letters received previously). The recent emails and letters have reinforced individual concerns raised previously during the formal public comment period. They predominantly request that the scale and density of the development be reduced (all letters have been forwarded to Councillors under separate memorandum); many state that they are not opposed to a tourism development on the site, but not in the form proposed under the current application.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**DISCUSSION**

11. In response to the questions posed by Councillors, and in order to more thoroughly address the concerns raised previously, the following advice is provided:

12. Zoning of Land (History and Implications)

The subject land is zoned “Special Site (Caravan Park)” on the official Town Planning Scheme No. 3 maps held and maintained by the Western Australian Planning Commission.

13. Despite the above, concern has been expressed that the zoning map may not be correct, and that only a portion of the site is indeed zoned Special Site, with the balance being classified as a ‘Parks and Recreation’ Reserve. The map below shows the extent of the zoning boundary applicable at the gazettal of Town Planning Scheme No. 3 (January 1980). City of Albany staff have searched Council’s archived minutes and liaised with the Department of Planning and Infrastructure and the Western Australian Planning Commission to identify the date when a scheme amendment to expand the special site zoning may have been undertaken. No record of an amendment has been found; both agency’s archival material, dealing with the recording of amendments to the hand painted maps of that era, makes researching difficult and time consuming. The fact that both agencies have independently recorded the change in zoning on their respective maps would indicate that an amendment occurred.



14. If there was an error in the past (ie. the zoning of the land was not changed through statutory processes) Council still has the ability to consider development over that portion of the lot which is Reserved for “Parks and Recreation” purposes as specified under Part 2 of Town Planning Scheme No. 3. This is discussed further under the heading statutory implications. The reserve surrounding the subject land has been set aside by the Crown for the purpose of “Recreation, Pleasure Resort and Caravan Park” and there is the capacity to approve resort development in accordance with that purpose.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

15. Ability to approve use of 'Holiday Accommodation' on the site

A question was raised as to whether the land use of 'Holiday Accommodation' could be approved as the predominant use within the 'Special Site (Caravan Park)' zone. This question was reviewed by Council's solicitors, who advised that as the use was an 'AA' (discretionary) use within the Special Site (Caravan Park) zone, there was no legal impediment that would prevent Council from considering the entire development of the site for holiday accommodation purposes. A copy of the legal advice has been circulated to all Councillors previously.

16. The scheme prescribes a range of uses that can be approved within each zone and segregates those uses into "Permitted", "Discretionary", "Discretionary after the proposal has been advertised" and "Prohibited" categories. The discretionary land uses "are not permitted" unless the specific approval of Council is granted. Council regularly considers discretionary development proposals and determines the merits of those applications against the zone objectives and any policy provisions put in place by Council.

17. "Holiday Accommodation" is broadly defined in the scheme as being four or more units of accommodation offered for hire for holiday purposes and the types of projects that could be lodged under that broad definition can range in scale and form. The scheme does not seek to define specific forms of tourism product (other than caravan parks) and the designation as an AA classification for "holiday accommodation" in the scheme gives full discretion to Council to determine this application on its merit; if it was the intention of the scheme that the site would not be converted to a "non-caravan" park use, it would have listed "holiday accommodation" as a prohibited land use in the zone; the designation of the adjacent reserve for the purposes of "pleasure resort and caravan park" would further reinforce the rationale adopted in the scheme to define "holiday accommodation" as a discretionary land use and caravan park as a permitted land use. The scheme is silent on the form and scale of development that can be provided on this site and Council is required to assess the submitted application.

18. and Density of development

Of the seven blocks (buildings) of holiday accommodation proposed on the site, four blocks comprise two storey accommodation units and three are three storeys. From the floor levels of the units to the parapet of the roof of each block of accommodation, the wall heights (including the roof) range between 6.81m and 10.07m (see PLAN B in the Bulletin). The top of the roof parapet of the village centre is 11.6m above the ground floor level of that building, with a relatively small area being 1.5m higher (the lift over run). Included in the Bulletin is a plan showing the extent of cut and fill that is proposed below the ground floor level of each block of accommodation (see PLAN C); the extent of earthworks ranges from 3.7m of cut to 2.0m of fill, with the majority of the site being altered by less than 1.0m (the height of a household sink above a kitchen floor). Five of the eight blocks also have basement car parking areas that will necessitate additional site excavation to that described above (refer to the levels shown on PLAN B).

19. Due to the lack of direction on the scale of buildings required outside of the urban landscape, development standards have been incorporated for several key sites around the City's waterways into Council's Residential Design Code Policy. Under Section 6.2 (Frenchman Bay) of that policy, the following objectives have been provided for this site:

- "To ensure development conserves the outstanding natural and environmental values of the area.



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- To encourage innovative tourism development appropriate to the local natural environment.
- To provide an incentive to reduce the footprint of development.
- To ensure that the impacts of any areas of higher development on the natural topography are minimized.
- To ensure development on the site is not seen from the beach other than in the area immediately in front of the eastern parking area.”

20. With regards to the land-use within the site, the policy provides further clarification in that:

*“Development shall provide for tourist establishments which offer short-term accommodation (i.e. for periods of less than three months) to the general public. These uses may include small scale hotels, motels and guest houses; holiday flats, chalets, lodges and other low-impact tourist development. Such uses could be considered with or without facilities, and could also include ancillary uses such as minor conference facilities. The inclusion of a convenience store serving the daily needs of local residents will be actively encouraged in any development and a restaurant could be considered.”*

21. The policy states that building heights “shall generally” be limited to two storeys and shall comply with the standards established by Category B of Clause 3.7.1 of the Residential Design Codes. However it states that:

*“Council may consider buildings of three storeys subject to the following criteria:*

- *That the proposed development has reduced the potential development footprint on the site while utilising areas of least visual impact and avoiding steeper and/or higher slopes.*
- *That the setbacks of the development footprint from boundaries shall be maximized and that vegetation is retained or established in these areas to screen development.*
- *That the components of three storey development are limited to 50% of the total footprint of development on the site.*
- *Heights comply with the standards established by Category C of Clause 3.7.1 of the Residential Design Codes.”*

22. When evaluating the built form, the policy suggests the development “*comprise of a number of smaller buildings tightly integrated around the pedestrian walkways and sheltered public areas. The larger buildings shall also be articulated to break down their perceived bulk and to establish an appropriate scale when read against the topography of the locality.”*

23. The elevations show several blocks of accommodation that are articulated and generally follow the slope of the site. The main northern elevation (viewed from King George Sound) is predominantly two storeys (approximately 6.1m in overall height), with a small section on the middle unit that is setback from the front and sides of that block being three stories, to accommodate the manager’s residence. It should be noted that the roof height of the manager’s unit (30.42m AHD) is comparable to the height of the adjacent two storey accommodation block to the west (29.42m to 30.92m AHD) on the same elevation, due to the development following the topography of the site. The top of the parapet on these units are lower than the units to the south (33.61m and 35.27m AHD) and would sit well below the ridge line when viewed from King George Sound. The ridgeline behind the site rises approximately 140m above sea level.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- 24. The centre of the site has two articulated three storey accommodation blocks (parapet heights ranging from 31.07m to 35.27m AHD), with one additional storey of parking below each building. The south of the site then consists of the three storey “Village Centre” building (parapet height of 33.61m AHD), again with parking provided below natural ground level. The increase of the coastal setback has provided a more compact development with a small footprint, and the three storey elements are well below 50% of the total footprint recommended by Council’s policy. A smaller footprint will also be facilitated with the removal of the western block of units as recommended below.
- 25. The tourism blocks are connected by an internal access road, with good pedestrian linkages throughout the site, especially along the foreshore reserve boundary and the open spaces in front on the northern units. It is recommended that a landscaping plan be required as part of a planning approval to refine the extent of landscaping within the open spaces of the site and to further reduce the bulk and form of the proposed development.
- 26. Whilst the details of the materials and colours to be used are yet to be determined, and could be controlled by condition, Council’s policy states that the colour scheme should be selected from a limited palette, consistently applied across the whole development, with the use of natural materials such as stone and timber to be encouraged.
- 27. Council’s policy also states that *‘the Council will require the submission of a scaled model of the development which clearly delineates the impact of the proposal on the natural topography of the site’*. The impact of this development needs to be assessed in the context of the locality. This is a policy requirement and staff are of the opinion that the production of a scale model of the development will be of little assistance in showing that context and that the policy requirement is unlikely to add any value to the decision-making process. The Proponent has provided several photo montages and survey/contour plans to show the proposed development and its context; City staff have further consolidated the disparate information onto PLAN A in the Bulletin.
- 28. The Residential Design Codes (R Codes) are referenced in the Council’s policy and Clause 6.7.1 (previously 3.7.1) sets out the following maximum building heights:

	Category		
	A	B	C
Top of external wall (roof above)	3.0m	6.0m	9.0m
Top of external wall (concealed roof)	4.0m	7.0m	10.0m
Top of pitched roof	6.0m	9.0m	12.0m

- 29. The heights of the buildings along the northern elevation range between 5.1m and 8.0m above the existing ground level of the site for the two storey component and 10.4m for the manager’s unit. The “central” three storey units range between 9.8m and 12.0m above the existing ground level, with the “Village Centre” being a maximum of 12.4m above existing ground level. All buildings are flat roofed with parapet walls and the nominated heights are inclusive of the roof. There is no impact resulting from the height of development on this lot on the development potential of the adjoining property (a Crown Reserve) and considerable re-contouring of the property could occur (as evidenced by the benching of the site for the previous caravan park use) without impacting on the reserve.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

30. Staff consider, apart from two small portions of the village centre and the manager's unit (0.4m difference), the development complies with either Section B or C of the R-Codes, with the three storey accommodation block (the highest component of the development) also in full compliance with the City policy (through reference to the Residential Design Codes).
31. It is recommended however that the floor level associated with the southern block of units immediately west of the Village Centre be reduced by an additional 1.0m so that the highest point of this unit block becomes 34.27m AHD, marginally higher than the Village Centre at 33.61m AHD. The reduction in floor level of this unit block would tie into the floor level of the adjacent Village Centre and further reduce the visual impact of the development when viewed from that portion of Frenchman Bay Road, adjacent to the Vancouver Road intersection.
32. As there is no scheme provision that restricts or guides the building height within the area, Council is reliant upon its policy to provide direction on the scale and density appropriate for the site. There is conjecture as to whether the proposed development can reasonably be described as "a small scale hotel" OR that it is "a low-impact development"; the development generally reduces the building footprint by using two and three storey components, the northern setback is approximately 20m from the property boundary and the average setback for the remainder of the development would be approximately 15m (a point on the southern block being as close as 2.0m to the boundary). The buildings "read against the topography of the site", the heights of the buildings are consistent with Council policy and it would have little additional impact in terms of visual amenity when reviewed from the coast and from Frenchman Bay Road.
33. On returning to the issue of the density of this development, the concept of "small scale" is a subjective term. The proposal involves 100 units over a total lot size of 3.26 hectares, producing a density of 31 units per hectare. A site is to be created within the Albany Foreshore development to accommodate 100 units on a 0.96 ha land parcel which provides a density of 104 units per hectare. The former Esplanade site is to provide 81 rooms of accommodation on a 1.0987ha site or a density of around 75 units per hectare. Other tourism developments in the City generally have been developed using a density code of R50 (50 units per hectare).
34. Acknowledging that this site is located within a rural landscape, where densities would be expected to be lower, the overall development density is not unreasonable, particularly if the operator is endeavouring to attract and retain tourists to a site that is 20km from the City's CBD. As detailed earlier, the zoning allows a caravan park to be developed as a "Permitted" land use and the lot in question could produce a caravan park comprising over 300 bays; within those bays could be a various types of vehicles, chalets, short stay accommodation units, etc which would still be visible from outside the site and not be capable of being regulated.

## DEVELOPMENT SERVICES REPORTS

Item 11.1.1 continued

35. Visual Amenity

The issue of visual amenity is an equally subjective, but important consideration, that requires addressing. The proponent has provided several photomontages of the development (images of the development superimposed into photographs) from various vantage points including Whalers Bay (off shore), the Norwegian Whaling remains, a point near the intersection of Vancouver Road and Frenchman Bay looking north and an aerial view from above Goode Beach. The photomontages submitted attempt to highlight the visual impact of the development from a number of significant public vantage points, however they do not capture every possible view from individual locations (this would require hundred's of such images). Photomontages are an accepted tool in assisting Council's understanding of the visual impact of a development (such images are professionally prepared and represent a realistic scaled view of what the development will look like in the landscape).

36. The State Administrative Tribunal has been asked on several occasions to clarify the concepts of landscape amenity and visual amenity. The precedent that appears to have been established flows from the case of ***Ironbridge Holdings Pty Ltd and State Planning Commission*** (Appeal 24 of 1994) where the Tribunal found that “assessment of the value of landscapes must be taken outside the subjective view of an observer or an expert. It must approach some level of scientific enquiry based on a series of procedures which minimise the subjective judgements inherent in assessing views and aesthetics.” In the case of ***WR Carpenter Properties Pty Ltd and Griffin Coal Pty Ltd and the Western Australian Planning Commission*** [2006] WASAT 200, it was successfully argued that the materials used in a development should not be so reflective that they distract a person travelling along a road or enjoying a view from a vantage point, the development should not naturally draw the observer's eye to a part of the view and the development should not be directly ahead of a road at the focal point of a view. In ***Tempora Pty Ltd v Shire of Kalamunda*** (1994) 10SR(WA) 296, the Tribunal observed that “the determination of the amenity of the locality is a question of fact, and consists of three parts, the existing amenity, the manner in which the proposed use will affect the existing amenity and the degree of impact on the locality.” In ***Focus Video v City of Enfield*** (1985) 55 LGRA 214 it was found that “the extent of the relevant ‘locality’ for planning purposes varies from case to case, but care must always.... taken [to] not unduly.... restrict the locality, for the tighter the locality [is] defined, the greater [the] impact of the impugned subject matter and the greater the risk of distorting the relevant planning criteria.”

37. When considering the issue of visual amenity relating to this development, the planning authority needs to take into account whose amenity is being affected by the development. In this case there is a limited number of dwellings within the locality of Goode Beach that would have a direct line of sight to the development, and from those residences the existing structures/buildings at Whaleworld and a public toilet are clear built elements within the landscape. It is also important to note that when the development is viewed from the west (ie. from the lookout, from sections of the beach and from those existing residences), a substantial headland at the eastern end of the Torndirup National Park ensures the proposed development does not silhouette against the skyline. The capacity to control building finishes and colours also allows the visual impact of the proposed development to be reduced; this is in contrast to the uncontrolled finishes applied to those existing buildings.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

38. The City of Albany Local Rural Strategy contains planning objectives for “visually sensitive areas” and those provisions are discussed in greater detail at paragraph 103.
39. The most important visual aspect to conserve is the view of the development from the foreshore of King George Sound (at the site’s northern boundary), as this reserve is a valued and well utilised recreational asset for the Albany community. Given the topography and vegetation cover associated with the reserve, the photomontage reveals that only a small section of the development would be visible (and certainly would not dominate the view) from the car park near the State heritage registered Norwegian whaling station site. As the observer moves further to the west, away from that car park, the development would be obscured completely, owing to the thick vegetation on the steep bank and the setback applied to the built form. Further down the beach the development would again appear, however the existing residences in Goode Beach then become the dominant landscape elements.
40. In relation to the important vista presented to tourists when they travel down Frenchman Bay Road (on their way to Whaleworld) the upper storey of the southern residential unit and third floor of the village centre development will be just visible over the tree line at the Vancouver Road junction for a short period as the motorist crests the hill; within 50 metres, the development will fall below the tree line and it will not draw the motorists attention away from the extensive views of King George Sound that are provided at that point. The photomontage supplied by the proponent shows the development at the western extent of this vista and only marginally above the foreground vegetation. The reduction in floor level of the southern block of units by 1.0m will further reduce the already limited impact on this view shed.
41. Motorists leaving the settlement of Goode Beach (travelling towards Frenchman Bay Road) and persons enjoying the scenery from the Vancouver Road lookout will be subjected to the greatest exposure of the proposed development. The line of sight that they would be using is on the same axis as the existing buildings and infrastructure at Whaleworld. It could be argued that the silver tanks at Whaleworld would be more visually intrusive than a homogenous built form that sits lower in the landscape.
42. The impact on the amenity of a locality goes well beyond simple visual matters. Noise, light spill and other factors contribute to enhance or detract from the amenity of an area. The proposed development is a minimum of 1.0km from the nearest residences and noise, light spill, etc from the development is not likely to affect those residences. Should the site be redeveloped as a caravan park, the capacity to reduce the light spill and noise impacts are considerably reduced.
43. Considerable comment has also been made about the impact of this development from persons boating on King George Sound and utilising the local beach near Goode Beach. It is the opinion of City staff that the existing urban area at Goode Beach will have a greater negative visual impact upon persons boating on the harbour or looking across the peninsula from the existing urban area than this project. The existing settlement has taken a vernacular form, with houses constructed out of various building materials, each adopting a different building style and the combined form uses a variety of paint palettes, levels of reflective glare and site landscaping techniques. That built form will intensify over time and further add to its prominence within the landscape; the proposed development is finite in its form and it is to be built with a consistent form and finishes.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

44. Development Setback and Foreshore Reserve Implications

Issues surrounding the suitability of the development setback, the delineation of the foreshore boundary and impacts on the existing foreshore reserve have been raised.

45. The applicant has provided a development setback of 75 metres from the coast, as advised in a detailed coastal engineer's report, to take into consideration natural (physical) processes. This analysis, undertaken in accordance with State Planning Policy 2.6, has been supported by the Department of Planning and Infrastructure.
46. The DPI has suggested (not mandated), that Council may wish to consider increasing this setback to 100 metres to cater for additional recreational requirements; this is a standard response supplied by the Department to reflect the principles of SPP2.6. Should Council wish to pursue this additional setback requirement, the foreshore reserve will be split into two disjointed spaces separated by a considerable escarpment. Staff are of the opinion that considerable additional maintenance responsibilities will be transferred to the City of Albany to maintain an area of land at the top of the escarpment that is unlikely to be used by the general public. Officers of Tourism WA have also expressed concern with this requirement as the creation of a public space literally outside the front window of the holiday units is likely to seriously diminish the holiday experience of the visitors; the tourism operator would be powerless to remove "undesirables" from this space.
47. The other issue that Council needs to resolve is whether it wants to extend the boundaries of the existing foreshore reserve. Reserve 21337 currently occupies an area of 26.5ha and provides over 1.0km of public ocean frontage for the public. It extends between 150m and 400m inland. The reserve surrounds the subject lot on three sides and it provides comprehensive connectivity in an east – west direction (the primary reason why additional foreshore land would be sought).
48. Council has no policy on the provision or the securing of foreshore reserves and each application tends to be treated on its merits (a primary reason SPP2.6 does not mandate a minimum foreshore width). If it is Council's intention that it "requires" 100m foreshore reserves around the harbour and that position is to be encapsulated in guidelines or policy, the impact of that decision is considerable; the foreshore reserve fronting the settlement of Goode Beach ranges from 10.0m to 40.0m and it also does not provide for recreational opportunities or for pedestrian connectivity along the length of the reserve. An expansion of the foreshore reserve in this locality alone would necessitate the resumption of all properties to the north east of La Perouse Road and La Perouse Court.
49. The DOW officers have reviewed their position regarding the foreshore reserve fronting the proposed development and now advised that the foreshore reserve should only be widened marginally, to ensure the entire steep bank and those areas within a moderate or high risk for landslip are within the reserve boundary (see response in the Bulletin and PLAN A). Should the application be supported, staff have attached a draft condition that would propose an increase in the foreshore reserve to recognise the comments made by the DOW.

## DEVELOPMENT SERVICES REPORTS

## Item 11.1.1 continued

50. The DOW officers have expressed concern that the development will generate additional recreation pressure on the existing foreshore reserve (through increased usage). They have recommended that, in order to mitigate this concern, the land between the foreshore boundary and the holiday accommodation units (around 20 metres) should be set aside for the recreational needs of the guests of the accommodation units; this suggestion is consistent with the views expressed by Tourism WA officers.
51. The DOW has also recommended that fencing be installed to separate the reserve from the private land and that the fence be post and rail fence, rather than of solid construction.
52. A foreshore management plan (Whalers Beach/Frenchman Bay Landscape Plan (2002) currently exists and that plan adequately deals with current activities on the foreshore. Should the project proceed, a variation to that plan or the preparation of a new plan to reflect the increase in usage will be required, and it is common practice to require developers to prepare new foreshore management plans by way of a condition on the planning scheme consent. Officers of the DOW have requested that any future foreshore management plan include that portion of land in private ownership between the proposed development and foreshore reserve. The revised foreshore management plan will need to address a number of issues inclusive of access points from the development into the reserve and the care, maintenance and display of the heritage components on the current foreshore reserve.
53. The impacts upon the foreshore reserve from a staged development are difficult to quantify. Therefore, any planned access points, improvements to the foreshore area, upgrading of boat ramps, etc would have to be agreed between the Heritage Council of WA, the City of Albany and the developer and assessed under a separate foreshore management plan; it is expected that the developer will financially contribute towards such a plan and it will be subject to future Council and Heritage Council approvals, following public consultation.
54. SPP 2.6 indicates that “coastal strategies and foreshore management plans” should be prepared early in the development approval process, but the policy also states that the plans need to be appropriate to scale (reflect the development that it is responding to) and that generally the issues associated with coastal planning should be defined in local planning strategies and other documents. The SPP goes on to state that “*given the variation of coastal environments in the State and the range of development and use contexts that can be presented, it is important that this policy, and the setback guidelines in Schedule One, be applied to each case under consideration on its merits using the best available information, common sense and a precautionary approach.*” Staff are concerned that a detailed foreshore management plan could be prepared and accepted by the community and the Heritage Council of WA assuming this project proceeds and is fully developed, and the City would be left with the financial burden of implementing that plan.
55. Impact on springs in adjacent reserve

The Environmental Protection Authority (EPA) in it’s assessment of the project (dated 29 October 2008) provided advice to Council that it expected the proponent will liaise with the DOW and prepare, if required, a hydrological study and establish groundwater monitoring requirements. At that time, no detailed hydrological study had been undertaken and submitted to the DOW for assessment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

56. The proponent has undertaken additional environmental work, as suggested by the EPA, and specifically undertaken geotechnical investigations within the identified catchment for the adjacent natural springs (this information is contained within the Bulletin and the results summarised on PLAN A). The detailed geotechnical work, which involved drilling investigations, identified that the water table is associated with the presence of silt which occurs between -1.7m and 11.6m AHD, well below the building levels associated with this development. The report also identified that there is a moderate to high risk for landslip for a portion of land in the north-west corner of the site.
57. The report has also sought to identify the probable catchment of the springs which extend into the site by some 50 metres.
58. The environmental report was referred to the DOW who have requested that the portion of the land affected by the landslip risk not be developed and the land be included in the revised foreshore reserve (see PLAN A in the Bulletin). This would require the removal of the western most block of units, which would also ensure the majority of development would be located outside of the catchment boundary of the springs; this block was to incorporate a basement car park which would have necessitated excavating 3.5m into the site. The DOW have advised that, should these units be removed, that department would not require ongoing groundwater monitoring as previously requested.
59. The removal of the western most block of units from the plan should ensure that the springs are not unreasonably impacted upon and will also assist from a fire management perspective given the western portion of the site is first exposed to a potential wild fire that would be fanned by northerly summer winds (as discussed further in the report).
60. Economic Sustainability  
Several submissions express concern that the development is unlikely to be economically sustainable and that it will eventually be converted for permanent residential purposes. The Scheme, under Section 5.4 'Matters to be Considered', outlines what matters Council can consider in arriving at a planning decision. The economic viability of a project is not a matter able to be considered by Council under the Scheme.
61. There is also no ability for Council to approve the conversion of the units for permanent residential purposes under the Scheme. Council has previously received legal advice confirming that restriction.
62. Use of eastern portion of site  
No detail is provided on the plans accompanying the application regarding the future use of a portion of land on the eastern extremity of the site. This portion (see PLAN A) is the subject of a separate subdivision application with the WAPC. Submissions received have suggested this land could be used to spread the current development (to achieve the same unit yield) to reduce the scale and density of the development on the site.
63. Although Council cannot require the proponent to amend their site plan (to introduce development over this vacant portion of the site), staff would encourage the western most block of units that are recommended to be removed, to be relocated to this area.



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

64. Compliance with Council's Strategic Planning Framework

An analysis of the strategic planning framework affecting the proposal is analysed under strategic implications. Staff have assessed the development assessment against the Albany Local Planning Strategy, the Local Rural Strategy and the draft Tourism Accommodation Strategy.

65. Fire Management

The subject land is surrounded by natural bush on its northern, western and southern boundary and is separated from an adjacent reserve, covered in coastal heath, on its eastern boundary by Frenchman Bay Road.

66. Albany's significant fire events (those where extinguishing a fire become impractical) are usually associated with northerly winds during summer and where significant vegetation remains on steeply sloping land next to a development. A fire starting in the reserve to the northwest (from either the foreshore reserve or walking trails on Reserve 21337) or the foreshore to the north would represent the largest threat to the development. In this instance the reserve is a narrow strip of land and a wild fire would move through that reserve very quickly. The western most block of units has the greatest exposure to this portion of the reserve and there would be limited opportunity on-site to protect this building from flame contact during an approaching fire. The removal of this unit block, as recommended above, will allow the developer to create a 20m wide low fuel zone between the northern and western portions of the reserve and the buildings.

67. The buildings adjacent to the southern and eastern boundaries are generally set back a sufficient distance from the property boundary to provide a suitable separation zone for flame contact, given the level of threat from these directions is less due to the milder slopes and the presence of local roads to act as strategic fire breaks. The impact of ember attack on the buildings can also be managed through suitable management of air conditioning, construction standards of buildings and the planting of the site. The greatest fire threat to the proposed development comes from the land use on the site (eg kitchen fires, etc) and the time that it would take a structural fire fighting unit to travel to the site.

68. Other locality factors that assist in reducing the fire threat to the site are:

- Reserve 21337 is surrounded by Frenchman Bay Road to the east, Vancouver Road to the south and the Whalers Bay to the north resulting in a relatively small fire cell and a resultant number of escape options in the event of a fire; and
- A mulched strip, created by the power transmission line dissecting the reserve, creates a second strategic fire break directly to the south of the proposed development.

69. The EPA has recommended that a fire management plan be prepared by a suitably experienced fire consultant to demonstrate that the development is suitably buffered from surrounding vegetation and/or can be designed to withstand a fire. A Management Plan would include a detailed assessment of vegetation types, topography, weather patterns etc. In addition to assessing the physical conditions on site, the plan may recommend additional protection mechanisms be applied to the development including higher building standards (as per Australian Standard 3959 – Buildings in Bushfire Prone Areas), the provision of measures to reduce the impacts of ember attack (eg external sprinkler systems) and in extreme cases, the use of fire walls at strategic points.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

70. The Officer's Recommendation contains a proposed condition requiring the preparation of a fire management, in accordance with the WAPC's Planning for Bushfire Protection (2001) document, to resolve building construction standards prior to work commencing on-site.
71. Tourism Usage of the Site
- A review of the submitted plans by officers of Tourism WA has raised some concerns over the tourism operational suitability of the submitted plans. A resort development requires a certain level of infrastructure to be provided for operational efficiency. The current design does not make provision for a maintenance shed (to house lawn mowers, gardening equipment, etc that is essential for the site), there appears to be no provision of laundry stores for cleaners and a general lack of recreational opportunities on-site (a swimming pool is the only facility shown). Failure to provide recreational opportunities on-site will force tourists onto the adjacent foreshore reserve and create conflict between tourists and local reserve users. A games room is also considered a standard element of a resort development and should be included within the Village Centre building. The staging of construction should also ensure that restaurants and recreational facilities are part of the initial build and not a stage 2 or 3 "add on".
72. In addition to the infrastructure provided on-site, a successful tourism facility needs to operate under a single management regime, either by its sale to a hotel chain or through strict strata title obligations. Failure to address future management obligations can result in poor site management, disparate maintenance of units, an erosion of the holiday experience and the ultimate failure of the resort.
73. Tourism WA has also expressed some concerns in the use of terminology in the proponent's application and requests that any notations on the plans such as 'beach houses' or 'private apartments' be renamed 'short stay units'. This can be requested as a condition.

**PUBLIC CONSULTATION / ENGAGEMENT**

74. The development application has been subject to three public advertising periods, following subsequent revisions, in the form of letters, newspaper notices/advertisements and signs on site. In total, 71 submissions over the three advertising periods have been received (copies of each is included in the Bulletin) with a précis of the comments being:
- (a) Proposal is too big for site.
  - (b) Needs to be connected onto sewer.
  - (c) Capacity of stormwater system is inadequate and could impact on foreshore/springs.
  - (d) Increased nutrients being leached/spilled into the sea (including possible impact on endangered sea-dragons).
  - (e) Building should not be visible from the beach.
  - (f) Removal of vegetation on the site and adjacent reserves.
  - (g) Impact on visual aspect from local vantage points, and visually degrade a significant tourist asset.
  - (h) Scale of buildings is too large.
  - (i) Additional access ways onto the foreshore should not be supported.
  - (j) No permanent residential element should be permitted.
  - (k) Excessive in height (generally preference appears to be max two storeys).
  - (l) Glass will reflect in all directions.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- (m) Noise will increase within the immediate locality (both from the resort and increased beach/water users).
- (n) Lack of building environmental design, i.e. passive heating and cooling.
- (o) Lack of public open space within development.
- (p) Lack of boundary fencing detail.
- (q) Will increase boat and jet ski traffic on and from the beach.
- (r) Significant increase in traffic to/from the site and along Frenchman Bay Road (thus impacting on safety).
- (s) Unaffordable to locals and creates a perception of an enclave for the wealthy.
- (t) Should include low cost options (camping) to general community use.
- (u) No real gains for community.
- (v) Impacts on flora and fauna in adjoining reserves and National Park.
- (w) Village centre facilities need to be fully accessible to residents of Goode Beach.
- (x) Coastal setback of 75m is not sufficient.
- (y) Is this the best use of the land.
- (z) Services to the site could be visually intrusive (eg overhead power lines).
- (aa) Overlooking of beach from units would be intrusive to privacy.
- (bb) Impact on the heritage of the Old Whaling Station.
- (cc) Will increase beach user numbers, and thus impact on the local amenity.
- (dd) Manager's unit is too large.
- (ee) Poor design and lack of detail.
- (ff) The site should be re-zoned appropriately.
- (gg) Conference/function centre is unnecessary.
- (hh) Will cause/increase light pollution.

75. On the 10 July 2006, shortly after the application was originally lodged, a community meeting was held at Whale World, which was attended by officers along with the Executive Director of Development Services to provide technical advice/clarification.
76. Technical based comments have been provided by the various state government agencies (in terms of specific issues or conditions requested), or the agencies have advised that they have no planning concerns. The majority of the comments relate either to the scale, design, materials and use of the buildings, or to the impact on the foreshore (privacy and visual amenity, or the increase in use); Council in its role as a planning authority is to consider the planning merits of the application that has been submitted for consideration, not speculate on what may be alternate or preferable design options.

**GOVERNMENT CONSULTATION**

77. The proposal was referred to several government agencies and their responses are available for review (as contained in the Councillor Lounge), but a précis appears below:
78. Department of Planning and Infrastructure:
- The coastal engineer's recommended setback of 70m from the existing vegetation line is supported.
  - The land from the total seaward line is required to be given up free of cost as a foreshore reserve extension at the time of development, over and above the City's requirements for open space.
  - Delineation and demarcation of the boundary between public and private land should be in the form of a dual use path rather than a masonry wall.
  - Should the development be approved, a detailed foreshore management plan needs to be prepared.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- Any development of the subject site should ensure all structures do not significantly impact on the amenity of the coast and be designed in a manner that is in keeping with the coastal landscape and surrounding area.
- The Council should have due regard to the Visual Landscape Planning in Western Australia Manual when assessing the development.

79. The provision of, or contribution towards a review of the existing foreshore management plans can be required as condition on the Planning Scheme Consent and the WAPC regularly requires foreshore plans to be prepared as a condition of subdivision, not prior to the subdivision being approved. The built form element is controlled by the City's Residential Design Codes policy, and the proposal generally complies with that policy. Within the preamble of the manual, it is clearly stated that the WAPC manual of Visual Landscape Planning in WA is a "work in progress", it is also "not an academic text, statutory procedure or prescriptive policy". The Proponent has undertaken a visual assessment but that work does not now follow the procedures outlined in the Manual. However, the manual clearly states that any landscape assessment needs to be undertaken with specific objectives in mind and the City's Local Rural Strategy and the Residential Design policy provide nine objectives, as detailed in paragraphs 19 and 103. This development does not offend those objectives.

80. Department of Environment and Conservation:

Officers of the Department of Environment and Conservation advised;

- Due to proximity of the development to the National Park a native vegetation and/or slashed buffer of 10.0m should be retained on the boundary.
- A Phytophthora Dieback Hygiene Plan will be required for the construction stage.
- A Clearing permit for the clearing or removal of any native vegetation from the site prior to commencement of development will be required.
- A fauna management plan will be required to be approved by DEC for the construction stage.
- The amenity of the development may be affected on occasion by the close proximity of the National Park. A notification on the title will be requested on the title at amalgamation stage by DEC.

These comments can be addressed and controlled through planning conditions (including management plans), should the application be approved.

81. Heritage Council of Western Australia:

Officers of the Heritage Council of WA advise that the proposed works are supported subject to due care being taken to the existing concrete steps, and an interpretation proposal being developed and implemented to convey the significance of the Old Norwegian Whaling Station site.

Any heritage impact and interpretation proposals resulting from the integration of the project with the adjacent foreshore reserve and State Registered heritage site can be resolved within the foreshore management plan / foreshore conservation plan recommended as a planning condition.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

82. Department of Water (DOW):

Officers of the DOW;

- Support the proposal to connect the development to the reticulated sewer mains.
- Recommend that a Drainage and Nutrient Management Plan be required (all stormwater drainage is to be infiltrated on south-east portion of the site and not discharged into the coastal reserve).
- Recommend that the foreshore reserve be widened to ensure the entire bank and landslip risk areas are located within an extended reserve boundary.
- Suggests that with the removal of development subject to landslip risk, which will result in the development outside of the spring's catchment the need for ongoing groundwater monitoring would not be required.
- Recommend that a 20.0 metre buffer between the revised foreshore reserve and the development be maintained for private recreation purposes for tourist occupants to reduce the recreational pressure on the foreshore reserve.
- Support the EPA advice and would recommend the development of a Foreshore Management Plan.
- Recommend that access from the development to the foreshore reserve should be restricted to say one access point only to protect fragile slopes associated with reserve.
- Suggests a low key feature such as posts or a simple post/rail fence should be used to demarcate boundary between reserve and private land.

These comments are generally supported by staff and can be addressed and controlled through planning conditions, should the application be approved. The maintenance of a 20.0m setback to "all buildings" from the modified foreshore boundary would impact upon the second western-most block of buildings, notwithstanding that a substantial on-site recreational space (and low fuel fire zone) is recommended to be provided to the west of that building.

83. Environmental Protection Agency:

The EPA advice states;

- The proponent should liaise with the DOW regarding management, monitoring and investigation of the two natural springs and stormwater disposal requirements. This should include a Drainage and Nutrient Management Plan to the satisfaction of the DOW.
- That concerns arise regarding the adequacy of the proposed Coastal Foreshore Reserve, in particular consideration of recreation, public access, coastal hazards,
- Consideration needs to be given to landscape and visual amenity.
- Concerns have been raised regarding the utilisation of the Foreshore Reserve for drainage purposes.
- The EPA expects that the Coastal Foreshore Reserve will be determined in accordance with the Western Australian Planning Commission (WAPC) State Coastal Planning Policy 2.6 (2006) to the satisfaction of the DPI. This may require the Coastal Setback to be increased.
- As a condition of planning approval, a Foreshore Management Plan be prepared and implemented. The Management Plan should be undertaken to the satisfaction of Council on the advice of the DOW, the DPI and the Department of Environmental and Conservation (DEC).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- The EPA expects that the proponent's obligations under the Contaminated Sites Act (2003) will be met, and that investigations and any necessary management plans/remediation will be undertaken in accordance with DEC's Contaminated Sites Management Series to the satisfaction of DEC, prior to any development or ground disturbing activities commencing.
- The EPA also expects that a condition of planning approval be imposed which requires the developer to undertake of a site investigation, prior to any ground disturbing activities.
- DEC will make a decision to grant or refuse a permit for the clearing of native vegetation on-site. The decision of the EPA to "Not Assess" the proposal carries no presumption about the outcome of an application for a Clearing Permit.
- Although no species of Specially Protected (Threatened) Fauna have been identified on the site, the EPA expects that advice should be sought by the proponent from the DEC with regard to detailed fauna surveys that may exist for that region of Western Australia. The proponent should comply with any advice offered by DEC.
- EPA supports the proposed development being connected to a reticulated sewer. However, the proponent should note that the route alignment for reticulated services has not been assessed as part of this proposal, and therefore may be subject to referral under s38 of the Environmental Protection Act 1986 if it is likely to have significant environmental impacts.
- EPA also expects that a condition of planning approval be imposed which requires a Fire Management Plan to be prepared for the subject land in consultation with the DEC regional office.
- The EPA expects the relevant decision-making authorities to consider and implement this advice through the approvals process.

The proponent's letter dated 4 November 2008 (with accompanied environment report as attached in the Bulletin) has sought to address the outstanding matters listed by the EPA in its advice. This additional information was also forwarded to DOW who reviewed the advice, and provided updated comments (refer DOW letter dated 24 April 2009 as attached in the Bulletin).

It is recommended that, should Council support the proposal, the conditions expected by the EPA be applied as planning conditions on the development.

84. Department of Health:

Officers of the Department of Health do not support the proposal unless the development is connected to sewer.

NB: The Proponent has agreed to this requirement and this infrastructure extension can be imposed as a planning condition, should the application be approved.

85. Tourism WA

The Tourism WA advice states:

- The car parking calculations should be based on 1 parking bay per bedroom.
- The developer should clarify the number of bedrooms and the total number of 'lettable units' (keys) which are proposed.
- That they recognise the City of Albany's draft Tourism Accommodation Planning Strategy which identifies the site as a Local Strategic Site.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- They height and scale of development is a local planning matter and they recognise the importance of ensuring the development does not negatively impact on visual amenity.
- The management of the 'private 2 key apartments' should be clarified.
- The Village Centre should incorporate a central facilities/storage building and be at least in size in addition to a games room which is a standard resort element.
- The manager's residence should be reduced in size and relocated closer to the reception area (possibly above the Village Centre and included in common property).
- The recreational facilities associated with the proposal are limited and it is recommended that the Village Centre be constructed as part of Stage 1 of the development.
- The use of terminology in the report and on the plans should be changed from terms such as 'residential', 'homes' and 'beach houses' to 'short stay units'.

In relation to the issue of '2 key' apartments, this is a relatively common concept that has been applied to tourist accommodation, which allows for flexibility and maximum occupancy in letting arrangements (please refer to detailed floor plans and letter from architect in Information Bulletin). A holiday accommodation proposal recently approved by Council in Barry Court included this arrangement. Depending on the size of the party wishing to occupy the unit, the unit can be either tenanted by a single family or group and used as a three bedroom apartment, or divided into two living areas (by restricting access through a locked internal door). In relation to the 78 apartments (including the 16 apartments over the village centre which will be smaller versions of the standard apartments) the units could be divided to create one area with 2 bedrooms, living room, bathroom and full kitchen and another area with one bedroom and en-suite (coffee/tea making facilities and bar fridge typical of a motel room is also to be included). In relation to the 21 beach houses, these units are larger and have two living areas over two floors that are self contained on each level, and can be used by one large group or two separate groups/families.

The Special Site zoning applicable to the site does not impose a maximum number of units (ie. no density coding applies), however staff have based their assessment and recommendation on the proposal containing 100 units (and not say 200 units). In certain situations, based on the make-up of guests, each unit has the potential to be utilised by two separate parties. Overall however the number of occupants per unit is unlikely to change whether the unit is used as a single occupancy for a larger family/group or dual occupancy for singles and/or couples. A 2-key setup does have implications for car parking in that 2 vehicles per unit becomes a more likely scenario when the unit is divided. As discussed however in Paragraph 5 of this report, the proposal does provide for 2 parking spaces per unit which is deemed sufficient, albeit less than the recommended parking arrangements suggested by Tourism WA.

Tourism WA are supportive of the '2 key' apartment ideology as it provides for increased accommodation options.

Staff believe the concerns relating to additional recreation and storage facilities and incorrect terminology describing the development can be overcome through planning conditions. The manager's residence is located centrally to the development and although it's relocation is suggested by Tourism WA to be closer to the Village Centre staff have not requested this be required by condition.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**STATUTORY IMPLICATIONS**

86. Clause 3.1.9 of Scheme 3 (the Scheme) states that the purpose of the “Special Sites” zone is to provide for a use which by their singular nature cannot be accommodated in the Use Class Table.
87. As discussed in Paragraph 13 of this report, the zoning of this lot has been challenged. The WAPC holds the official zoning maps and those maps show the entire property as a “Special Site”. On its original gazettal in 1980, Scheme 3 designated the zoning of the current lots to be both ‘Special Site (Caravan Park)’ over the eastern half of the property and the ‘Parks and Recreation’ Reservation over its western half.
88. The subdivision of the site to create two lots was approved by the WAPC in 1987. On the approval, the WAPC advised the then Shire of Albany that the zoning discrepancy should be attended to as soon as possible. Preliminary searches of the former Shire of Albany minutes have not uncovered a record that the Shire prepared an amendment to rezone the entire property ‘Special Site (Caravan Park)’, as directed. cursory reviews by officers within the DPI and the WAPC have also failed to confirm a date when the zoning may have been changed.
89. Should there be an anomaly in the WAPC zoning maps, the zoning that applied in 1980 would remain and Council would have the ability under Part 2 of the Scheme to consider that portion of the development that is on reserved land. In this regard the Scheme states:
- “2.2(b) Except as otherwise provided in this Part, a person shall not carry out any development on land reserved under this Scheme, other than the erection of a boundary fence, without first applying for and obtaining the written approval of Council.*
- 2.2(c) In giving its approval the Council shall have regard to the ultimate purpose intended for the reserve and shall in the case of land reserved for the purposes of a public authority confer with that authority before giving its approval.”*
90. Part 2 of the Scheme also states that, where Council grants refusal for development on reserved land on the basis that the land is reserved for public purposes, an applicant may lodge a claim for compensation against Council for injurious affection. It is also important to note that the current and previous owner (Champion) purchased the property on the basis that the land was zoned ‘Special Site (Caravan Park)’. The zoning certificate issued by Council identified the whole property being zoned ‘Special Site’ and the owner relied on this information, as part of their due diligence process, in purchasing the property. A claim for negligent misstatement against the City could be made if the zoning of the property is found to be incorrect and the City relies on this issue to refuse the development.
91. The land, the subject to the reserve classification has previously been used for tourism purposes and that use is reflected in ALPS (the site is designated as a Tourist Accommodation Node) and Council’s draft Tourism Accommodation Strategy identifies the land as a strategic tourism site. This is further reinforced on the basis that the land that was excised from the adjacent reserve and incorporated into the freehold land parcel, and the remainder of Reserve 21337, was vested in the Council for the purposes of ‘Recreation Pleasure Resort & Caravan Park’; the proposed development is not inconsistent with that purpose.



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

92. Section 3.7 of the Scheme provides the legislative guidance as to how development is considered, where a site is zoned ‘Special Site’ in the Scheme, which states:

*“Within those areas zoned as Special Sites, Council will only permit uses that are either:*

- a) Marked on the scheme map;*
- b) Contained in a development guide plan adopted in accordance with Clause 6.9 of the Scheme; or*
- c) Contained in the following table;*

Use Class	Caravan Park	Holiday Accommodation	Museum
Caravan Park	P	X	X
Caretaker’s House/Flat	P	P	P
Holiday Accommodation	AA	P	X
Petrol Filling Station	AA*	X	X
Public Recreation	AA	X	X
Shop	IP	X	IP

\*restricted to client use

93. The use is listed as an ‘AA’ activity, which is ‘a use that is not permitted unless planning consent to it is granted by the Council after notice has been given in accordance with Clause 5.1.4 (ie public advertising).

94. Holiday Accommodation is defined under the Scheme as;

*“Accommodation which by way of trade or business or for the purpose of any trade or business is held out as being available, or is made available for holiday purposes for occupation by persons other than the proprietor and which comprises not less than four units, and to which the provisions of Local Government Model By-Law No. 18 (Holiday Accommodation) apply.” (NB:/Local Government Model Bylaw No. 18 (Holiday Accommodation) is no longer in use).*

95. Under the Scheme, there are no specific statutory requirements provided for Holiday Accommodation, or Special Sites. However, as with all applications, the proposal needs to be assessed against Section 5.4 (Matters to be Considered by Council) of the Scheme. The relevant sub sections of this section are:

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
- (c) any approved Statement of Planning Policy of the Commission;*
- (d) any approved Environmental Protection Policy under the Environmental Protection Act 1986;*
- (e) any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State;*
- (f) any Town Planning Scheme Policy adopted by the Council under clause 6.9, and any other plan or guideline adopted by the Council under the Scheme;*
- (h) the conservation of any place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990;*
- (i) the compatibility of a use or development with its setting;*
- (j) any social issues that have an effect on the amenity of the locality;*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

- (l) *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (m) *whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire, or any other risk;*
- (n) *the preservation of the amenity of the locality;*
- (o) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring, and parking of vehicles;*
- (q) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (s) *whether public utility services are available and adequate for the proposal;*
- (t) *whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet, and shower facilities);*
- (u) *whether adequate provision has been made for access by disabled persons;*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (w) *whether the proposal is likely to cause soil erosion or land degradation;*
- (x) *the potential loss of any community service or benefit resulting from the planning approval;*
- (y) *any relevant submission received on the application;*
- (z) *the comments or submissions received from any authority consulted under clause 5.1A;*
- (za) *potential impacts of noise, dust light, risk and other pollutants on surrounding land uses; and*
- (zb) *any other planning consideration the Council considers relevant.*

96. The application before Council has been amended since the original proposal was submitted, and all units are to be used exclusively for holiday accommodation purposes, consistent with the current zoning. The majority of the 'matters to be considered' have been addressed by the state government agencies, are addressed by other areas of this report or can be controlled by planning conditions.

97. Vehicle movements to and from the location have been assessed by City staff, along with the safety of movements into and around the site; they are found to be generally acceptable, with the proposed planning conditions incorporated into the Officer's Recommendation being sufficient to control and request any additional information/clarification.

**FINANCIAL IMPLICATIONS**

98. Any financial implications would be predominantly met by the developer. City contributions towards road up-grades and foreshore reserve planning may be required, however the quantum of those costs is unknown.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

99. Draft Tourism Accommodation Planning Strategy (TAPS).

Within the draft TAPS, the site is highlighted as one of the five “Local Strategic” sites, which could provide a variety of high quality tourism experiences, and should be protected from alternative land uses (non tourist).

100. Under the specific site evaluation (Appendix 2 section 9) for the site within TAPS, it states;

*This site is currently appropriately zoned for the development of a holiday accommodation project and is clear of buildings. It is well placed to provide for a hotel/apartment development on either a smaller or larger scale depending upon market demand and the capacity of the proposed development to reconcile infrastructure deficiencies in the locality. Whilst there are alternative sites that can be developed elsewhere in Albany for the intended tourism product, this site enjoys an appropriate zoning and it provides a unique setting. The site's major disadvantage is the 20 minute travel distance to the CBD. There is no planning merit in allowing this site to provide a separate and discrete residential enclave away from the established settlement of Goode Beach.*

101. Albany Local Planning Strategy (ALPS)

The ALPS identifies the area as a Tourist Accommodation Node. Section 5.4 within ALPS is the most relevant section to this proposal, whereby the following objectives are listed:

5.4.1 *Destination Sites*

*“To retain and facilitate new tourism developments that are sympathetic to community and environmental considerations”.*

5.4.2 *Accommodation*

*“Promote the development of sustainable tourist accommodation”*

5.4.4 *Albany Icons*

*“To protect and enhance Albany’s iconic sites”*

102. In relation to visual amenity ALPS also states under Section 4.5.2 the objective:

*“Maintain the outstanding visual amenity of the City and public view scapes and iconic elements”.*

103. Local Rural Strategy (LRS)

Although the site is not zoned “Rural” under the Scheme, the general visual amenity provisions within the LRS would apply to the subject land. The land is identified within Visual Management Area A, whereby it lists a number of general criteria in relation to protecting visual amenity. In placing a development, the Strategy states that developments should be sited such that they:

*“(i) Do not detract from significant views;*

*(ii) Are not located on ridge tops (to avoid silhouetting against the skyline);*

*(iii) Are preferably not located on slopes greater than 1:10; and*

*(iv) Are sympathetic to existing landscape elements.”*

The most important consideration in assessing development within visually sensitive areas is to ensure that development does not silhouette against the skyline (as per point (ii) above). The development is also not on a ridge top and has a slope of around 1:15 (at its worst cross-section, the land rises from 18.0m to 27.0m AHD over 100 metres or 1:11).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

The issue relating to views and landscape elements have been previously discussed under the visual amenity heading of this report.

104. Foreshore Management Plan

There is currently no adopted site/reserve specific foreshore management plan for the area adjacent to the proposed site; the draft Whalers Beach/Frenchman Bay Landscape Plan (2002) was drafted but not adopted by Council. However, the site does fall within the Woolstores to Frenchman Bay Foreshore Management Plan (2000) which, under figure 16, recommends that a more detailed plan be prepared to better cater for vehicle and public use, and figure 6 provides some indicative details on how that may be achieved. This Plan would need to be updated and revised to take into account any additional impact, if the proposal were to be approved and the project proceeds. A Foreshore Management Plan would be subject to public consultation.

## **POLICY IMPLICATIONS**

105. Residential Design Codes Policy

The policy gives guidance as to the appropriate scale and density of development that should be considered on the site. The Policy was adopted by Council after the development application was lodged; its status in relation to this proposal could be challenged. From staff's perspective, the document is an adopted policy of Council, and as the proposal has been deferred for a considerable period of time, plus amended on a number of occasions, the application of the policy to this proposal is justifiable and should be acceptable to SAT, should the matter be subject to a review. Compliance with this policy is addressed under the Scale and Density heading of this report.

106. State Planning Policy 2.6, State Coastal Planning Policy - (SPP2.6).

The purpose of SPP2.6 is to inform and guide the WAPC (and thus the DPI) in the undertaking of its planning responsibilities, and has the following objectives;

- *protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
- *provide for public foreshore areas and access to these on the coast;*
- *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
- *ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.*

SPP2.6 and Development Control policy DC6.1 set out the requirements for assessing appropriate coastal setbacks and has been referred to by several of the Government consultees. In the case of this proposal, it states that a "default" foreshore width of approximately 100m is expected to provide for physical processes, ecological factors and public access, however this has been addressed previously in this report. The policy also provides, at section 5.3, the maximum permissible building height limits from a State perspective. That limit it sets at five storeys (not exceeding 21.0m in height) of which the proposed development complies with.

107. Other State Planning Policies/Bulletins

State Development Control policy 6.1 Country Coastal Planning Policy, adopted in 1989 (DC6.1), is still valid, but is in conflict with SPP2.6 especially in regards to building height and coastal setbacks. The only other relevant document is Planning Bulletin 83 (Planning for Tourism).

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

108. The options open to Council are :
- a) Approve the application subject to conditions.
  - b) Refuse the application, (which may result in possible SAT review).
  - c) Lay the application on the table pending requests for further information/clarification (to be specified by Council).

Should Council decide to refuse the application or impose conditions on the approval, the refusal and conditions are subject to a potential Review of that decision by the State Administrative Tribunal. Third Party appeal provisions also apply to this application, provided the parties can demonstrate to the SAT that they are “aggrieved persons”.

**SUMMARY CONCLUSION**

In conclusion:

109. Building Height/Scale  
The building heights are generally in-accordance with the City’s Residential Design Code Policy, notwithstanding that parts of buildings may be marginally above the wall height (where cutting and filling is to occur on-site) but all buildings are within the height set for the roof. The height does comply with the State Planning Policy 2.6 however, and as shown in the photomontages the additional wall heights will have no additional impact on the visual amenity of the surroundings.
110. Visual amenity  
The photomontages show the degree of the expected visual impact, with the EPA also taking this into account. The proposal will not be readily visible from the foreshore below the site, due to the vegetation and increased setback, and with appropriate colours and materials the form of the building within the landscape will be further reduced. Some conjecture will remain over building form, scale and character as these values are subjective, with individual opinions varying from enthusiasm to total rejection of the architecture. The tests established by previous SAT determinations and the amenity objectives in Council strategies appear to have been met.
111. Impact on the natural environment  
This has been addressed by several government agencies. Those agencies are satisfied that the proposal will have a minimal/acceptable level of impact, provided planning conditions and the submission of the additional information form part of the approvals process. The removal of the most western block of units to overcome geotechnical concerns associated with landslip risk, will add more land to the adjacent reserve and ensure the majority of development is outside of the catchment of the natural springs. DOW has also recommended that any stormwater should be infiltrated towards the south-east corner of the site to ensure water is diverted away from the foreshore reserve (and natural springs). The requirement for the development to be connected to reticulated sewer has been requested/supported by all relevant government agencies.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.1 continued

112. Impact on the foreshore reserve

The long term integration of a resort development with the adjacent foreshore will require the preparation of a separate foreshore management plan, which it is expected the developer will financially contribute towards. A future Plan will be a Council document and will be subject to a future Council decision, following public and Heritage Council consultation, and implementation of that plan is likely to have on-going financial implications for the City. It is likely to include heritage interpretation and improvements to the public areas as the foreshore has been included into the State Register of Heritage Places. No development on or near the foreshore can proceed without Heritage Council of WA endorsement. The widening of the foreshore reserve and the provision of a 20 metre buffer to the development will provide on-site recreational opportunities, provide a low fuel fire zone and assist in reducing pressure on the foreshore reserve by tourists visiting the site.

113. Distance of foreshore setback.

The applicant has proposed a setback of 75m from the high water mark, and has submitted an environmental report to confirm that this is satisfactory. The DPI has supported the science behind the request. The DPI and EPA suggestion of increasing this distance for purely recreational purposes would be impractical due to the topography and native vegetation which would result in an area of land that is of little use and be some distance from the beach area with minimal pedestrian connectors. Tourism WA and DOW staff also question the impact of providing public recreational space directly in front of units of accommodation used solely for tourism purposes.

114. Matters to be Considered by Council.

Staff are satisfied that the matters listed in Section 5.4 of the Scheme have been addressed.

ITEM NUMBER – 11.1.1

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ISSUE a Notice of Planning Scheme Consent for “Holiday Accommodation” at 1823 and Lot 2 Frenchman Bay Road, Frenchman Bay subject to the following conditions:

- i) the development shall be undertaken in accordance with the approved plans and the supporting reports, with latter undertakings and commitments superseding any previous commitments, unless modified by a condition hereunder;
- ii) the western block of units is to be removed/deleted from the approved plans;
- iii) the floor level associated with the southern block of units (west of the Village Centre) is to be reduced by 1.0 metre (ranging from 22.20 to 24.20m AHD);
- iv) reserve 21337 is to be widened to include that land which has been identified as having high or moderate land slip potential, in addition to those marginal areas that form part of the escarpment, and the land shall be ceded to the Crown free of cost;
- v) internal driveways, car parking and vehicle manoeuvring spaces shall be designed, constructed, drained, sealed, kerbed, marked and continuously maintained by the landowner in accordance with the plans hereby approved thereafter;
- vi) the fencing delineating the foreshore reserves from private land shall be constructed using post and wire or post and rail/panel (a solid fence is not permitted);
- vii) a detailed vehicle movement plan is to be submitted and approved by the Council prior to the issuing of a building licence, which shall include vehicle numbers, design of crossovers, improvements to Councils verge and contributions to the

**DEVELOPMENT SERVICES REPORTS**

- city's road network;
- viii) a detailed Stormwater Drainage and Nutrient Management Plan is to be submitted and approved by the Council prior to the issuing of a building licence, with the majority of water discharged in the south eastern portion of the land;
  - ix) a Schedule of external colours, materials and architectural design features is to be submitted to and approved by the Council prior to the issue of a Building Licence, with preference given to low reflectivity colorbond roofing and glazing and dark wall colouring.;
  - x) the development is to be connected to the reticulated sewerage system to the satisfaction of the Water Corporation in consultation with the Department of Health, prior to any occupation of the site;
  - xi) the perimeter of the lot, and in particular the interfaces with the adjoining reserves, shall be fenced to the satisfaction of Council prior to any occupation;
  - xii) the development is to be connected to the Department of Water's reticulated water supply prior to occupation;
  - xiii) a Waste Management Plan is to be submitted to and approved by the Council prior to occupation, showing among other things, waste collection and storage areas and waste collection vehicle access and turning areas. Waste Management is to occur in accordance with the approved plan at the developer's cost;
  - xiv) a Lighting Plan showing lighting to pathways and car parking areas is to be submitted and approved to the satisfaction of the Council prior to any occupation, and all lighting is to be installed and operated in accordance with the approved plan thereafter;
  - xv) a fauna management plan will be required to be approved by the Department of Environment and Conservation for the construction stage of the development prior to the issuing of a building licence. This will include management to minimize impact on fauna, measures to address injury to fauna, translocation of fauna under permit from the site where necessary, and identification of approved translocation sites for fauna;
  - xvi) prior to any construction taking place on site, a fauna spotter is to be engaged by the developer to inspect the site and liaise with the Department of Environment and Conservation in respect to any findings, and thereafter any agreed management measures shall be implemented to the satisfaction of the Council;
  - xvii) a Staging Plan and Programme for the construction of the holiday accommodation units and other buildings and facilities on site shall be prepared and implemented to the satisfaction of Council prior to the issuing of a building licence and the staging plan should identify the construction of the village centre within stage 1 of the project;
  - xviii) the Building Licence Application shall be accompanied by details that demonstrate compliance with the following key sustainability criteria included in the application:
    - a) a five star energy efficiency rating based on the first rate energy assessment;
    - b) AAA rating for all plumbing fixtures;
    - c) Minimum of four star rating gas hot water systems;
    - d) Minimum of four star energy rating reverse cycle air conditioners; and
    - e) Rainwater tanks integrated with buildings and plumbed to non-potable tap sources within the buildings where possible;
  - xix) a detailed Landscaping Plan being submitted and approved by the Council prior to the issuing of a building licence, which shall include;-
    - a) Revegetation of areas generally depicted on the Development Site Plan;
    - b) Landscaping around proposed buildings and car parking areas;
    - c) Provision of one shade tree per four (4) non covered vehicle parking spaces; and
    - d) Measures to ensure that exotic and non-local species cannot establish over the boundaries of the site into the adjoining reserve which shall be agreed with the Department of Environment and Conservation.

**DEVELOPMENT SERVICES REPORTS**

- e) A Phytophthora dieback hygiene plan being submitted and agreed with the Department of Environment and Conservation;
- xx) a detailed Foreshore Management Plan is to be submitted and approved by the Council prior to a building licence being issued, which shall include;-
  - a) upgrading and facilities that respect and complement the existing Whalers Beach Management Plan;
  - a) appropriate treatment of the interface between the development complex and the adjacent foreshore reserve in terms of fencing, pedestrian movement, landscaping, signage and stabilisation of slope;
  - b) monitoring of the existing foreshore track from the beach to the existing soak/spring to ensure no further erosion; and
  - c) appropriate weed control measures for the vegetated slope area within the foreshore reserve.
  - d) heritage interpretation for the remains of the whaling station to the satisfaction of the Heritage Council;
- xxi) a detailed Fire Management Plan is to be submitted and approved by the Council in accordance with WAPC's Planning for Bushfire (2001) following consultation with the Department of Environment and Conservation and FESA and completed prior to the issue of a building licence;
- xxii) a detailed site investigated is to be undertaken to ascertain any ground contamination prior to any ground disturbance activities to the satisfaction of Council and the Department of Environment and Conservation;
- xxiii) no clearing of native vegetation is to take place without the express consent of the Department of Environment and Conservation;
- xxiv) a detailed Heritage Impact Assessment is to be submitted and approved by the Council and the Heritage Council prior to any works being undertaken within foreshore reserve as part of the approved development;
- xxv) the holiday accommodation (not including the managers unit as shown on the plans hereby approved) is to be used for short stay accommodation only, with a maximum stay of three months occupancy per annum by any single tenant;
- xxvi) the amalgamation of lots 1 and 2 (in their entirety) is to be finalised prior to the issue of a building licence for the approved development;
- xxvii) no goods or materials are to be stored, either temporarily or permanently, in the parking or landscape areas or within access driveways. All goods and materials are to be stored within the buildings or service courts, where provided;
- xxviii) the loading and unloading of goods to and from the premises shall be carried on entirely within the site at all times and shall be undertaken in a manner so as to cause minimum interference with other vehicular traffic;
- xxix) no signs are to be erected on the lot without Council's approval, in accordance with the City of Albany's Sign Bylaws;
- xxx) A recreational facilities plan is to be provided prior to the issue of a building licence to identify those recreational opportunities that will be provided for guests on site to reduce the pressure on the public foreshore;
- xxxi) Storage sheds and laundry facilities to accommodate the operation of the resort to be identified on the plans prior to the issue of a building licence;
- xxxii) With the exception of the village centre and managers apartments all apartments referred too in planning report and on the plans are to be designated as 'short stay units'.
- xxxiii) The inclusion of a games room within the Village Centre shall be shown on the plans prior to the issue of a building licence.
- xxxiv) A resort management plan is to be prepared prior to the issue of a building licence to the satisfaction of Council and implemented thereafter which identifies the following:
  - How check-in/check outs will be managed by the facility manager and confirmation that a written record of all bookings of each unit will be kept;



**DEVELOPMENT SERVICES REPORTS**

- Internal fixtures/fittings and décor in each unit are to be provided and maintained to a specified appropriate standard suitable to tourist letting of the units; and
- The onsite reception facility and tourist related uses are to be subject to lease arrangements or ownership restrictions and disposal mechanisms linked to the facility management/operator function.

Advice Notes

- In relation to Condition (ii), the proponent is advised that the relocation of the western accommodation block to the vacant eastern portion of the site is supported in principle (subject to an amended planning consent being lodged addressing the visual amenity and scale aspects of the development).
- In relation to Condition (viii) Council will consult with DOW before endorsing the plan.
- In relation to Condition (xi) Council will seek advice from DEC on suitability of fence to protect National Park and ensure minimal damage during wildfire.
- In relation to Condition (xiv) lighting plan is to minimise light spill into the adjoining reserve and the use of light towers is to be avoided.
- In relation to Condition (xxi) Fire Management Plan is to ensure that any protection measures are contained within subject site and the plan shall not impact upon the adjacent reserves to any extent beyond a minimum fire access track (firebreak) at or near the reserve boundary.
- In relation to Condition (xxxii) the proponent should liaise with Council and Tourism WA prior to preparing the management plan. Should an application to strata the units be lodged and approved by the WAPC, additional requirements to those listed above may be required.
- A separate application will be required regarding the liquor licensing of the village centre and associated facilities.

In accordance with Section 5.23 (2) (d) on the Local Government Act 1995 – legal advice obtained. Item 11.1.1 was considered behind closed doors.

The Council resolution is detailed at item 19.1

**DEVELOPMENT SERVICES REPORTS**

**ITEM NUMBER:** 11.1.2  
**ITEM TITLE:** DEVELOPMENT APPLICATION – CHANGE OF USE FROM SINGLE HOUSE TO RESTAURANT (WITH BAR) – 11 FLINDERS PARADE, MIDDLETON BEACH

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

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

- File Number or Name of Ward** : A089608 (Frederickstown Ward)  
**Summary of Key Points** : Proposal to change the use of existing dwelling to a restaurant with bar  
**Land Description** : 11 Flinders Parade, Middleton Beach  
**Proponent** : Hospitality Total Services  
**Owner** : Tillbrook Nominees Pty Ltd  
**Reporting Officer(s)** : Planning Officer (C McMurtrie)  
**Disclosure of Interest** : Nil  
**Previous Reference** : Nil  
**Bulletin Attachment(s)** : Planning Scheme Consent proposal; and Copies of submissions.  
**Consulted References** : Residential Design Code Policy (2007); Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals; and Albany Local Planning Strategy (ALPS)  
**Councillor Lounge** : Nil

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**BACKGROUND**

1. An application has been received from Hospitality Total Services for a 'Change of Use – Single Residence to Restaurant (with bar)' at 11 Flinders Parade, Middleton Beach.
2. The existing house is constructed of timber weatherboard with a corrugated iron hipped roof. A wide, partially enclosed veranda dominates the front (east) elevation and is flanked on each side by a timber sash and case window. A small lean-to extension stands against the northern side wall, while a second, larger, lean-to extension stands against the western (rear) wall and the northern end of the enclosed rear porch and storeroom, which extend across half the width of the house. A matching weatherboard shed with a skillion roof stands by the north-west corner of the house.
3. It is proposed to demolish the shed and the small lean-to extension to the northern wall and to provide various new extensions to the building in their place.
4. The first of these is a new veranda extension across the front elevation with a skillion bull nose roof over. The window to the northern (right-hand) side of the existing veranda will be removed and the opening enlarged to accommodate a new door. The existing glazed screen that partially encloses the veranda will be removed and replaced with a folding screen that can be used to secure the building when it is closed.
5. In addition to the alterations to the front of the building, a new ablutions block and alfresco area with a skillion roof over will be erected to the rear (west) elevation. A timber framed extension accommodating the kitchen unit will be provided to the northern elevation, flush with the new rear extensions. It has a shallow pitched roof over and an attached bin storage compound at its western end.
6. The original timber weatherboard cladding will be refurbished and all other external colours and finishes will be in keeping with the original building.
7. In addition to the proposed works to the building itself, the grounds will be landscaped and a new driveway and disabled parking bay will be formed at the north-eastern corner of the lot.
8. The subject land is currently zoned as "Tourist Residential" within Town Planning Scheme (TPS) No. 1A and is covered by the Council's Residential Design Code Policy (2007).

**DISCUSSION**

9. Any development within the Tourist Residential Zone is governed by the provisions of Appendices I – Zoning Table, III – Zone Development Table and IV – Use Development Table within TPS 1A.
10. Appendix I – Zoning Table indicates that a restaurant is not permitted in the Tourist Residential Zone **unless** planning consent is granted by Council, following notification in accordance with Clause 7.5 of TPS 1A. Clause 7.5 requires:
  - a) *Notice of the proposed development to be sent by post or delivered to the owners and occupiers of land within an area determined by the Council as likely to be affected by the granting of the application;*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

- b) Notice of the proposed development to be published in a newspaper circulating in the Scheme Area stating that submissions may be made to the Council within twenty- one (21) days from the publication thereof; and*
  - c) A sign displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one (21) days from the date of publication of the notice referred to in sub-paragraph (b) hereof.*
11. The application was initially advertised in accordance with Clause 7.5 on 5 February 2009 and again on 16 April 2009 following receipt of amended plans. The second advertising period highlighted the proposed relaxation of the car parking requirement.
  12. Appendix III – Zone Development Table sets out the provisions for development within the Tourist Residential Zone. While the proposal broadly complies, it falls short in terms of lot area, front and side setbacks and the required number of car parking spaces. The Table requires a minimum lot area of and the subject lot has an area of only . Although this is a significant shortfall, the zoning is primarily intended to accommodate residential development, whereas the proposal is of a commercial nature and has little need for open space provision. On this basis, it is considered that this particular provision can be relaxed.
  13. In terms of building setbacks, the Scheme requires a front setback of 9m and a side setback of 2m, while the submitted plans detail a 4.2m front setback and 0.5m side setbacks. However, the Residential Design Code Policy 2007, which is discussed in more detail below, permits a relaxation of front and side setbacks to nil on Flinders Parade.
  14. The final shortfall against the provisions of the Table comes in the form of the car parking requirement. Appendix IV – Use Development Table sets out the provisions for specific use developments within the Scheme area. The use 'Restaurant' requires a car parking ratio of one space required for every four seats. The premises is expected to operate with a small bar licence, which allows a maximum occupancy of 120 patrons. On this basis, the on-site car parking requirement can be calculated at 30 spaces. However, a disabled parking bay has been provided on-site, reducing this figure to a shortfall of 29 bays.
  15. From the outset the proponent has requested a relaxation to the on-site car parking requirement, on the basis that there is a significant amount of public car parking available in the immediate vicinity, most notably a 256-bay car park opposite the subject lot. Staff undertook an informal survey of this car park between January and March 2009 and rarely saw it occupied beyond 50% of its capacity. On occasion this approached 75-80%, most notably on the morning of the Albany Classic Triathlon, though this was rare. It must also be considered that the car park is primarily used by beachgoers during the day, while the peak operating times of the proposed restaurant and bar are likely to be in the evening when the car park sees little use.
  16. In considering proposed relaxations to on-site car parking provision in the Middleton Beach Tourist Residential Zone, Council's Policy titled 'Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals' must be considered.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

17. The objective of the Guidelines are “*to provide a framework in which proposals for off-site, verge and cash-in-lieu car parking can be assessed in a consistent manner and facilitate the approval of such proposals where appropriate*”. It provides a number of options that can be explored in order to resolve an on-site car parking shortfall. These are as follows:
- i) Reduce the size of the development on the site;
  - ii) Provide more car parking on-site;
  - iii) Provide additional car parking on an adjoining or nearby site;
  - iv) Utilise the verge area adjoining the site for car parking;
  - v) Make a cash payment to Council to cover the car parking shortfall and Council set that money aside for the provision of public car parking facilities in the locality in the future (cash-in-lieu car parking).
18. In this instance, options (i) and (ii) would not be practical, as the proposal involves the adaptation and re-use of an existing building with insufficient space on the lot to accommodate the necessary number of car parking spaces. As there are no vacant sites adjoining, or in the vicinity, of the subject land, additional car parking cannot be provided as per option (iii).
19. The proposal initially included additional car parking provision within the verge area as per option (iv). However, staff recommended that this be removed in the interests of road and pedestrian safety.
20. Option (v) could be entertained in the circumstances of this proposal. However, the cost of a cash-in-lieu payment is calculated on the basis of per bay and includes the following elements:
- *The cost of land on the development site as determined by a licensed valuer;*
  - *Asphalt paving on a basecourse equivalent to a public parking area;*
  - *Drainage;*
  - *Linemarking;*
  - *Landscaping; and*
  - *Lighting.*
- At current land values, staff estimate that the cash-in-lieu payment would equate to approximately \$30,000 per bay, or \$870,000 in total. No alternative sites for car parking can be identified in the vicinity of the proposed development, nor do any of the existing public car parks require upgrading at the present time (the money could be held until such time as maintenance on the Council’s car park is required into the future).
21. In addition to the above, the proposal is also subject to the provisions of the Residential Design Code Policy 2007.
22. The Policy applies to a number of locations around the City, including Middleton Beach, for which it sets out the following objectives:
- *To create a high quality and vibrant beachside tourist precinct;*
  - *To encourage the provision of a wide range of facilities and services to serve both visitors and the local community;*
  - *To encourage a more diverse range of housing and tourist accommodation; and*
  - *To establish appropriate height limits for development within the precinct.*

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

23. It expands on this by outlining the preferred distribution of land uses within the precinct, with Flinders Parade identified as 'The Beach Strip': *"An active beach front urban edge comprising restaurants, cafes, tourist accommodation and residential apartments"* and states that *"proposed land uses will be dealt with on their merits based on the relevant provisions of the Town Planning Scheme. The aspirations set out above are intended to provide applicants with clear direction in terms of Council's intentions for the area and to provide guidance to the Council in exercising discretionary powers under the scheme"*.
24. The Policy then details more specific provisions that shall apply to development within the precinct, specifically in relation to building heights, building setbacks, streetscapes and built form. Of particular relevance are the front and side setback relaxations to nil on Flinders Parade and the *Active Streetscapes* provisions, which are set out as follows:
- "Buildings shall interact with the public domain. Blank walls, heavy planting, screen walls, or garages and carports in the front setback area shall be avoided.*
- The entrance to buildings shall be clearly visible from the street.*
- Building shall have windows overlooking the street to improve passive surveillance of the public domain"*.
- Although these provisions are intended to control new-build projects, rather than the redevelopment of existing buildings, the proposal is in full compliance.
25. During the first advertising period that the application was subject to, a total of ten (10) letters were received. These were split with seven (7) letters in support of, and three (3) opposing, the proposed development. During the second advertising period, which highlighted the proposed relaxation of the on-site car parking provision, a further two (2) letters of support were received and four (4) letters of opposition, two (2) of which reiterated comments received previously. One (1) letter was also received neither opposing nor supporting.
26. The various issues raised in the letters of support and objection are explored in greater detail below. However, upon consideration of these letters and the management statement submitted with the application, staff are confident that the potential conflicts described in the letters of objection can be mitigated by means of responsible management of the premises and the enforcement of both planning and environmental controls.
27. The proposal is consistent with the principles set out in TPS 1A and the Residential Design Code Policy 2007. However, by failing to meet the provisions of TPS 1A Appendix IV – Use Development Table and subsequently the Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals, staff have no option but to recommend refusal of the application.

**PUBLIC CONSULTATION/ENGAGEMENT**

28. A total of seventeen (17) written submissions were received following the consultation referred to in paragraph 11, and are included in the Bulletin. Two (2) of the letters received during the second period of advertising were reiterating opposition expressed in the first advertising period. One (1) letter neither supported nor opposed the proposal, but rather advised staff of a previous access issue affecting the site.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

29. Of the remaining fourteen (14) letters, nine (9) expressed support for the application on the following grounds:
- There is a current lack of restaurants and bars in the Middleton Beach area;
  - Other local businesses would benefit from improvements to Middleton Beach as a tourist destination;
  - The proposal would improve surveillance on Flinders Parade, which would help to discourage anti-social behaviour (i.e. 'hoons'); and
  - Developments that support the local economy should be encouraged in the current financial climate.
30. As discussed previously in this report, the development of a new restaurant and bar facilities in Middleton Beach will help to achieve the aims of the Residential Design Code Policy 2007. In addition, the increased surveillance and activity on the street, particularly in the evening, would improve public safety by discouraging anti-social behaviour. The other points of support cannot be taken into account, as they are not planning considerations.
31. The final five (5) letters received expressed opposition to the proposal on the following grounds:
- There is a likelihood of nearby residents being disturbed by noise and activity, particularly in the late evening;
  - There is a likelihood of an increase in anti-social behaviour in the public car park, particularly from 'hoons';
  - The proposed land use is incompatible with an established residential area;
  - There is potential to set a precedent for other similar developments to follow;
  - The area is popular with families and there is a potential to compromise family-based activities;
  - By not providing the requisite number of car parking bays, the proponent would be getting away without paying 'Council fees'; and
  - The existing building is not up to the standard of the other houses on Flinders Parade.
32. While potential does exist for an increase in noise and disturbance, this should be mitigated by responsible management of the premises and enforcement of planning and environmental controls. A management plan and supporting letter have been submitted along with the application and details various aspects of the running of the premises, including security and closing procedures. In addition, background music is to be provided only inside the building and any live entertainment would be restricted to acoustic performances only.
33. As discussed above, it is unlikely that the proposed development would lead to an increase in anti-social behaviour, particularly from 'hoons'. Increased surveillance and activity on the street is more likely to discourage this.
34. In terms of land use, the proposal is considered appropriate for the area in accordance with the Residential Design Code Policy 2007. Similarly, if the proposal were to set a precedent this would be viewed as a positive, given the aims of the Policy.
35. There is no reason to believe that the proposal would compromise the existing character of the precinct, as the restaurant/bar would likely be at its busiest in the evenings, while most beachgoers visit during the day.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

36. Council can use its discretion in relation to the Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals. This mechanism exists in order to provide parking where it cannot be accommodated on an application site. In this instance, no alternative sites for car parking can be identified and the existing public car park does not currently require upgrading. In addition, public car parking on Flinders Parade currently benefits both the Surf Lifesaving Club (although the Club building is leased from Council) and Calamari's restaurant to the south-east. This carpark also provided credits for the former Esplanade Hotel.
37. The existing building is one of the last remaining traditional beach houses in Middleton Beach. Although it is not Heritage Listed, it does have heritage value as a very original example of this type of building and is of increasing rarity. Although the proposed additions could be more sympathetic to the design of the building, there is no mechanism within TPS 1A or the Residential Design Codes Policy 2007 to control this. However, these additions are of a modular nature and can easily be removed so that the house could be reinstated to its original form at a later date. The proposal does seek to use the original building when it would arguably be more straightforward to redevelop the site in its entirety.

**GOVERNMENT CONSULTATION**

38. Consultation with State Government Departments was not deemed necessary on this application.

**STATUTORY IMPLICATIONS**

39. Any development within the Tourist Residential Zone in TPS 1A is governed by the provisions of Appendices I – Zoning Table, III – Zone Development Table and IV – Use Development Table within TPS 1A.
40. Appendix I – Zoning Table indicates that a restaurant is not permitted in the Tourist Residential Zone **unless** planning consent is granted by Council, following notification in accordance with Clause 7.5 of TPS 1A.
41. The application was therefore advertised in accordance with Clause 7.5 on 5 on 16 April 2009 following receipt of amended plans and highlighting the proposed relaxation of the car parking requirement.
42. As the application also involved a relaxation of the prescribed car parking standards within the Scheme, the relaxation was specifically mentioned as part of the advertising process in accordance with Clause 4.10 of the Scheme. This Clause allows Council to relax scheme standards, after the views of those persons affected by the relaxation are sought, and where such relaxation would be in the interests of proper and orderly planning.
43. Appendix III – Zone Development Table sets out the provisions for development within the Tourist Residential Zone. The proposal broadly complies with these provisions, with any shortfalls addressed by the application of the Residential Design Code Policy 2007.
44. Appendix IV – Use Development Table sets out the provisions for specific use developments within the Scheme area. The only provision of this Table that would apply to a restaurant in the Tourist Residential Zone is in relation to on-site car parking. The proposal would require thirty (30) on-site car parking bays, but only provides one (1). The shortfall in parking must therefore be assessed against the Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals.



**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued

**FINANCIAL IMPLICATIONS**

45. The proposed relaxation to the Scheme provision for on-site car parking has as estimated cash-in-lieu value of up to \$870,000.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

46. The subject land is designated as 'Existing Urban' within the draft Albany Local Planning Strategy (ALPS), which supports a mix of land uses.

**POLICY IMPLICATIONS**

47. The proposal must be assessed against the Residential Design Code Policy 2007 and the Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals. (see paragraphs 17 to 24).

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

48. Council is required to consider this application and to either approve the application with conditions that relate to the development or to refuse the application and provide reasons for that refusal.
49. Council has the following options in relation to the provision of car parking on the site:
- a) Require a cash-in-lieu contribution for the shortfall of 29 bays in accordance with Council's Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals (i.e. contribution of around \$870,000);
  - b) Require a contribution towards public parking in the Middleton Beach area (no facilities have been identified by staff or the proponent that require upgrading or installation); or
  - c) Allow the parking shortfall without any contributions being required.
50. Any conditions attached to the approval can be the subject of a review with the State Administrative Tribunal, as can a decision to refuse the application.
51. Council must assess this application on its merits against the prevailing policy framework and the scheme provisions. If the proposal meets the statutory requirements of the scheme and the objectives and principles of the relevant policies, the specific wording within a policy does not provide an absolute impediment to the City approving the application.
52. Issuing a Notice of Planning Scheme Refusal to the application may result in a Review of that decision being sought with the State Administrative Tribunal and the grounds of refusal become an important consideration in the defence of that decision.
53. Should Council wish to support the application, and relax the car parking requirements and lot size requirements in accordance with Clause 4.10 of the Scheme, it is recommended that the following conditions (in addition to others) be carried through on such an approval:
- a) Any live music to be played in the premises is to be acoustic only (ie. does not involve the use of amplified instruments) with all other music being of a background nature;
  - b) No more than 120 patrons are permitted on the site at any one time;

Item 11.1.2 continued

**DEVELOPMENT SERVICES REPORTS**

- c) Suitable noise attenuation measures/characteristics being applied to the internal walls of the building and to the external alfresco areas (glazing to achieve good attenuation properties) to the satisfaction of Council's Principal Environmental Health Officer;
- d) The restaurant and bar area is to operate in accordance with the submitted management plan; and
- e) A lighting plan being prepared to ensure there is adequate lighting for patrons whilst the premises is in use, without interference to the amenity of surrounding residences.

**SUMMARY CONCLUSION**

- 54. Overall, the proposal complies with the principles set out in TPS 1A and the Residential Design Code Policy 2007. However, it ultimately fails to meet the provisions of TPS 1A Appendix IV – Use Development Table and subsequently the Guidelines for the Assessment of Off-site, Verge and Cash-In-Lieu Car Parking Proposals. Whilst a cash-in-lieu contribution could be requested the existing Council car park is in sound condition and there are no obvious locations within the locality to use cash-in-lieu funds to purchase land for car parking. The monies received could be used for maintenance and upgrade of the Council car park in the future, however no additional parking bays would be provided which is the main purpose of pursuing a cash-in-lieu contribution.
- 55. Other developments within the Middleton Beach area do rely on the public car park for all, or a part, of their parking requirements. This is the case with the Surf Club, the Calamari's restaurant and to a lesser degree the Esplanade Hotel (which received a parking credit for providing car parking bays on Council land). The proposal will also generate a car parking demand outside of daylight hours, when the public car park will not be fully utilised.
- 56. Despite the above staff are not in the position to recommend approval for a shortfall of 29 parking bays, and therefore have no option but to recommend refusal of the application.

ITEM NUMBER – 11.1.2            OFFICER RECOMMENDATION: REFUSE  
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme Refusal for a 'Change of Use – from Single House to Restaurant (with bar)' at 11 Flinders Parade, Middleton Beach as the proposal does not provide sufficient parking on site as per Appendix IV of Town Planning Scheme No. 1A, or Council's Policy 'Guidelines for the Assessment of off-site, verge and cash-in-lieu car parking proposals'.

*Councillor Paver declared an interest in this item and left the Chambers at 7.50pm. The nature of his interest is that he has a tourism marketing business which he feels makes it difficult for him to come to a decision on this matter without regard to his self interest.*

Councillor Bostock foreshadowed the following motion.

**MOVED COUNCILLOR BOSTOCK  
SECONDED COUNCILLOR TORR**

**THAT Council LAY item 11.1.2 on the table for one month to allow further consultation.**

**MOTION LOST 2-8**

**For the Motion:** Councillors Bostock and Torr

**Against the Motion:** Mayor Evans, Councillors Price, Buegge, Stanton, Wolfe, Dufty, Matla and Kidman.

Item 11.1.2 continued.

**ITEM NUMBER:11.1.2 – ALTERNATE MOTION BY MAYOR EVANS**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED MAYOR EVANS**

**SECONDED COUNCILLOR PRICE**

**THAT Council:**

- i) Resolves, pursuant to Clause 4.10 of Town Planning Scheme No. 1A to relax the provisions of Appendix IV of Town Planning Scheme No. 1A and to modify the requirement for the developer of 11 Flinders Parade Middleton Beach to provide 30 car parking bays, as detailed in clause 4.4 of the Scheme, and that one car parking bay shall be provided on the land and a cash payment made to Council for the remaining 29 bays.
- ii) Resolves to issue a Notice of Planning Scheme Consent for “Change of Use – from Single House to Restaurant (with bar)” at 11 Flinders Parade, Middleton Beach subject to the following conditions:
  - a) a cash contribution shall be provided to Council for payment into the car parking reserve fund and the value of that contribution shall be based on the cost of constructing 29 car parking bays (as detailed in the latest version of the Rawlinson’s Australian Construction Handbook), minus the cost of the land for the construction of those bays;
  - b) the contribution described in condition 1 shall be paid to Council prior to a certificate of occupancy being issued for the use and occupation of the approved development;
  - c) no more than 120 patrons shall be permitted on the premises at any one time;
  - d) a schedule of materials and finishes proposed for the external surfaces of the building shall be submitted to and require the approval in writing of Council. For the avoidance of doubt, this should clearly identify which surfaces and features are to be renovated, replaced, or are new additions;
  - e) a lighting plan shall be submitted to and require the approval in writing of Council. For the avoidance of doubt, this must clearly illustrate that adequate lighting can be provided for patrons whilst the premises are in use, without detrimentally affecting the amenity of the surrounding residences;
  - f) a detailed landscaping plan shall be submitted to and require the approval in writing of Council. For the avoidance of doubt, this should identify hard and soft landscaping treatments and detail the plants to be used, noting size and species and the proposed method of reticulation;
  - g) all vehicular parking, manoeuvring and circulation areas detailed on the stamped approved plans shall be constructed, sealed, line marked as necessary and drained to the satisfaction of Council and maintained in good condition thereafter;

DEVELOPMENT SERVICES REPORTS

Item 11.1.2 continued.

- h) the parking area detailed on the approved plans shall be illuminated to the satisfaction of Council when in use, or may be sought for use by patrons during hours of darkness;
  - i) all landscaping detailed on the approved plans shall be developed prior to, or concurrently with the practical completion of the building to the satisfaction of Council and maintained in good condition thereafter;
  - j) appropriate noise attenuation measures/characteristics shall be applied to the internal walls of the building and to the external alfresco areas (glazing with good attenuation qualities) to the satisfaction of Council's Principal Environmental Health Officer;
  - k) all drainage arrangements shall be provided to the satisfaction of Council;
  - l) the new crossovers detailed on the approved plans shall be constructed to Council's specifications, levels and satisfaction in accordance with drawing no. 97024/1-3;
  - m) any existing crossovers not included as part of the proposed development on the approved plan shall be closed and the kerb and verge reinstated;
  - n) the premises shall be operated in accordance with the stamped approved management plan;
  - o) any live musical performances taking place on the premises shall be of an acoustic nature (not involving the use of amplified instruments), while all other music shall be of a background nature;
  - p) no signs shall be erected on site without prior approval from Council, in accordance with the City of Albany's Sign Bylaws; and
- iii) Through the Planning and Environment Strategy and Policy Committee agrees to undertake a review of the policy 'Guidelines for the Assessment of off-site, verge and cash-in-lieu car parking proposals' to include guidance on assessing parking shortfalls for development adjacent to public car parking areas, especially where such a use operates outside of those hours when such a car park is primarily expected to be used.

**MOTION CARRIED 7-3**

**For the Motion:** Mayor Evans, Councillors Price, Stanton, Wolfe, Dufty, Matla and Kidman.

**Against the Motion:** Councillors Bostock, Torr & Buegge.

*Councillor Paver returned to the Chambers at 8.02pm.*

**Councillors Reason:**

The current policy requires a contribution to be paid on the basis of the cost of constructing the bays, in addition to the value of land at 26m<sup>2</sup> per bay. In this situation there is a public car park opposite the development which would not be in high demand at the time the restaurant is trading. The approach proposed above would be consistent with Council's decision in relation to the Esplanade Hotel development whereby a portion of the hotel's parking was allowed to be constructed within the road reserve associated with Adelaide Crescent at the Hotel's cost.

There is a need to develop a specific policy position to address those circumstances where developments front public car parks and where the land use generates a parking demand outside of daylight hours when the car park is predominantly utilised.

**DEVELOPMENT SERVICES REPORTS**

Item 11.1.2 continued.

**OFFICERS REPORT**

Author: Executive Services Manager – Planning and Councillor Liaison (G Bride)

**STATUTORY IMPLICATIONS**

1. Council has the ability to relax the car parking standards specified in the Scheme, as per Clause 4.10.
2. Clause 4.4 of the Scheme details the construction standard of a car parking bay that is expected for development.

**POLICY IMPLICATIONS**

3. The alternate motion is not consistent with Council's Policy 'Guidelines for the Assessment of off-site, verge and cash-in-lieu car parking proposals', in that the Policy states that a cash-in-lieu amount is based on the land value of 26m<sup>2</sup> and the cost of construction. The alternate motion seeks to apply the cost of construction only.
4. This approach, although outside of the Policy, has been applied by Council previously in assessing car parking as part of the Esplanade Development.

**FINANCIAL IMPLICATIONS**

5. The cost of constructing 29 car parks to a paved and drained standard is to be calculated as per the Rawlinsons Australian Construction Handbook. Staff have a Year 2007 version of this handbook which stipulates a per bay cost of \$2,500 for Perth, the closest region applicable to Albany. This would result in a contribution of around \$72,500 (however the costs will be accurately determined in accordance with the latest version of the Handbook).

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

6. No Change.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

7. There are no legal implications as Council has the ability to relax the number of car parking bays stipulated under the Scheme. The fact that the contribution amount is linked to the cost of constructing the bays (the cost that the proponent would be required to meet if the bays could be accommodated on site) would mean that should the condition be challenged Council would have a sound basis to defend the condition in SAT.

**COMMENT**

8. The approach produces a contribution figure which is legally defensible should the condition be appealed by the proponent, albeit the contribution is significantly less than that formulated by the Policy.
9. It is acknowledged that a policy position needs to be formulated to deal with development proposals adjacent to public car parks which are underutilised outside of normal business hours.

DEVELOPMENT SERVICES REPORTS

11.2 – DEVELOPMENT POLICY

ITEM NUMBER: 11.2.1

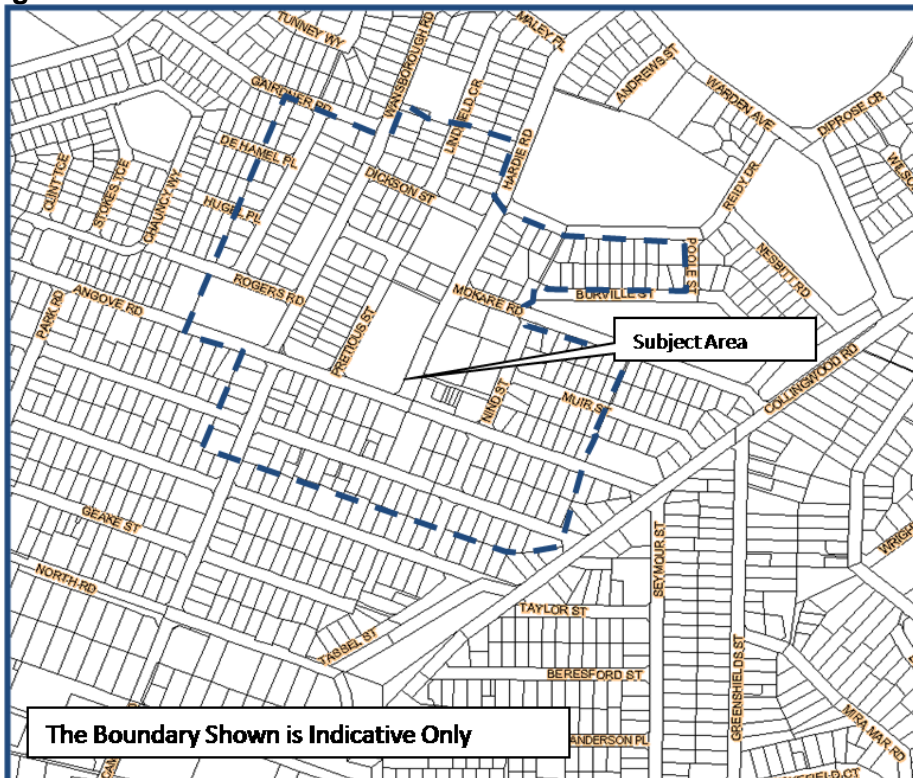
ITEM TITLE: INITIATION OF SCHEME AMENDMENT – ESTABLISHMENT OF A SPECIAL SITE FOR THE SPENCER PARK NEIGHBOURHOOD CENTRE

THE NATURE OF COUNCIL’S ROLE IN THIS MATTER

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

- File Number or Name of Ward** : AMD 171 (Breaksea Ward)
- Summary of Key Issues** : Scheme Amendment to establish a ‘Special Site’ for the Spencer Park Neighbourhood Centre Precinct, and modify the R-Code densities and uses allowed within the Special Site area.
- Land Description** : Various
- Proponent** : Ayton Baesjou
- Owner** : Various
- Reporting Officer(s)** : Coordinator Statutory Planning (J Van Der Mescht)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Scheme Amendment Document (Amendment 171)
- Consulted References** : WA Planning Commission (WAPC) Statement of Planning Policy SPP 3  
Residential Design Code Policy
- Councillor Lounge** : Nil

Maps and Diagrams:



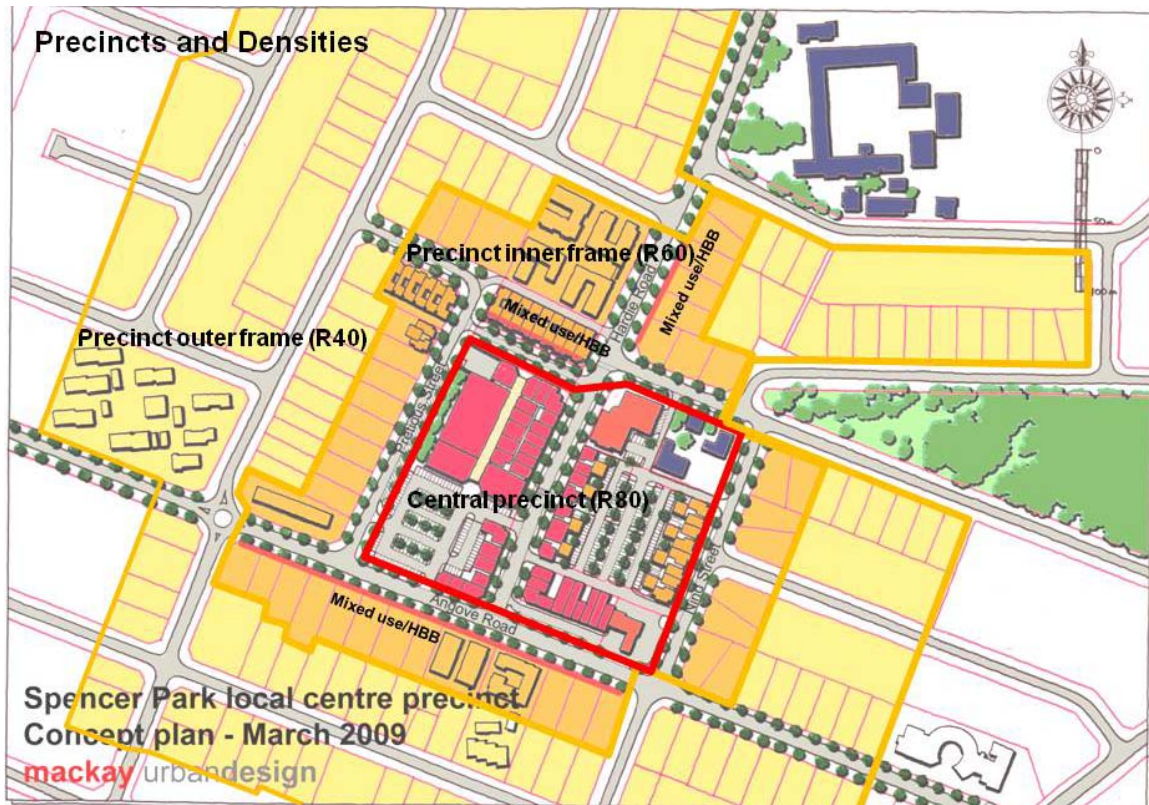


**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

**BACKGROUND**

1. An application has been received from Ayton Baesjou (planning consultants) seeking to amend Town Planning Scheme No. 1A by:
  - i. Establishing a 'Special Site' as provided for by Clauses 3.7 to 3.8 for the 'Hardie Road Precinct' and delineating this 'Special Site' as S46 on the Scheme Map;
  - ii. Changing the R- code Density in the special site area from R20 to R40, R60 and R80 respectively as per the Schedule and to be set out in Appendix II; and
  - iii. Modifying the uses permitted in the existing zones or reserves within the Special Site area.



2. The successful completion of the proposed amendment will facilitate the mixed use development and upgrade of the commercial centre around Hardie Road and enable higher density residential development within and surrounding the centre.
3. The amendment is based on a concept formulated through the Spencer Park Urban Design Study prepared by Mackay Urban Design on behalf of the Department of Housing (DOH) in March 2008.
4. The amendment is being driven by DOH and forms part of this Department's 'New Living' urban renewal program which has been successful in other locations in WA. The Program has been established to ensure the consolidation and redevelopment of a number of highly visible DOH properties.
5. There are currently 8 urban renewal projects underway in the Perth metropolitan area and a further 9 in country areas. Projects in Ashfield, Armadale, Langford, Lockridge, Karawara, Eastern Horizons (Midland, Midvale, Middle Swan, Swan View and Koongamia) and Kwinana (Calista, Medina, Parmelia and Orelia) have already been completed.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

The Urban Renewal program objectives include:

- The reduction in high concentrations of public housing;
- The refurbishment of houses for sale to both the public and existing tenants;
- Better land utilisation through the re-subdivision/refurbishment of public rental housing Infrastructure enhancements (upgrading of streetscapes and public open space); and
- Community development.

6. The boundary of the Spencer Park urban renewal / special site area has been selected in consultation with City staff on the following criteria:
- walking distance from core commercial facilities;
  - maintaining similar density coding on both sides of a street;
  - acknowledging potential for infill as well as redevelopment; and
  - confining the extent of rezoning initially to facilitate a more intensive redevelopment.

**DISCUSSION**

7. The proposal aims to strengthen the role of the Spencer Park neighbourhood centre as a focus for the community.
8. The scheme provisions of this proposal will ensure the proper management of the land uses and act as an incentive for the redevelopment of this area.
9. The amending document broadly and adequately deals with the infrastructure requirements. Additional information or requirements may be identified by government agencies as part of the formal referral stage.
10. The provisions proposed as part of this amendment sets the framework for the development and broadly deals with the minimum controls required for the following aspects of development:
- permitted land uses;
  - plot ratio (floor to site ratio);
  - building height;
  - setbacks;
  - vehicle access;
  - on-site car parking provision;
  - landscaping; and
  - built form design requirements.
11. The proposal includes guidelines for the whole area and four (4) separate sub-precincts, being Central Sub-Precinct (which includes an R80 density code and accommodates mixed uses), Mixed Use Precinct (which includes an R60 density code and accommodates mixed uses), Residential Inner-Frame (which includes an R60 density code) and Residential Outer-Frame (which includes an R40 density code).
12. The area to be coded R80 within the Central Sub-Precinct is geographically small and targeted, and contains the existing retail developments fronting Hardie Road. The proponent's urban designer, who has considerable experience in mixed use development concepts throughout Western Australia, has advised that a minimum density of R80 is required to promote sufficient vitality, provide an incentive to create smaller (and more affordable) apartments and to effectively subsidise the low return associated with office/commercial floor space on the ground floor.



**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

13. It's important to note that a higher density does not always correlate with a higher building. In this instance the amendment seeks to apply a height restriction of three storeys, plus an additional floor representing 20% of the building footprint within the mixed use areas containing the R60 and R80 density.
14. Council's Residential Design Code Policy recommends a maximum height of 3 storeys for the Spencer Park suburban centre to be calculated as per Category C of Clause 3.7.1 of the Residential Design Codes (ie. a maximum building height of 12 metres), with an extra metre allowed for mixed use buildings (ie. up to 13 metres). It is recommended that the heights allocated within the Policy replace the height controls suggested in the amendment for the Central Sub-Precinct and the Mixed Use Precinct (R60 and R80 areas).
15. The amendment will require the development and finalisation of individual precinct plans that will have an additional level of detail, controls and guidelines.
16. The proposed amendment is consistent with contemporary planning principles and State policies dealing with growth and development and is in addition also part of a state government initiative for consolidation and redevelopment of former public housing areas.

**PUBLIC CONSULTATION/ENGAGEMENT**

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

**GOVERNMENT CONSULTATION**

18. Should Council initiate the amendment, and the Environmental Protection Authority decides not to assess the proposal, the amendment will be referred to all affected government agencies for comment.

**STATUTORY IMPLICATIONS**

19. All scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
20. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
21. An amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
22. 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.
23. A resolution to amend a Town Planning Scheme should not be construed to mean that final approval will be granted to that amendment.

**FINANCIAL IMPLICATIONS**

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

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

25. The City's decision on the scheme amendment should be consistent with the outcomes of the draft Albany Local Planning Strategy (ALPS) as the principal land use planning strategy for the City.
26. The Albany Local Planning Strategy (ALPS) under Section 8.3 (Settlement Strategy) details the following objectives:
- *“Facilitate and manage sustainable growth for the urban area in the City of Albany; and*
  - *Support the consolidation of serviced urban areas and facilitate staged fully serviced urban incremental development cells.”*

ALPS proposes the following action and strategies in regard to this objective:

*“The CPS to provide for a variety of residential densities, with higher densities located around the CBD, neighbourhood and local centres (CoA).”*

27. ALPS under Section 8.6.2 (Housing) details the following objectives:
- *“Facilitate a diversity of housing to align with future population and social needs;*
  - *The ALPS recommends that housing choice be facilitated by providing for a greater variety of residential densities, with higher densities around the CBD, neighbourhood and local centres. Strategic housing outcomes are also discussed in Section 8.3 Settlement Strategy.”*
28. ALPS under Section 5.2 (Commerce) contains the following planning principles:
- *“Albany to remain the commercial centre of the Lower Great Southern, supported by neighbourhood and local centres.*
  - *As the regional centre of the Great Southern, Albany will continue to provide services for a broad range of activities including retailing, administration, government and social, cultural, tourist-related and inner-city residential living needs. The regional centre is supported by neighbourhood centres catering for bulk shopping, residential service needs, office accommodation and medical and welfare services. Local centres provide smaller-scale shopping, convenience retailing and service needs.*
  - *Encourage through precinct and structure plans in the CPS development of smaller offices and consulting rooms within neighbourhood centres.”*
29. The subject lots are within an area identified by ALPS as existing Urban and Neighbourhood centre. The subject area is well located and contains a neighbourhood centre, recreational areas and employment opportunities; it is therefore viewed ideal for redevelopment to a higher density.

**POLICY IMPLICATIONS**

30. SPP 3 – Urban Growth and Settlement – Draft

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 measures in SPP 3 that apply to this proposal include:

- *“Creating sustainable communities that provide high levels of employment and economic growth; strong, vibrant and socially inclusive communities; and*

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

- *Planning for liveable neighbourhoods such that all required facilities and services are provided in a comprehensively planned and integrated settlement pattern.”*

The policy furthermore details key requirements for sustainable communities:

- “- *Affordable land for housing and affordable housing products in both Greenfield and Brownfield locations to ensure the housing needs of all the community can be met including those with special needs;*
- *Making the most efficient use of land in existing urban areas through the use of vacant and under-utilised land and buildings, and higher densities where these can be achieved without detriment to neighbourhood character and heritage values;*
- *supporting higher residential densities in the most accessible locations, such as, in and around town and neighbourhood centres, high frequency public transport nodes and interchanges, major tertiary institutions and hospitals, and adjacent to high amenity areas such as foreshores and parks.....”*

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

31. The subject land is also included within the City of Albany Residential Design Code Policy (Section 5 – Suburban Centres).
32. As discussed in Paragraph 14 of this report, the proposed heights within the amendment for the Central Sub-Precinct and Mixed Use Precinct are not consistent with the Policy, and it is recommended that the amendment be modified to comply with the Policy.
33. The policy has the following objectives for this Precinct:
  - *“To strengthen existing and potential nodes within the suburbs to provide active and vibrant local centres.*
  - *To encourage the provision of a range of additional facilities and services within easy reach of the local community.*
  - *To create greater opportunities for social interaction.*
  - *To improve the passive surveillance of the public domain.*
  - *To encourage a more diverse range of housing.”*

Land Use Aspirations:

- *“To provide a mixed use area around commercially zoned land to facilitate the flexible expansion of local centres.”*

The proposed amendment is in line with the overall policy objectives for this precinct specifically in regard to introducing mixed use around the centre; a further requirement for precinct plans will ensure that specific and detailed design objectives are adequately addressed.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

34. Council has the following options in relation to this item, which are:
  - To resolve to Initiate the scheme amendment without modifications;
  - To resolve to initiate the scheme amendment with modifications; or
  - To resolve not initiate the scheme amendment.

**DEVELOPMENT SERVICES REPORTS**

Item 11.2.1 continued

35. A resolution to initiate an amendment to a Town Planning Scheme adopted by resolution of a local government is to be referred to the Environmental Protection Authority (EPA) for assessment.
36. 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**

37. The amendment is supported as it seeks to establish an improved built form and streetscape around the Spencer Park neighbourhood centre, whilst facilitating the introduction of mixed used development in the area, creating employment opportunities and increasing the vitality/safety of the area.
38. It should be advised that a detailed Precinct Plan (a detailed structure plan) will be required to be developed prior to further development occurring on the site. The Precinct Plan will be subject to advertising and further consideration by Council.

**OFFICER RECOMMENDATION**

**ITEM NUMBER: 11.2.1 OFFICER RECOMMENDATION (SUPPORT)**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR BUEGGE**

**SECONDED COUNCILLOR MATLA**

**THAT Council, subject to the proposed building heights within the Central Sub-Precinct and the Mixed Use Precinct being reduced in accordance with Council's Residential Design Code Policy, in pursuance of Section 75 of the *Planning and Development Act 2005* and Regulation 25(1)c of the *Town Planning Regulations 1967* resolves to INITIATE Amendment No. 171 to Town Planning Scheme No. 1A for the purpose of:**

- i) **Establishing a 'Special Site' as provided for by Clauses 3.7 to 3.8 for a 'Hardie Road Precinct' and delineating this 'Special Site' as S46 on the Scheme Map;**
- ii) **Changing the Residential Design Code density of areas within the proposed Special Site (S46) from R20 to R40 and R80 as listed in the proposed Appendix II below and indicated on the Scheme Amendment 'Proposed Zoning' map; and**
- iii) **Modifying the uses permitted in the existing zones or reserves comprising the Special Site by introducing additional specifications for Site S46 in the Schedule to be set out in Appendix II.**

**MOTION CARRIED 8-3**

**For the Motion:** Mayor Evans, Councillors Stanton, Price, Buegge, Matla, Kidman, Duffy and Wolfe

**Against the Motion:** Councillors Torr, Bostock and Paver.

**DEVELOPMENT SERVICES REPORTS**

**11.3 – HEALTH, BUILDING & RANGERS**

Nil

**11.4 – EMERGENCY MANAGEMENT**

Nil

DEVELOPMENT SERVICES REPORTS

11.5 – DEVELOPMENT SERVICE COMMITTEES

ITEM NUMBER: 11.5.1  
 ITEM TITLE: PLANNING AND ENVIRONMENT STRATEGY AND POLICY COMMITTEE  
 MEETING MINUTES – 23 APRIL 2009

- File Number or Name of Ward : MAN 235 (All Wards)
- Summary of Key Points : Committee Items for Council Consideration.
- Reporting Officer(s) : Executive Director Development Services (R Fenn)
- Disclosure of Interest : Nil
- Bulletin Attachment(s) : 1. Minutes from Planning and Environment Strategy and Policy Committee Meeting - 23 April 2009.  
 2. Copy of all attachments from Planning and Environment Strategy and Policy Committee Meeting - 23 April 2009

All Councillors with property effected by the Little Grove Structure Plan declared an impartial interest and remained within the Chambers.

**COUNCIL'S ROLE: LEGISLATIVE FUNCTION**

**ITEM 11.5.1 - COMMITTEE RECOMMENDATION 1**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

Item 5.0 Confirmation of Minutes

THAT the UNCONFIRMED minutes of the Planning and Environment Strategy and Policy Committee Meeting held on 23 April 2009 be RECEIVED (copy of minutes are in the Elected Members' Report/Information Bulletin).

**MOTION CARRIED 10-1**

**For the Motion:** Mayor Evans, Councillors Bostock, Price, Torr, Paver, Stanton, Wolfe, Dufty, Matla and Kidman  
**Against the Motion:** Councillor Buegge

**COUNCIL'S ROLE: LEGISLATIVE FUNCTION**

**ITEM 11.5.1 - COMMITTEE RECOMMENDATION 2**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA**  
**SECONDED COUNCILLOR STANTON**

Item 7.0 Detailed Area Plan (DAP003 - Cull Road, South Lockyer)

THAT Council ADOPTS for the purposes of advertising the revised Detailed Area Plan Policy, to include Lot 247 Cull Road, South Lockyer within Schedule 1 as detailed below, in accordance with Clause 7.21 of Town Planning Scheme 1A.

**Schedule 1**

No	Locality	Lots
x	Lockyer	Lot 247 Cull Road

**MOTION CARRIED 11-0**

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued

*The Mayor requested nominations for the interim steering committee.*

*Nominations were received from Councillors: Matla, Dufty, Price and Torr.*

*A ballot was conducted; the results of the ballot are as follows:*

*Councillor Matla (8), Dufty (3), Price (9), and Torr (2).*

**COUNCIL'S ROLE: LEGISLATIVE FUNCTION**

**ITEM 11.5.1 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA**

**SECONDED COUNCILLOR DUFTY**

Item 8.0 Albany CBD Master Plan - Interim Budget, Adoption of Objectives and Make Up of Steering and Technical Committees.

THAT Council:

- i) Reallocate \$20,000 from the streetscape budget (Job No. 1452) to a new budget line item titled Albany CBD Masterplan for the balance of the 2008/09 financial year;
- ii) Endorse the interim objectives for the Albany CBD Masterplan as follows:
  - Reinforce the Albany CBD as the commercial and cultural hub of the Great Southern Region;
  - Improve the attractiveness of the Albany CBD through streetscape improvements;
  - Create a pedestrian friendly environment throughout the CBD;
  - Promote the redevelopment and/or adaptation of buildings within the CBD through planning incentives/bonuses;
  - Provide for efficient traffic flows in and around the CBD;
  - Improve the legibility and efficiency of access ways and parking areas on private land;
  - Promote an increase in residential and tourism accommodation within the CBD;
  - Identify cultural and civic land use development options within the CBD;
  - Ensure there is sufficient and well located parking facilities within or on the periphery of the CBD into the future to cater for residents and visitors demands; and
  - Provide a planning framework based upon contemporary community standards which acknowledging anticipated changes in transport patterns.
- iii) Endorse the interim steering committee group membership as follows:
  - Councillors \_\_\_\_\_ and \_\_\_\_\_;
  - 1 representative from Albany Chamber of Commerce and Industry;
  - 1 representative from the Albany Urban Design Forum;
  - 1 representative from the Frederickstown Progress Association;
  - 2 CBD landowners;
  - 1 representative from the City of Albany Seniors Committee;
- iv) Endorse the interim technical steering committee group membership as follows:
  - Representative from Department of Planning and Infrastructure (transport);
  - Council's Regional Heritage Advisor;
  - Consultant Urban Designer;

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued.

- Consultant Engineer;
- Consultant Architect;
- Executive Director Development Services;
- Executive Services Manager – Planning & Councillor Liaison (Chair);
- Coordinator Development Control Planning; and
- Nominated representative from Works and Services Department.

v) Endorse the following terms of reference for the Albany CBD Masterplan Steering Committee:

*“To deliver a comprehensive Masterplan for the Albany CBD that incorporates previous planning studies that delivers a realistic and workable planning framework, with action plan and time frames encompassing:*

- *The built form;*
- *Future land uses i.e. tourism/retail/residential/civic purpose;*
- *Traffic design;*
- *Civic Space design;*
- *Provision of public parking;*
- *Public transport services;*
- *Pedestrian Friendliness;*
- *Strategic coordination of existing fragmented private parking; and*
- *The requirements of a Central Area Policy Plan as detailed in clause 4.29 and 4.30 of Town Planning Scheme 1A.”*

Councillor Price foreshadowed the following amendment to the motion

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR PRICE**

**THAT Committee Recommendation be amended to reflect the following inclusion:-**

- iii) **Endorse the interim steering committee group membership as follows.....**
- **1 representative from the Youth Advisory Committee.**

**MOTION CARRIED 11-0**

**MOVED COUNCILLOR BOSTOCK  
SECONDED COUNCILLOR PAVER**

**THAT Council suspend standing order standing order local law 6.5 – Order of Call in Debate.**

**MOTION CARRIED 7-4**

**For the Motion:** Mayor Evans, Councillors Bostock, Torr, Buegge, Paver, Duffy and Kidman.

**Against the Motion:** Councillors Stanton, Wolfe, Matla and Price.

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR PRICE**

**THAT Council resume standing order standing order local law 6.5 – Order of Call in Debate.**

**MOTION CARRIED 11-0**



**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued.

**For the Motion:** Mayor Evans, Councillor Dufty, Kidman, Matla, Paver, Price, Stanton, Torr and Wolfe

**Against the Motion:** Councillors Bostock and Buegge.

The amended motion then became the substantive motion.

**ITEM 11.5.1 - COMMITTEE RECOMMENDATION 3 – AMENDED MOTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR PRICE**

**Item 8.0 Albany CBD Master Plan - Interim Budget, Adoption of Objectives and Make Up of Steering and Technical Committees.**

**THAT Council:**

- i) Reallocate \$20,000 from the streetscape budget (Job No. 1452) to a new budget line item titled Albany CBD Masterplan for the balance of the 2008/09 financial year;**
- ii) Endorse the interim objectives for the Albany CBD Masterplan as follows:**
  - Reinforce the Albany CBD as the commercial and cultural hub of the Great Southern Region;
  - Improve the attractiveness of the Albany CBD through streetscape improvements;
  - Create a pedestrian friendly environment throughout the CBD;
  - Promote the redevelopment and/or adaptation of buildings within the CBD through planning incentives/bonuses;
  - Provide for efficient traffic flows in and around the CBD;
  - Improve the legibility and efficiency of access ways and parking areas on private land;
  - Promote an increase in residential and tourism accommodation within the CBD;
  - Identify cultural and civic land use development options within the CBD;
  - Ensure there is sufficient and well located parking facilities within or on the periphery of the CBD into the future to cater for residents and visitors demands; and
  - Provide a planning framework based upon contemporary community standards which acknowledging anticipated changes in transport patterns.
- iii) Endorse the interim steering committee group membership as follows:**
  - Councillors Matla and Price;
  - 1 representative from Albany Chamber of Commerce and Industry;
  - 1 representative from the Albany Urban Design Forum;
  - 1 representative from the Frederickstown Progress Association
  - 2 CBD landowners;
  - 1 representative from the City of Albany Seniors Committee; and
  - 1 representative from the Youth Advisory Committee.

DEVELOPMENT SERVICES REPORTS

Item 11.5.1 continued.

iv) Endorse the interim technical steering committee group membership as follows:

- Representative from Department of Planning and Infrastructure (transport);
- Council's Regional Heritage Advisor;
- Consultant Urban Designer;
- Consultant Engineer;
- Consultant Architect;
- Executive Director Development Services;
- Executive Services Manager – Planning & Councillor Liaison (Chair);
- Coordinator Development Control Planning; and
- Nominated representative from Works and Services Department.

v) Endorse the following terms of reference for the Albany CBD Masterplan Steering Committee:

*“To deliver a comprehensive Masterplan for the Albany CBD that incorporates previous planning studies that delivers a realistic and workable planning framework, with action plan and time frames encompassing:*

- *The built form;*
- *Future land uses i.e. tourism/retail/residential/civic purpose;*
- *Traffic design;*
- *Civic Space design;*
- *Provision of public parking;*
- *Public transport services;*
- *Pedestrian Friendliness;*
- *Strategic coordination of existing fragmented private parking; and*
- *The requirements of a Central Area Policy Plan as detailed in clause 4.29 and 4.30 of Town Planning Scheme 1A.”*

**MOTION CARRIED 9-2**

**For the Motion:** Mayor Evans, Councillors Dufty, Kidman, Matla, Paver, Price, Stanton, Torr and Wolfe.

**Against the Motion:** Councillors Bostock and Buegge

COUNCIL'S ROLE: LEGISLATIVE FUNCTION

ITEM 11.5.1 - COMMITTEE RECOMMENDATION 4

VOTING REQUIREMENT: SIMPLE MAJORITY

Item 9.0 Little Grove Structure Plan (LGSP).

THAT:

- i) The submissions be received, the issues be tabled and the recommendations and modifications contained therein be either noted, upheld or dismissed as detailed;
- ii) Pursuant to clause 5.2.2 of the City of Albany Town Planning Scheme 3, Council receive and endorse the modified Little Grove Structure Plan; and
- iii) The Little Grove Structure Plan be forwarded to the Western Australian Planning Commission with a request that the document be endorsed as soon as possible.

Note: Final copy of the LGSP has been included in the Bulletin.

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued.

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR BOSTOCK**

**THAT Council suspend standing order standing order local law 6.5 – Order of Call in Debate.**

**MOTION CARRIED 6-5**

**For the Motion:** Councillors Paver, Bostock, Torr, Buegge, Stanton and Price.

**Against the Motion:** Mayor Evans, Councillors Wolfe, Dufty, Matla and Kidman.

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR PAVER**

**THAT Council resume standing order standing order local law 6.5 – Order of Call in Debate.**

**MOTION CARRIED 11-0**

*Councillor Stanton's tabled speech is detailed at appendix D.*

**ITEM NUMBER 11.5.1 – COMMITTEE RECOMMENDATION 4 – ALTERNATE MOTION BY  
COUNCILLOR STANTON**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR STANTON  
SECONDED COUNCILLOR EVANS**

**THAT:**

- i) The submissions be received, the issues be tabled and the recommendations and modifications contained therein be either noted, upheld or dismissed as detailed, except that references to, and areas of, designated Public Open Space (POS) over Lot 17 Grove Street West and Lot 18 Wilson Street, Little Grove for a neighbourhood park shall be removed from the Little Grove Structure Plan, Figure 9 be amended to rename the term 'cleared evacuation area' to 'existing oval' and Section 2.4.11 of the structure plan report be modified to reference the oval on Reserve 24747 which is approximately 1.2 hectares in area;
- ii) Pursuant to Clause 5.2.2 of the City of Albany Town Planning Scheme 3, Council receive and ADOPT the modified Little Grove Structure Plan; and
- iii) The Little Grove Structure Plan be forwarded to the Western Australian Planning Commission with a request that the document be APPROVED as soon as possible, and that consideration be given to removing the POS from Lot 17 and 18 (as identified above) on the basis that there is sufficient recreational space, including the school grounds and the Council Reserve (Reserve 24747) on the periphery of the Structure Plan area which would meet the ongoing recreational requirements of residents into the future, in addition to that POS that will be created as subdivision progresses in the locality.

**MOTION CARRIED 11-0**

**DEVELOPMENT SERVICES REPORTS**

Item 11.5.1 continued.

**Councillors Reason:**

There is considerable amount of recreational space on the periphery of the Structure Plan area, including the school grounds and the Council Reserve behind the local hall which would meet the ongoing recreational requirements of residents into the future.

**OFFICERS REPORT**

Author: Executive Services Manager – Planning and Councillor Liaison (G Bride)

**STATUTORY IMPLICATIONS**

1. Where land is zoned “Residential Development” the Scheme requires the preparation and endorsement of a structure plan prior to development and subdivision taking place. The WAPC is ultimately responsible for endorsing an outline development plan, after Council has adopted the plan.

**POLICY IMPLICATIONS**

2. The WAPC’s Liveable Neighbourhoods document identifies what elements need to be addressed within a local structure plan, and one of these requirements is to show a public open space network. The Liveable Neighbourhoods recommends the allocation of a neighbourhood park within 400 metres of a dwelling.

**FINANCIAL IMPLICATIONS**

3. There are no financial implications.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

4. There are no strategic implications.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

5. There are no legal implications.

**COMMENT**

6. Council has previously resolved to remove POS areas from the Little Grove Structure Plan in September 2007, however the Department of Planning and Infrastructure (DPI) requested a POS network be reinstated on the Structure Plan. Should the 3000m<sup>2</sup> neighbourhood park be removed from the Structure Plan, it is likely that DPI will again require a centrally located public open space area to be reinstated. This will result in further delays in progressing the Structure Plan.
7. From staff’s perspective the centrally located neighbourhood park is well located and achieves the requirements of Liveable Neighbourhoods, in that it provides a central area of POS for the future community of Little Grove.
8. Whilst the School grounds provides a recreational asset to the community it is important to note that it is not public open space and remains open and available at the discretion of the school and Education Department WA. Reserve 24747 is also on the periphery of the Structure Plan area.

---

# **CORPORATE & COMMUNITY SERVICES Reports**

---

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

**12.1 FINANCE – CORPORATE & COMMUNITY SERVICES**

ITEM NUMBER: 12.1.1

ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

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

**BACKGROUND**

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

**DISCUSSION**

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

3. A summary of payments is as follows:  
Municipal Fund

Cheques	Totalling	\$159,514.88
Electronic Fund transfer	Totalling	\$3,816,384.71
Credit Cards	Totalling	\$12,370.08
Payroll	Totalling	<u>\$772,871.47</u>
	<b>Total</b>	<b>\$4,761,141.14</b>

4. As at the 30<sup>th</sup> April 2009, the total outstanding creditors, stands at \$115,106.40.

5. Cancelled cheques – 24852, 24909, 25328, 25339

**PUBLIC CONSULTATION / ENGAGEMENT**

6. Nil

**GOVERNMENT CONSULTATION**

7. Nil

**STATUTORY IMPLICATIONS**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.1 continued.

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***Community Vision:***

*Nil*

***Priority Goals and Objectives:***

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

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

***City of Albany Mission and Values Statement:***

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

**POLICY IMPLICATIONS**

13. The City's 2008/09 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

14. Nil

**SUMMARY CONCLUSION**

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

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR PRICE**

**THAT the Council adjourn the meeting for a 5 minute recess.**

**MOTION CARRIED 11-0**

Council adjourned at 9.14pm  
Council resumed at 9.20pm. All members present.

Item 12.1.1 continued.

**ITEM 12.1.1 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**RECOMMENDATION**

**MOVED COUNCILLOR MATLA  
SECONDED COUNCILLOR WOLFE**

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

**MOTION CARRIED 11-0**



**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER:** 12.1.2  
**ITEM TITLE:** FINANCIAL ACTIVITY STATEMENT – 30<sup>th</sup> APRIL 2009

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : FIN 040 (All Wards)  
**Summary of Key Points** : Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 30<sup>th</sup> April 2009  
**Reporting Officer(s)** : Finance Manager (S Goodman)  
**Disclosure of Interest** : Nil  
**Previous Reference** : N/A  
**Bulletin Attachment(s)** : Nil

**BACKGROUND**

1. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
2. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide Council with a greater insight in relation to the ongoing financial performance of the local government.
3. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. For the financial year 2008/09 variations in excess of 10% are reported to the Council.

**DISCUSSION**

4. The Statement of Financial Activity for the period ending 31<sup>st</sup> March 2009 has been prepared and is listed below.
5. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**STATEMENT OF FINANCIAL ACTIVITY – AS AT 30<sup>th</sup> APRIL 2009**

6. See appendix 1 to report item 12.1.2

**CITY OF ALBANY - BALANCE SHEET**

7. See appendix 2 to report item 12.1.2

**CITY OF ALBANY – INCOME STATEMENT**

8. See appendix 3 to report item 12.1.2

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.2 continued

**INVESTMENT SUMMARY & COMMENT**

9. The St George Bank Subordinated Debt security has been sold with total proceeds of \$443,615. As reported in March, the face value of this security was \$500,000. Loss mitigation negotiations with the Lehman administrators, and fund trustees have continued with further meetings scheduled for May 2009.
10. See appendix 4 to report item 12.1.2.

**PUBLIC CONSULTATION / ENGAGEMENT**

11. Nil

**GOVERNMENT CONSULTATION**

12. Nil

**STATUTORY IMPLICATIONS**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.2 continued

**FINANCIAL IMPLICATIONS**

13. Year to date expenditure has been incurred in accordance with the 2008/09 budget parameters with variations in excess of 10% detailed below. A quarterly review was carried out in April 2009 and the current budgets incorporate the adjustments adopted by Council in February 2009 and projected Quarterly Review amendments. All material variances have been included in the Third Quarter Review which follows.

Section of Financial Activity Statement	Reason for Variation	Total Variation Amount
<b>Operating Revenue</b> No material variances		
<b>Operating Expenditure</b> No material variances		
<b>Capital Revenue</b> No material variances		
<b>Capital Expenditure</b> No material variances		

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**Community Vision:**

*Nil*

**Priority Goals and Objectives:**

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

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

**City of Albany Mission and Values Statement:**

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

**POLICY IMPLICATIONS**

15. The City's 2008/09 Annual Budget applies to this item, as it provides a set of parameters that guides the City's financial practices. Given that the expenditure for the reporting period has been incurred in accordance with the 2008/09 budget parameters and any major variations are due to timing issues only, it is recommended that the Statement of Financial Activity be received.
16. The Investment of Surplus Funds Policy applies to this item, as this policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.2 continued

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Nil

**SUMMARY CONCLUSION**

18. Nil

**ITEM 12.1.2 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR BUEGGE**

**THAT Council RECEIVES the Financial Activity Statement for the period ending 30<sup>th</sup> April 2009.**

**MOTION CARRIED 11-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.2 continued

**APPENDIX 1**

**STATEMENT OF FINANCIAL ACTIVITY  
YEAR TO DATE 30-Apr-09**

Original Budget 08/09	Current Budget 08/09		Actual Year to Date 30-Apr-09	Current Budget Year to Date 30-Apr-09	Current Budget vs Actual Variance
<b>REVENUE</b>					
3,597,831	3,640,537	Operating Grants, Subsidies and Cont	2,706,227	2,702,182	4,045
7,095,514	7,167,550	Fees and Charges	5,980,163	6,041,342	(61,179)
2,649,000	2,649,000	Service Charges	2,694,919	2,690,150	4,769
608,000	677,416	Interest Earnings	607,554	591,000	16,554
324,500	343,525	Other Revenue	408,413	336,211	72,202
<b>14,274,845</b>	<b>14,478,028</b>		<b>12,397,276</b>	<b>12,360,885</b>	<b>36,391</b>
<b>EXPENDITURE</b>					
13,853,782	13,811,360	Employee Costs	11,329,987	11,474,289	(144,302)
12,263,994	12,150,126	Materials and Contracts	8,831,742	8,635,131	196,611
755,110	1,110,640	Utility Charges	898,015	939,489	(41,474)
1,332,219	1,332,216	Interest Expenses	668,493	676,795	(8,302)
483,839	495,309	Insurance Expenses	409,675	433,462	(23,787)
(321,579)	(279,929)	Other Expenditure	(162,312)	(114,611)	(47,701)
10,653,000	10,726,639	Depreciation	8,872,501	8,924,350	(51,849)
<b>39,020,365</b>	<b>39,346,361</b>		<b>30,848,101</b>	<b>30,968,905</b>	<b>(120,804)</b>
<b>Adjustment for Non-cash Revenue and Expenditure:</b>					
(10,653,000)	(10,726,639)	Depreciation	(8,872,501)	(8,924,350)	51,849
<b>CAPITAL REVENUE</b>					
9,527,112	9,355,248	Non-Operating Grants, Subsidies and Cont	3,774,644	3,862,359	(87,715)
6,285,116	2,235,116	Proceeds from asset disposals	797,347	810,475	(13,128)
5,100,000	5,100,000	Proceeds from New Loans	0	0	0
46,230	46,230	Self-Supporting Loan Principal Revenue	33,081	25,865	7,216
7,459,666	8,925,571	Transfers from Reserves (Restricted Assets)	9,748,792	9,748,792	0
<b>28,418,124</b>	<b>25,662,165</b>		<b>14,353,864</b>	<b>14,447,491</b>	<b>(93,627)</b>
<b>CAPITAL EXPENDITURE</b>					
26,586,266	26,625,359	Purchase Plant, Equipment and Infrastructure	10,588,001	10,258,420	329,581
2,523,215	2,523,215	Repayment of Loans	613,864	602,931	10,933
2,146,413	1,547,913	Transfers to Reserves (Restricted Assets)	2,919,480	2,919,480	0
<b>31,255,894</b>	<b>30,696,487</b>		<b>14,121,346</b>	<b>13,780,831</b>	<b>340,515</b>
2,200,000	0	Estimated Surplus B/fwd			
		ADD Net Current Assets July 1 B/fwd	(1,815,676)	n/a	n/a
		LESS Net Current Assets Year to Date	8,090,126	n/a	n/a
<b>19,130,290</b>	<b>19,180,290</b>	Amount Raised from Rates	(19,251,609)	(19,241,131)	(10,478)

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

## APPENDIX 2

## CITY OF ALBANY

## BALANCE SHEET

30-Apr-09

	Actual 30-Apr-09	Budget 30-Jun-09	Actual 30-Jun-08
<b>CURRENT ASSETS</b>			
Cash - Municipal	8,229,980	1,853,283	574,704
Restricted cash (Trust)	1,971,956	1,778,000	1,824,396
Reserve Funds - Financial Assets	3,064,865	2,700,000	4,246,363
Reserve Funds - Other	1,997,488	951,095	6,904,276
Receivables & Other	1,852,519	1,753,371	1,865,213
Investment Land	46,400	160,000	46,400
Stock on hand	767,722	720,000	799,624
	<b>17,930,930</b>	<b>9,915,749</b>	<b>16,260,976</b>
<b>CURRENT LIABILITIES</b>			
Borrowings	409,350	1,263,000	1,023,215
Creditors prov - Annual leave & LSL	1,922,749	2,230,000	1,692,860
Trust Liabilities	1,925,204	1,748,000	1,778,124
Creditors prov & accruals	825,981	2,877,047	3,362,517
	<b>5,083,284</b>	<b>8,118,047</b>	<b>7,856,716</b>
<b>NET CURRENT ASSETS</b>	<b>12,847,646</b>	<b>1,797,702</b>	<b>8,404,260</b>
<b>NON CURRENT ASSETS</b>			
Receivables	152,865	106,549	152,865
Pensioners Deferred Rates	265,945	263,870	265,945
Investment Land	2,150,000	2,005,000	2,150,000
Property, Plant & Equip	70,440,341	263,020,245	63,312,024
Infrastructure Assets	176,790,147		183,067,893
Local Govt House Shares	19,501	19,501	19,501
	<b>249,818,798</b>	<b>265,415,165</b>	<b>248,968,228</b>
<b>NON CURRENT LIABILITIES</b>			
Borrowings	23,384,572	25,721,573	23,384,572
Creditors & Provisions	262,041	150,000	217,433
	<b>23,646,613</b>	<b>25,871,573</b>	<b>23,602,006</b>
<b>NET ASSETS</b>	<b>239,019,830</b>	<b>241,341,294</b>	<b>233,770,483</b>
<b>EQUITY</b>			
Accumulated Surplus	214,392,545	218,415,565	202,313,885
Reserves	5,852,651	4,151,095	12,681,963
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	<b>239,019,830</b>	<b>241,341,294</b>	<b>233,770,483</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

## APPENDIX 3

## INCOME STATEMENT FOR THE PERIOD ENDED

30-Apr-09

Nature / Type	YTD Actual 2008/09	Budget-Total 2008/09	Actual 2007/2008
<b>INCOME</b>			
Rates	19,251,609	19,130,290	17,915,530
Grants & Subsidies	2,408,821	3,278,000	3,071,233
Contributions, Reimb & Donations	297,407	319,831	452,799
Fees & Charges	5,980,163	7,095,514	5,100,832
Service Charges	2,694,919	2,649,000	2,517,352
Interest Earned	607,554	608,000	739,330
Other Revenue / Income	408,893	324,500	920,121
	<b>31,649,364</b>	<b>33,405,135</b>	<b>30,717,198</b>
<b>EXPENDITURE</b>			
Employee Costs	11,329,987	13,853,782	12,212,590
Utilities	898,015	755,110	748,982
Interest Expenses	668,493	1,332,219	1,169,598
Depreciation on non current assets	8,872,501	10,653,000	9,672,516
Contracts & materials	8,831,742	12,263,994	9,681,306
Insurance expenses	409,675	483,839	443,417
Other Expenses	(162,312)	(321,579)	487,688
	<b>30,848,101</b>	<b>39,020,365</b>	<b>34,416,097</b>
<b>Change in net assets from operation</b>	<b>801,263</b>	<b>(5,615,230)</b>	<b>(3,698,900)</b>
Grants and Subsidies - non-operating	3,024,198	4,520,812	4,262,556
Contributions Reimbursements and Donations - non-operating	750,446	5,006,300	10,734,755
Profit/Loss on Asset Disposals	(67,584)	4,291,116	804,688
Fair value - Investments adjustment	741,025		(1,531,324)
	<b>5,249,348</b>	<b>8,202,998</b>	<b>10,571,775</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

## APPENDIX 4

## Portfolio Valuation - Market Value

30-Apr-09

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value Feb-09	Market Value Mar-09	Market Value Apr-09	Latest Monthly Variation
<b><u>MUNICIPAL ACCOUNT</u></b>							
Bendigo			4.15%		1,000,000		
Bendigo	12/06/2009	1,000,000	3.50%			1,000,000	
Westpac	17/05/2009	1,000,000	4.20%	1,000,000	1,000,000	1,000,000	
Westpac	18/06/2009	1,000,000	4.22%		1,600,000	1,600,000	
NAB			5.60%	1,000,000			
NAB			4.90%	1,000,000			
NAB	17/05/2009	1,000,000	3.10%		1,000,000	1,000,000	
ANZ			5.50%	1,000,000			
CBA			4.25%	1,000,000			
Bankwest			4.05%	1,000,000			
Bankwest			3.65%	1,000,000	1,000,000		
CBA			3.16%	500,000	500,000		
CBA			3.34%	500,000	500,000		
				<b>8,500,000</b>	<b>6,600,000</b>	<b>4,600,000</b>	n/a
<b><u>RESERVES ACCOUNT</u></b>							
<b>BANK - TERM DEPOSITS</b>							
Bendigo bank - Term Deposit			4.75%				
Bankwest			5.40%				
Bankwest			5.50%	1,051,030			
Bankwest	12/06/2009		4.00%		1,054,624	1,054,624	
				<b>1,051,030</b>	<b>1,054,624</b>	<b>1,054,624</b>	n/a
<b>COMMERCIAL SECURITIES - FRNs, Sub Debt</b>							
Suncorp Metway FRN	22/06/2018	503,090	7.66%	0	Retrieved	Retrieved	
Suncorp Metway Sub Debt	22/06/2018	802,272	8.17%	773,452	664,000	664,000	
St George Bank Sub Debt	26/07/2016	506,660	8.06%	499,326	440,000	Retrieved	3,615
Macquarrie Bank Sub Debt	15/09/2014	503,325	8.14%	447,955	330,000	330,000	0
ANZ Principal Protected Yield Curve	17/07/2017	200,000	8.25%	Retrieved	Retrieved	Retrieved	
		<b>2,515,347</b>		<b>1,720,733</b>	<b>1,434,000</b>	<b>994,000</b>	<b>3,615</b>
<b>COMMERCIAL SECURITIES - CDOs (New York Mellon)</b>							
Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	240,000	240,000	240,000	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	167,779	167,779	167,779	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	130,000	130,000	130,000	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	110,000	110,000	110,000	0
		<b>2,118,046</b>		<b>647,779</b>	<b>647,779</b>	<b>647,779</b>	0
<b>COMMERCIAL SECURITIES - CDOs - Other</b>							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	134,840	134,840	134,840	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	49,500	49,500	49,500	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	35,750	35,750	35,750	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	90,000	90,000	90,000	0
		<b>1,324,656</b>		<b>310,090</b>	<b>310,090</b>	<b>310,090</b>	0
<b>SUB PRIME MORTGAGES</b>							
SPRC (Federation AAA)	10/02/2047	505,230	8.32%	Retrieved	Retrieved	Retrieved	
		<b>505,230</b>					
<b>PORTFOLIO TOTAL</b>				<b>11,581,853</b>	<b>9,398,714</b>	<b>6,958,714</b>	<b>3,615</b>



## CORPORATE &amp; COMMUNITY SERVICES REPORTS

**ITEM NUMBER:** 12.1.3  
**ITEM TITLE:** 2008/2009 THIRD QUARTER BUDGET REVIEW

**THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:**

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

**File Number or Name of Ward** : FIN 047 (All Wards)  
**Summary of Key Points** : Council requested to adopt the 2008/09 Third Quarter Review.  
**Reporting Officer(s)** : Manager Finance (S Goodman)  
**Disclosure of Interest** : Nil  
**Previous Reference** : N/A  
**Bulletin Attachment(s)** : Budget Summary including proposed review adjustments

**BACKGROUND**

1. Council officers have conducted the third quarter review based on the first nine months of the 2008/09 financial year. Under instructions from the executive management team, officers have been required to identify all possible cost savings in order to strengthen the balance sheet and reduce borrowings where possible.

**DISCUSSION**

2. The proposed budget amendments confirm most of the savings identified in the Second Quarter Review. There will be no need to draw down loan funds in 2008/09 as it has been possible to repay the short term Administration Building loan and not refinance it. The budget assumed that the loan would be refinanced and paid out ultimately by subdivision land profits. In addition, the budget included a loan drawdown of \$3.6 million to fund Cull Road. The decision to stop the project at Stage 1A has eliminated the requirement for this loan, although there is an impact on 08/09 costs. (Brackets) indicate net revenue or cost reduction.

	<b>Original Budget</b>	<b>Current Budget</b>	<b>Proposed Budget</b>	<b>Proposed Adjustments</b>
<b>General Purpose Income</b>	(22,858,490)	(22,992,647)	(23,026,509)	(33,862)
<b>General Management</b>	1,990,204	2,414,077	2,355,221	(58,856)
<b>Corporate Services</b>	6,279,992	6,221,907	6,298,570	76,663
<b>Development Services</b>	2,029,647	1,998,857	1,859,415	(139,442)
<b>Works &amp; Services</b>	10,651,812	8,848,668	9,155,436	306,768
<b>Council Loans</b>	1,853,835	1,853,832	3,353,832	1,500,000
<b>Sale of land</b>	(2,200,000)			
<b>TOTAL</b>	(2,200,000)	(1,655,306)	(4,034)	1,641,272

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.1.3 continued

A comprehensive summary of the budget and list of proposed reallocations is contained in the Elected Members Report and Information Bulletin, together with a summary by operational area.

The following is information on significant proposed adjustments:

- Admin Building Loan Renegotiation  
Loan to be repaid without renegotiation \$1,500,000
- Peace Park Construction  
Over-run on estimates (previously reported to Council) \$ 656,000
- Sale of scrap metal from Landfill  
Additional sales \$ 300,000
- Fire brigade vehicle  
Additional vehicle provided by FESA - value \$248,000 no net cost to Council
- Cull Road Subdivision  
Projected cost above existing financing - no new loan \$ 234,000  
No additional loan required (\$3.6 million)
- Masterplan land sales  
Chillinup Road site auction – sales revenue above budget \$ 90,000

**PUBLIC CONSULTATION / ENGAGEMENT**

3. Nil

**GOVERNMENT CONSULTATION**

4. Nil

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

6. In 2008/09, Council adopted a budget which included a surplus of \$2.2m to offset the 2007/08 deficit. The proposed budget amendments indicate an operating surplus in excess of \$1.5 million, which is to be used to reduce outstanding debt in relation to the Admin Building Loan Renegotiation outlined above.

Item 12.1.3 continued

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**“Community Vision:**

*Nil*

**Priority Goals and Objectives:**

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

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

**City of Albany Mission and Values Statement:**

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

**POLICY IMPLICATIONS**

8. The City’s 2008/09 Annual Budget applies to this item, as it provides a set of parameters that guides the City’s financial practices

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

9. Nil

**SUMMARY CONCLUSION**

10. It is recommended that the 2008/09 Third Quarter Review be adopted.

**ITEM 12.1.3 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR BUEGGE**

**THAT Council ADOPT the 2008/09 Third Quarter Budget Review.**

**MOTION CARRIED 11-0  
ABSOLUTE MAJORITY**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.2 – ADMINISTRATION**

Nil

**12.3 – LIBRARY SERVICES**

Nil

**12.4 – DAY CARE CENTRE**

Nil

**12.5 – TOWN HALL**

Nil

**12.6 – RECREATION SERVICES**

Nil

**12.7 – ECONOMIC DEVELOPMENT**

Nil

**12.8 - TOURISM & VISITORS CENTRE**

Nil

**12.9 – AIRPORT MANAGEMENT**

Nil

**12.10 - CONTRACT MANAGEMENT**

Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.11 – PROPERTY MANAGEMENT**

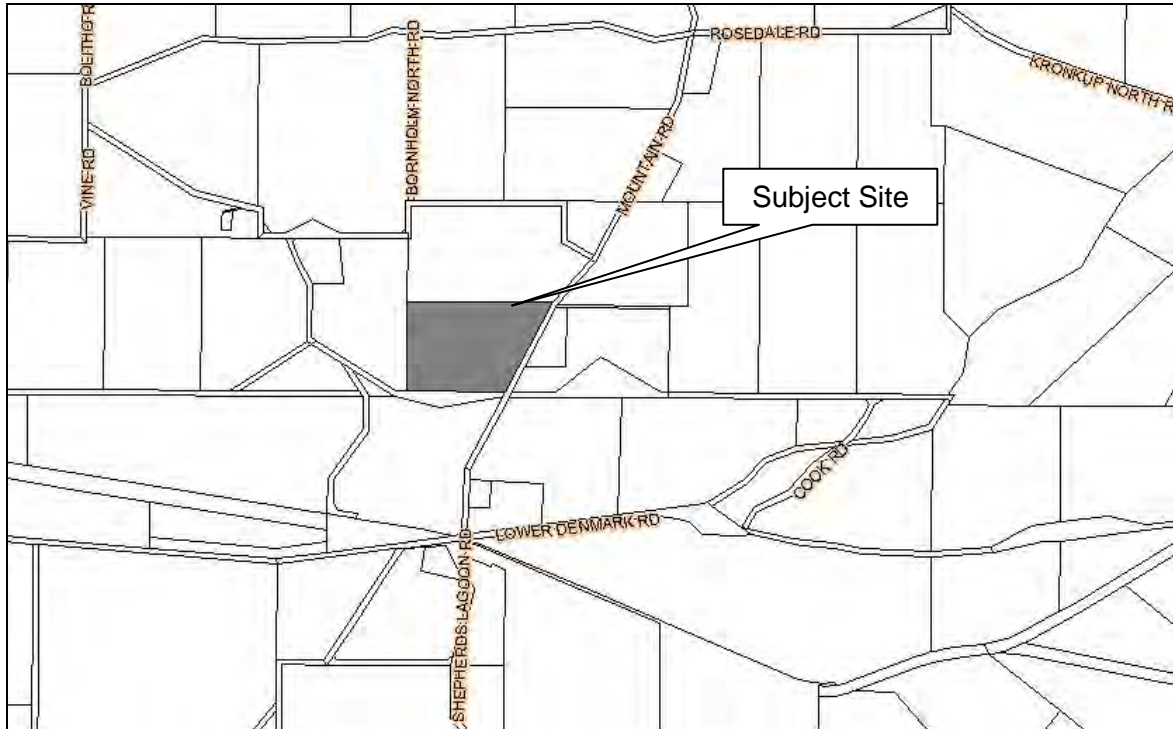
**ITEM NUMBER:** 12.11.1

**ITEM TITLE:** GRANT NEW SUB-LICENCE TO OCEAN BROADBAND LTD FOR WIRELESS BROADBAND INTERNET SERVICE

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

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

- File Number or Name of Ward** : PRO 371 (West Ward)
- Summary of Key Points** : Consider request for a new sub-licence on portion of Lot 117 Mountain Road, Bornholm to Ocean Broadband Ltd for the purpose of wireless broadband internet service for a term of 3 years commencing 1 June 2009, with an option of a further term of 2 years
- Land Description** : Portion of Lot 117, Mountain Road, Bornholm
- Proponent** : Ocean Broadband Ltd
- Owner** : Mr Desmond John Wolfe
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM15.07.03 Item 12.2.2
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council’s Policy - Property Management - Leases
- Maps and Diagrams** :



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.11.1 continued

**BACKGROUND**

1. In 2002 several locations within the City of Albany were identified as television black spot areas. Additional services were required in Wellstead to the East and Bornholm, Elleker, Torbay and Youngs Siding to the west of the City.
2. Commonwealth grant funding was obtained to improve the television services to the areas west of the City by installing a television transmission station on a portion of land in Bornholm owned by Mr Des Wolfe.
3. On 1 August 2002 the City of Albany entered in a lease agreement with land owner Wolfe for portion of Lot 117 Mountain Road, Bornholm for the purpose of a television transmission station for a term of 20 years.
4. The City of Albany has developed and maintains all of the infrastructure and buildings on this site.
5. Within this 48 square metre leased area is a 50 metre mast with a small hut like building located at the base with ac power being supplied to the site.
6. Television stations ABC, GWN, WIN and SBS are transmitted from this site.
7. Currently there are minimal broadband telecommunication services available in areas west of the City, and Ocean Broadband has received requests and expressions of interests from many residents from these areas, who are currently not able to receive broadband. The residents have said that they are strongly interested in receiving high speed broadband.
8. Ocean Broadband Ltd has made the necessary technical investigations and confirms it is willing to offer broadband services to this area.
9. A written request has been received from Ocean Broadband Ltd seeking permission to access the Bornholm TV transmission site to install wireless equipment for the purpose of providing high speed wireless broadband internet service for the residents in the surrounding areas.
10. In accordance clause 5.7 the current lease agreement, written permission has been received from the Lessor, Des Wolfe to sub-licence to Ocean Broadband Ltd for the purpose of wireless broadband internet service.

**DISCUSSION**

11. Ocean Broadband Ltd is a Western Australia company formed in 2004 and is a licensed telecommunications carrier commissioned by the Australia Government to provide subsidised broadband services around the state.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.11.1 continued

12. As a registered service provider under the Australia Governments Broadband Guarantee, which provides all Australian residents with access to broadband services that reasonably compare to broadband services available in metropolitan areas, Ocean Broadband Ltd currently have equipment located at several repeater sites around Albany and are already delivering broadband services to parts of Albany where Asymmetrical Digital Subscriber Lines (ADSL) are currently not available.
13. Ocean Broadband Ltd seeks to initially install three small radio antennae on the 50 metre mast with the installation of a fourth antennae at a later date and access to the building for housing some transmission equipment. The three antennae have a small wind loading and also a low visible impact.
14. To provide this service Ocean Broadband Ltd requires access to mains power from the building and would install a separate meter and power circuit breaker to isolate their service from the City's current TV transmissions.
15. Ocean Broadband Ltd provides a commitment that its presence and the equipment placed on site will not impact on or cause interference with any other infrastructure or service on site.
16. All costs of construction, installation and ongoing maintenance and repairs of its equipment will be met by Ocean Broadband Ltd.
17. Mr Wolfe has requested the licensee or their nominated contractors phone and advise prior to accessing the property.
18. It is proposed the new sub-licence be for a term of 3 years commencing 1 June 2009, with an option for a further term of 2 years.
19. The new sub-licence rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

**PUBLIC CONSULTATION / ENGAGEMENT**

20. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
21. This Section requires there to be state-wide public notice of the proposal for a period of 2 weeks inviting submissions from the public. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
22. The proposed new lease will be advertised state-wide to comply with the requirements of Section 3.58 of the Local Government Act 1995.

**GOVERNMENT CONSULTATION**

23. Nil.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.11.1 continued

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

25. All costs associated with the preparation of the sub-licence documentation will be borne by the proponent.
26. The new sub-licence rental will be determined by a current market valuation provided by an independent Certified Practising Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision***

*Nil.*

***Priority Goals and Objectives***

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

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

***City of Albany Mission Statement***

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

**POLICY IMPLICATIONS**

28. The recommendation is consistent with Council's Policy – Property Management – Leases adopted in 2007.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

29. Council has the following options in relation to this item, which are:
- a. Approve the request for a new sub-licence, or
  - b. Decline the request.
30. Should Council not support the request for a new sub-licence, Ocean Broadband Ltd will have to find an alternative location for installation of wireless equipment to provide high speed wireless internet services to the residents living west of the City of Albany.



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 12.11.1 continued

**SUMMARY CONCLUSION**

31. In view of the benefit the high speed wireless broadband internet service will provide to the community at no cost to Council, and the Australian Government's Broadband Guarantee initiative to providing this service, the proposed request for a new sub-licence is recommended.

Councillor Wolfe declared an interest in this item and left the Chambers at 9.26pm. The nature of his interest is that he is the landowner of the subject lease area.

**ITEM 12.11.1 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT – SIMPLE MAJORITY**

**MOVED COUNCILLOR DUFTY  
SECONDED COUNCILLOR MATLA**

**THAT Council subject to section 3.58 of the Local Government Act 1995 GRANTS a new sub-licence to Ocean Broadband Ltd for the purpose of wireless broadband internet service on a portion of Lot 117 Mountain Road, Bornholm, the sub-licence to include terms and conditions being in compliance with Council's Policy – Property Management - Leases, and:**

- i) the sub-licence term being 3 years commencing 1 June 2009, with an option of a further term of 2 years;**
- ii) the rental being determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with CPI increases annually;**
- iii) the licensee complying with property access requirements; and**
- iv) all costs associated with the preparation of the new sub-licence being met by the proponent.**

**MOTION CARRIED 10-0**

Councillor Wolfe returned to the Chambers at 9.29pm.

**CORPORATE & COMMUNITY SERVICES REPORTS**

**12.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE**

**ITEM NUMBER: 12.12.1**

**ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 16<sup>TH</sup> April 2009**

**File Number or Name of Ward** : MAN 131 (All Wards)  
**Summary of Key Points** : Receive the minutes of the Seniors Advisory Committee.  
**Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee minutes dated 16<sup>th</sup> April 2009

**ITEM 12.12.1 - COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR BUEGGE  
SECONDED COUNCILLOR DUFTY**

**THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 16<sup>th</sup> April 2009 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 11-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 12.12.2**  
**ITEM TITLE: COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 24<sup>TH</sup> APRIL 2009**

**File Number or Name of Ward** : MAN 233 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Corporate and Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee minutes dated 24<sup>th</sup> April 2009

Committee Recommendations 1-4 be dealt with by en bloc resolution.

**Item 12.12.2 COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 24<sup>TH</sup> APRIL 2009**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR MATLA**

- i) **THAT the UNCONFIRMED minutes of the Community and Economic Development Strategy and Policy Committee held on Thursday 24<sup>th</sup> April 2009 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).**
- ii) **THAT the Community Financial Assistance Policy and Guidelines are amended to reflect that the Major Grant Round in the future is set at a maximum allocation of \$50,000 for any single project and a strategy be developed for communication in relation to this, to the public.**
- iii) **THAT the Revised Community Events Financial Assistance Program Council Policy, Guidelines and Application Form (attached) be adopted.**
- iv) **THAT given the Aboriginal community has approved the revised Aboriginal Accord (attached) for a more inclusive implementation, the revised Aboriginal Accord be adopted.**

**MOTION CARRIED 11-0**  
**En Bloc**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER:** 12.12.3  
**ITEM TITLE:** ALBANY TOWN HALL THEATRE ADVISORY COMMITTEE MINUTES –  
8<sup>th</sup> APRIL 2009

**File Number or Name of Ward** : SER 047 (All Wards)  
**Summary of Key Points** : Receive the minutes of the Albany Town Hall Theatre  
Advisory Committee.  
**Reporting Officer(s)** : Executive Director of Community & Corporate Services  
(W P Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee minutes dated 8<sup>th</sup> April 2009

**COUNCILS ROLE: EXECUTIVE FUNCTION**

**ITEM 12.12.3 – COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR MATLA**

**THAT the UNCONFIRMED minutes of the Albany Town Hall Theatre Advisory Committee held on Wednesday 8<sup>th</sup> April 2009 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 11-0**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 12.12.4**  
**ITEM TITLE: ALBANY TOURISM MARKETING ADVISORY COMMITTEE (ATMAC) MEETING MINUTES – 18<sup>th</sup> FEBRUARY 2009**

**File Number or Name of Ward** : STR 208 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Manager Economic Development (J Berry)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Albany Tourism Marketing Advisory Committee (ATMAC) Meeting Minutes held on Wednesday 18 February 2009

Councillor Paver declared an interest in this item and left the Chambers at 9.31pm. The nature of his interest is that he supplies marketing services to the City in the field of tourism.

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 12.12.4 – COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR DUFTY**

**THAT the CONFIRMED minutes of the Albany Tourism Marketing Advisory Committee held on Wednesday 18 February 2009 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 10-0**

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 12.12.4 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council AMEND its resolution at OCM 17 February 2009 (Item 12.1.4), which allowed \$10,000 for the production of a colour tourist map, and approve reallocation of these funds to improving the existing [www.amazingalbany.com](http://www.amazingalbany.com) website and to supporting other winter promotional initiatives identified by ATMAC.

**ITEM NUMBER: 12.12.4 AMENDED OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA**

**SECONDED COUNCILLOR BUEGGE**

**THAT Council NOT SUPPORT the committee recommendation to re-allocate \$10,000 no longer required for the production of a colour tourist map, and these funds be INCLUDED in the overall surplus for the year.**

**MOTION CARRIED 9-1**

**For the Motion:** Mayor Evans, Councillors Bostock, Price, Buegge, Stanton, Wolfe, Dufty, Matla and Kidman.

**Against the Motion:** Councillor Torr

Councillor Paver returned to the Chambers at 9.32pm.

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 12.12.5**  
**ITEM TITLE: ALBANY TOURISM MARKETING ADVISORY COMMITTEE (ATMAC)  
MEETING MINUTES – 8<sup>TH</sup> APRIL 2009**

**File Number or Name of Ward** : STR208 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Manager Economic Development (J Berry)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Albany Tourism Marketing Advisory Committee  
(ATMAC) Meeting Minutes held on Tuesday 08 April  
2009

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**  
**ITEM 12.12.5 – COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE**  
**SECONDED COUNCILLOR BUEGGE**

**THAT the UNCONFIRMED minutes of the Albany Tourism Marketing Advisory Committee held on Tuesday 8<sup>th</sup> April 2009 be RECEIVED (copy of minutes are in the Elected Members Report/Information Bulletin).**

**MOTION CARRIED 11-0**

---

# **WORKS & SERVICES**

## **Reports**

---

**WORKS & SERVICES REPORTS**

**13.0 REPORTS – WORKS & SERVICES**

**13.1 WASTE MANAGEMENT**

Nil

**13.2 – CAPITAL WORKS**

Nil



**WORKS & SERVICES REPORTS**

**13.3 – RESERVES, PLANNING & MANAGEMENT**

**ITEM NUMBER:** 13.3.1  
**ITEM TITLE:** PARTIAL DEDICATION OF ROAD & PART CLOSURE OF RIGHT OF WAY – LOT 66 LITTLE OXFORD STREET, GLEDHOW

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

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

- File Number or Name of Ward** : SER 141 and 131863 (West Ward)
- Summary of Key Points** : Council’s resolution is required to request dedication of portion of an existing Right of Way being Lot 66 Little Oxford Street as public road, amalgamate a portion into the existing road reserve and close a portion.
- Land Description** : Lot 66 (Diagram 30210) Little Oxford Street, Gledhow
- Proponent** : JG Kelly and YW Atwell
- Owner** : Crown
- Reporting Officer(s)** : Planning Assistant – Projects (D Delury)
- Disclosure of Interest** : Nil
- Previous Reference** : OCM 17/02/09 Item 11.4.2
- Bulletin Attachment(s)** : Copies of responses from service and government agencies.
- Consulted References** : Nil
- Councillor Lounge** : Nil

**Maps and Diagrams**



**WORKS & SERVICES REPORTS**

Item 13.3.1 continued

**BACKGROUND**

1. Council's resolution is required to request the Minister to dedicate portion of existing Right of Way (ROW) at Lot 66 (Diagram 30210) Little Oxford Street, Gledhow as a public road, amalgamate a portion into the existing road reserve associated with Little Oxford Street and to close a portion.

**DISCUSSION**

2. A new road is being created over part of an existing ROW, in accordance with an approved subdivision at Location 260 Cull Road, Gledhow and this section of the ROW is required to be dedicated as a public road. The creation of the new road reserve to align with existing Argyll Street requires one section of the ROW to be closed to minimise confusion and create an orderly road pattern. The remainder of the ROW is to be amalgamated into the existing road reserve (Little Oxford Street) as per the plan attached to the rear of this report.
3. This proposal has been advertised, as required by the *Land Administration Act 1997* and Council's resolution is needed to request the Minister to proceed with the proposal.

**PUBLIC CONSULTATION / ENGAGEMENT**

4. In accordance with *Section 58* of the *Land Administration Act 1997* (LAA), the proposal was advertised in a local newspaper for 35 days and was also advertised on Council's web site. Notification was also sent via mail to neighbouring landowners inviting their comment. A sign was also placed on site to advise the public of the proposal.
5. No comments were received from the neighbouring landowners or the public in general.

**GOVERNMENT CONSULTATION**

6. Government agencies and service authorities were consulted and the comments received are attached in the bulletin. There were no objections however the Water Corporation advised that their acceptance was subject to certain conditions being fulfilled. These conditions will be conveyed to the proponent and the Department of Planning and Infrastructure.

**STATUTORY IMPLICATIONS**

7. *Section 56* of the LAA allows for the local government to request the Minister to dedicate as a road, that land that is reserved as a road under the care, control and management of the local government. By definition under the LAA, ROW's are private roads. All ROW's created under *Section 152 of the Planning & Development Act 1995* (formerly *Section 20A of the Town Planning & Development Act 1928*) come within the control and management of Local Governments under section 3.53 of that Act. The ROW at Lot 66 Diagram 30210, Gledhow was vested under Section 20A.
8. Section 58 of the LAA states that:

*"A local government must not resolve to make a request to the Minister to close a road until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice".*

**WORKS & SERVICES REPORTS**

Item 13.3.1 continued

Subject to this being complied with, a local government may request the Minister to close the road.

**FINANCIAL IMPLICATIONS**

9. Upon dedication of the public road, and handover from the developer, the ongoing maintenance of the road will be the responsibility of Council (as per approved subdivision).
10. The land within the existing ROW that is proposed to be closed will be offered to adjoining landowners to purchase. This is instigated by the Department for Planning and Infrastructure in the course of the closure process and there is no financial cost or benefit to Council.
11. The amalgamation of that portion of the ROW adjacent to Little Oxford Street with the road reserve should not cause further financial cost to Council. This section of Little Oxford Street is partially constructed to a gravel standard to allow access to only a few properties, the remainder is unconstructed.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

14. To facilitate the adjoining subdivision and development, the ROW needs to be dedicated as a road. Council could decide not to progress the dedication and the proponent could then seek Ministerial intervention.
15. The remainder of the ROW to be closed is intended to facilitate a legible road network. Council could decide not to proceed with the closure and leave a portion of the ROW intact, however, access to Lots 50 and 51 will be available from the new Argyll Street alignment and Lot 48 will have access from Little Oxford Street. The ROW would serve no purpose to remain.
16. There is no immediate reason to amalgamate the portion of the ROW adjoining Little Oxford Street into the existing road reserve but if any of the lots adjoining this ROW are developed in the future, this will be required to be done. It is simply a matter of streamlining processing to request the amalgamation at this time.

**SUMMARY CONCLUSION**

17. The ROW is required to be dedicated as a public road for that section forming part of the new Argyll Street, as per the approved subdivision at Location 260 Cull Road. Following the completion of Argyll Street the lots that currently adjoin this ROW will gain access from Argyll Street or, as is the case with Lot 48, from Little Oxford Street. The ROW will then serve no useful purpose.
18. The proposal has been advertised and no objections have been received.

**WORKS & SERVICES REPORTS**

Item 13.3.1 continued

19. A resolution is required by Council to request the Minister to proceed with the proposal to dedicate, close and amalgamate the specified portions of the ROW.

**ITEM NUMBER – 13.3.1 OFFICER RECOMMENDATION APPROVAL  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR WOLFE**

**THAT Council REQUESTS the Minister for Lands support to dedicate a portion of the existing right of way at Lot 66 (Diagram 30210) Little Oxford Street, Gledhow as a public road (portion of Argyll Street), amalgamate a portion into the existing road reserve (Little Oxford Street) and close the remaining portion subject to that portion being amalgamated into adjacent lot(s) as per drawing DWG3045-02 submitted by 35 Degrees South Land and Sea Surveying.**

**MOTION CARRIED 10-1**

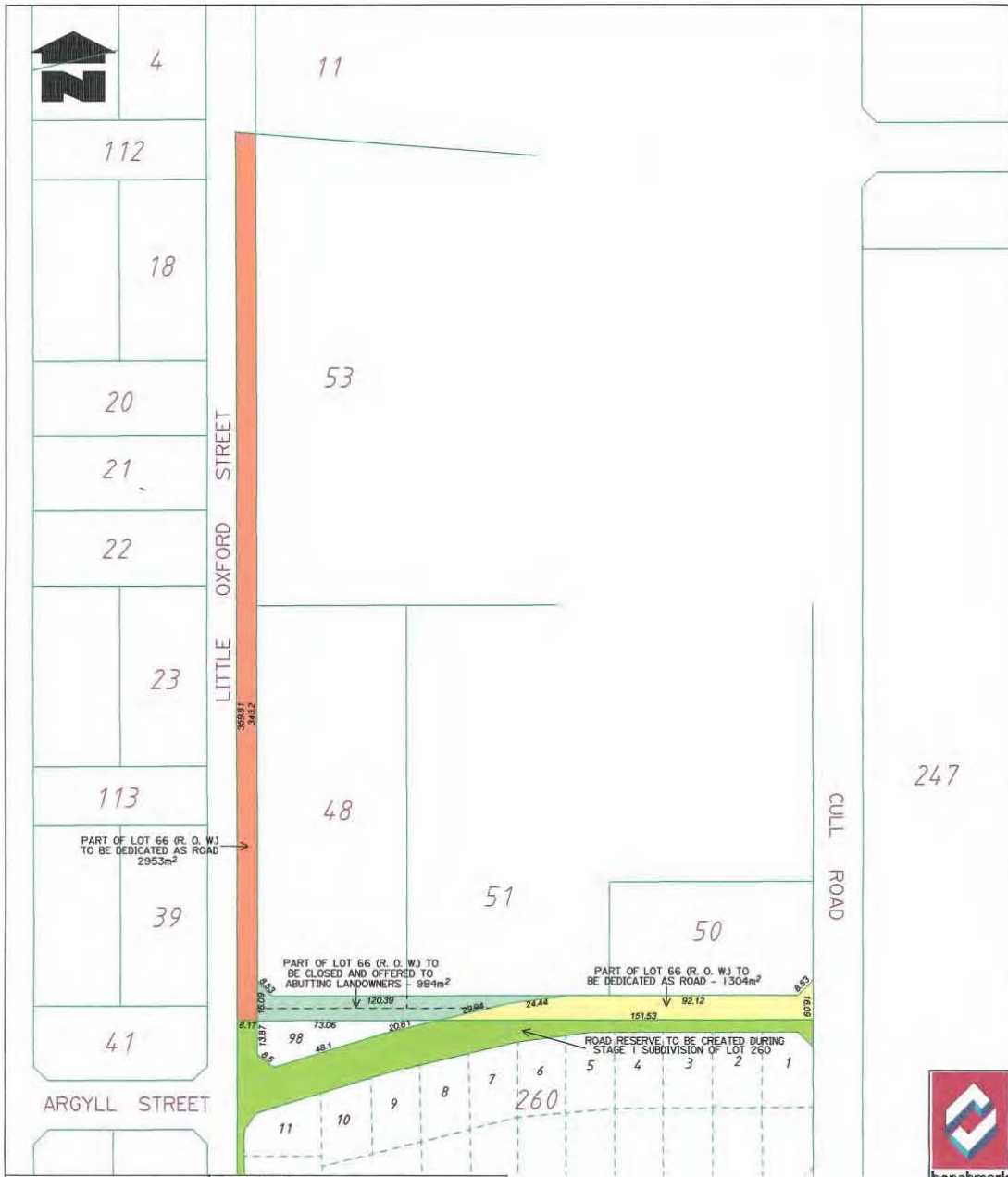
**For the Motion:** Mayor Evans, Councillors Bostock, Price, Buegge, Paver, Stanton, Wolfe, Dufty, Matla and Kidman.

**Against the Motion:** Councillor Torr.

\*\*REFER DISCLAIMER\*\*

**WORKS & SERVICES REPORTS**

Item 13.3.1 continued



Height Datum : AHD  
 Coordinate System : ALB'94  
 COPYRIGHT of this drawing is owned by 35 Degrees South. It must not be reproduced or altered without the prior consent of the owner.

A		6/12/08	ORIGINAL ISSUE	MA	MA
ISSUE	DATE	REVISION	BY	CHKD	

**BUILDERS** Location of Services are to be confirmed with Authorities. For easements check Certificate of Title. This is a site survey only, the location of boundary pegs/fences in relation to boundary is not guaranteed.  
 The information shown on this drawing is current as of the date of survey. Earthworks / setout dimensions may vary on site at builders discretion.  
 Sewer/drainage may vary from schematic presentation. Check min. clearance. Retaining not included / in addition to contract remains owners responsibility.

THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT.  
 DATED: / /

OWNER: \_\_\_\_\_ WITNESS: \_\_\_\_\_  
 OWNER: \_\_\_\_\_ WITNESS: \_\_\_\_\_  
 BUILDER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

**35 DEGREES SOUTH**  
**LAND & SEA SURVEYING**  
  
 ARGYLE BUILDING  
 46 STIRLING TERRACE  
 ALBANY WA 6330  
 PH 9842 3766 FAX 9842 1019

**PROPOSED R.O.W. DEDICATION**  
**LOT 260 CULL RD, GLEDHOW**  
 CLIENT: KELLY / ATTWELL  
 SURVEY DATE:  
 PLAN: DIA. 30210  
 C/T Val: 1134 / 42  
 MAP REF: BK26 (2) 09.06  
 AUTHORITY: CITY OF ALBANY

SCALE 1 : 1500  
 JOB No. 3045  
 DWG No. DWG3045-02 | of 1

**WORKS & SERVICES REPORTS**

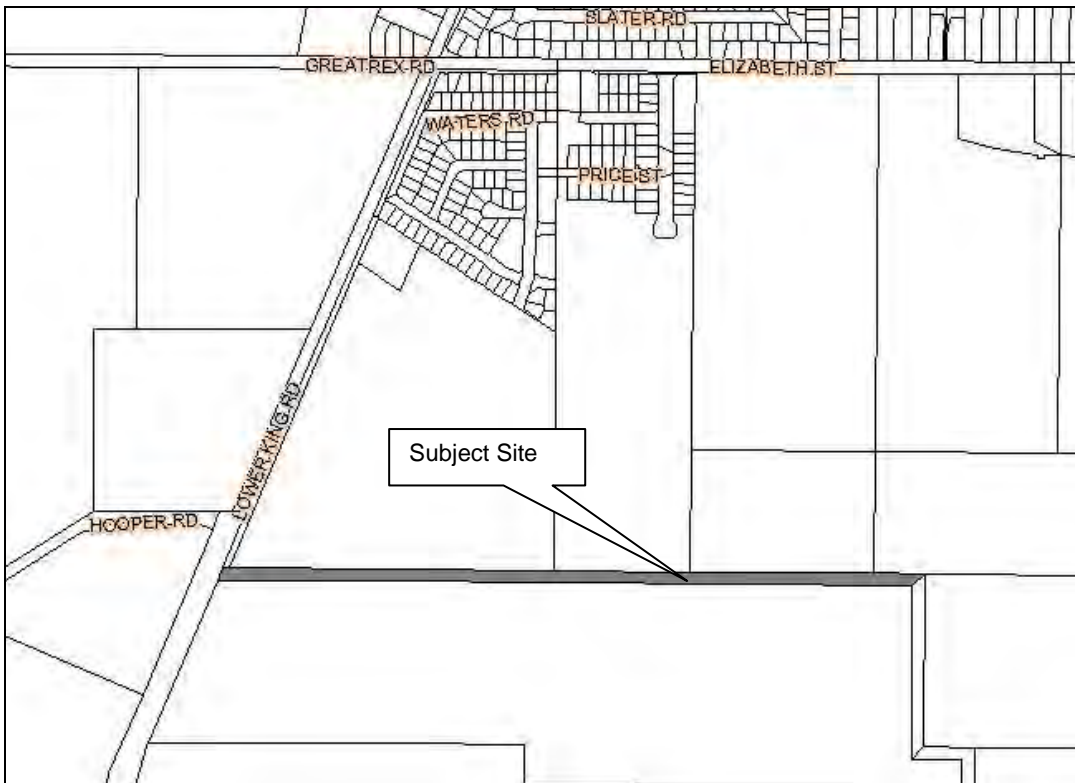
**ITEM NUMBER:** ITEM 13.3.2  
**ITEM TITLE:** PART CLOSURE OF SIBBALD ROAD, BAYONET HEAD

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

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

- File Number or Name of Ward** : SER 088, 134711 (Yakamia Ward)  
**Summary of Key Points** : Council resolution is sought to request the Minister of Lands to close portion of Sibbald Road adjacent to Lots 42, 47, 9001 and 15 Bayonet Head with view to realignment as per approved subdivision.  
**Land Description** : Road Reserve (Sibbald Road)  
**Proponent** : Harley Survey Group Pty Ltd  
**Owner** : Crown  
**Reporting Officer(s)** : Planning Assistant Projects (D Delury)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 17/02/09 Item 11.4.3  
**Bulletin Attachment(s)** : 1. Copies of submissions received;  
 2. WAPC approved subdivision plan; and  
 3. Road closure plan.  
**Consulted Reference(s)** Nil  
**Councillor Lounge** Nil

**Maps and Diagrams**



**WORKS & SERVICES REPORTS**

Item 13.3.2 continued

**BACKGROUND**

4. Application has been received from Harley Survey Group requesting Council's support to close a portion of Sibbald Road, Bayonet Head.
5. This proposal has been advertised, submissions received and Council's support is now required to request the Minister for Lands to close the road.

**DISCUSSION**

6. This proposal is to close portion of Sibbald Road adjacent to Lots 42, 47, 9001 and 15 Bayonet Head in order to realign the road to comply with approved Western Australian Planning Commission (WAPC) subdivision 134711 (refer to Information Bulletin).
7. The proposal has been advertised as per legal requirements, with no objections received. The next step is to forward Council's request to the Minister to proceed with the road closure.

**PUBLIC CONSULTATION / ENGAGEMENT**

8. As per the requirements of the *Land Administration Act 1997 (LAA), Clause 58*, this proposal has been advertised in a local newspaper for 35 days. The adjoining landowners were also consulted and a sign placed on site to advise the general public.
9. One submission was received, from the landowner of the property the subject of the subdivision, stating their support for the closure.

**GOVERNMENT CONSULTATION**

10. Government agencies and departments were consulted and no objections were received.
11. The Water Corporation has indicated that their support is on the understanding that the proposed realignment will be in service prior to the planned road closure in order to allow uninterrupted access to infrastructure situated on their land at Lot 15.

**STATUTORY IMPLICATIONS**

12. Section 58 of the LAA states that:

*"A local government must not resolve to make a request to the Minister to close a road until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice".*

Subject to this being complied with, a local government may request the Minister to close the road.

**FINANCIAL IMPLICATIONS**

13. Upon handover from the developer, the ongoing maintenance of the road will be the responsibility of Council.

**WORKS & SERVICES REPORTS**

Item 13.3.2 continued

14. Upon closure the existing road reserve will be offered to the adjoining landowners to purchase. This is initiated by the Department for Planning and Infrastructure in the course of the closure process and there is no financial cost or benefit to Council.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. To facilitate the adjoining subdivision and development, the road will need to be realigned and the remaining sections of road reserve closed. A decision not to proceed with the closure will result in a road reserve remaining in place alongside a constructed road. The unconstructed reserve would then frustrate the co-ordinated conversion of the adjoining land parcels into urban lots.

**SUMMARY CONCLUSION**

18. The approved WAPC subdivision 134711 requires realignment of Sibbald Road. A portion of the existing road reserve will not be required and closure is recommended to allow for rational development of the adjoining lots.
19. The proposal has been advertised and no objections have been received.
20. A resolution is required by Council to request the Minister to proceed with the closure of portion of Sibbald Road to allow the realignment as per approved subdivision.

**ITEM NUMBER – 13.3.2 OFFICER RECOMMENDATION APPROVAL  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR MATLA  
SECONDED COUNCILLOR DUFTY**

**THAT Council REQUESTS the Minister for Lands support to close that portion of Sibbald Road adjacent to Lots 42, 47, 9001 and 15 Bayonet Head to allow the realignment of the road as per approved Western Australian Planning Commission subdivision 134711 and that such closure be undertaken in a manner to allow uninterrupted access to existing infrastructure owned by the Water Corporation at Lot 15.**

**MOTION CARRIED 11-0**



**WORKS & SERVICES REPORTS**

**13.4 – WORKS & SERVICES COMMITTEES**

**ITEM NUMBER: 13.4.1**

**ITEM TITLE: ASSET MANAGEMENT & CITY SERVICES STRATEGY AND POLICY COMMITTEE MEETING MINUTES – APRIL 2009**

**File Number or Name of Ward** : MAN 236 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Works & Services (K Ketterer)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Minutes of the Asset Management & City Services Strategy & Policy Committee held on April 2009

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 13.4.1 - COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR WOLFE**

**SECONDED COUNCILLOR STANTON**

**THAT the UNCONFIRMED minutes of the Asset Management & City Services Strategy and Policy Committee held on Wednesday April 2009 be RECEIVED (copy of minutes are in the Elected Members' Report/Information Bulletin).**

**MOTION CARRIED 11-0**

---

**GENERAL MANAGEMENT  
SERVICES  
Reports**

---

**GENERAL MANAGEMENT SERVICES REPORTS**

**14.1 CORPORATE GOVERNANCE**

Nil

**14.2 GENERAL MANAGEMENT COMMITTEE MEETING**

Nil

**15.0 ELECTED MEMBERS' REPORT/INFORMATION BULLETIN**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR WOLFE**

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

**MOTION CARRIED 11-0**

**16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**17.0 MAYORS REPORT**

**MOVED COUNCILLOR WOLFE  
SECONDED COUNCILLOR BUEGGE**

**THAT the Mayors Report dated May 2009, as tabled, be received.**

**MOTION CARRIED 11-0**

The Mayors Report is detailed in Appendix D.

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

**ITEM NUMBER:** 18.1

**ITEM TITLE:** LATE ITEM – ADOPTION OF STANDING ORDERS LOCAL LAW 2009

**THE NATURE OF COUNCIL’S ROLE IN THIS MATTER**

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

- File Number or Name of Ward** : MAN 048 (All Wards)
- Summary of Key Points** :
  - i) Receive public submissions.
  - ii) That Council, in accordance with section 3.12 of the Local Government Act 1995, AGREES to make the City of Albany Standing Orders Local Law 2009.
- Reporting Officer(s)** : Manager Executive Services (S Jamieson)
- Disclosure of Interest** : Nil
- Bulletin Attachment(s)** :
  - 1. City of Albany Local Law 2009
  - 2. Correspondence received from DLGRD, providing feedback on the submitted document. Reference: AL7-5 E0906858.
  - 3. Copy of Submissions
- Consulted References** :
  - a. Local Government Act 1995
  - b. Local Government Guidelines Number 16 – September 2006

**BACKGROUND**

- 4. At the Ordinary Council meeting held on the 17 Feb 09, council resolved:
 

*“THAT COUNCIL, in accordance with section 3.12 of the Local Government Act 1995, agrees to GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany Standing Orders Local Law 2009.”*
- 5. Following the meeting the Local Law was submitted to DLGRD (received on the 23 March 2009) and public comment was sought.
- 6. At the submission closing date, Council has received two (2) public submissions and one government submission from the DLGRD.

**DISCUSSION**

- 7. The preparation of this local law is the result of 12 month review process, which was facilitated through the Corporate Governance Strategy and Policy Committee with an additional legal review conducted by Minter Ellison Lawyers.
- 8. At the close of the submission period, the recommendations and comments provided from the Department were applied to the Draft Local Standing Orders Local Law.

Item 18.1 continued.

9. The submissions received in relations to the Standing Orders Local Law 2009 are detailed in the report.

**PUBLIC CONSULTATION / ENGAGEMENT**

10. The draft Local Law was advertised for public comment, with the submission period closing on the 17 April 2009.
11. Two members of the public submitted submission on the proposed local law. The following details the content of their submission and officer's comment.

Item 18.1 continued.

Proposer	Clause	Submission	Officer Response
<p>Mr Warren Marshall</p>	<p>3.5 Public question and statement time</p>	<p>I disagree with part 3.5 Public Open Question Time. I believe Public Question Time (PQT) should be just that, a question time with no statements. I feel that should a statement be made then the presiding officer should be required under standing orders to reframe the statement into a question ... Sir/ Madam are you saying this ... Is the Council aware that ...? etc. This point of clarification need not be threat to the principles of openness accountability and transparency.</p> <p>I also object strongly to PQT being used by developers and or their advocates to make statements on projects that have already enjoyed the ear of Council for extended periods of time through officer meetings, delegations and attendance at briefings. They too should only be able to address Council if they have a question.</p> <p>I also believe it is important to state the time to be allocated, either the Act's 15 minutes or the City's own limit. (Note 1)</p> <p>I also feel that mention should be made to the relevant Act as the Act empowers the Council and the presiding officer to act in a certain manner, to control the time effectively, to mange vexatious questioners etc. see City of South Perth's layout, but lease ignore their rorting of PQT.</p> <p>I think it is very important to state who will respond to questions taken on notice. In many ways the existing standing orders are in my view superior to those suggested now, the time limit is mentioned, who will respond etc and it clearly articulates that it is for questions only.</p>	<p>Clause 3.5 of the draft Standing Orders states:</p> <p><b>3.5 Public statement and question time</b> <i>The presiding person is to endeavour to have every question responded to at the meeting at which it is asked; but where this is not possible, the question is to be taken on notice and a written response is to be provided to the person who asked the question and reported upon at the next meeting.</i></p> <p>Note 1. As prescribed by the <i>Local Government (Administration) Regulations 1996</i></p> <p><b>6. Minimum question time for the public — s. 5.24(2)</b></p> <p>(1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes</p>
		<p>Current Standing Orders:</p> <p>2.3 Public Question Time (1) At each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of</p>	

ORDINARY COUNCIL MEETING MINUTES – 19/05/09

\*\*REFER DISCLAIMER\*\*

Proposer	Clause	Submission	Officer Response
		<p>Council, for residents in attendance in the public gallery to address clear and concise questions to the Mayor on matters relating to the operation and concerns of the municipality.</p> <p>(2) A member of the public who raises a question during question time is to state his or her name and address, and when asking questions or making comments will be limited to a time period as determined by the Council to allow all those wishing to comment an opportunity to do so.</p> <p>(3) A question may be taken on notice by the Council or committee for later response.</p> <p>(4) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.</p>	
Councillor Roland Paver	7.1 Permissible procedural motions	<p><b>Mayor's casting vote.</b> I will attempt to explain how the draft Standing Orders do not deliver increased standards of openness and accountability.</p> <p>May I begin by suggesting that when drafting a law, by which I mean a rule with legal force; one must clearly in mind the mischief that one is intending to address. One then drafts the law in general terms to address the mischief.</p> <p>One of the mischiefs we set out to address is the power of the Mayor to use his casting vote to curtail the freedom of speech of Councillors who are opposed to his point of view. This, I am sure you will agree, is tyranny. (Note 2)</p> <p>Now, the way the committee has addressed this is to alter the existing standing order of debate. But this does not eliminate the mischief because, if you look at the permissible procedural motions under the draft standing orders, on a motions (Clauses 7.1(d) and 7.1(g) the Mayor retains the power to exercise the casting vote to deny Councillors the opportunity to speak. (Note 3).</p>	<p>Note 2: Use of casting vote is specified in section 5.21(3) of the <i>Local Government Act 1995</i>, which states:</p> <p><i>(3) If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.</i></p> <p><i>If the Presiding members closes debate by using a casting vote; clause 7.1(g) can be put; being: that the ruling by the presiding person be disagreed with.</i></p> <p>Note 3: Half the elected group has voted to close the debate.</p>
Councillor Paver	5.7 Order of call in	The way therefore to address the mischief is not to change the order of	Note 4. If the members view that the presiding



Proposer	Clause	Submission	Officer Response
	debate  7.1 Permissible procedural motions  Mayor's casting vote	debate or limit the type of procedural motions that maybe put, since these are there for very good reasons, but to introduce a standing order that states quite simply that the Mayor may not exercise his casting vote against freedom of speech. This effectively and directly address the Mayor's abuse of power while retraining the usefulness of the existing standing orders of debate and other procedural motions. (Note 4).	member has impinged freedom of speech, a procedural motion of dissent can be moved.
Councillor Paver	Mayor's casting vote  Freedom of Speech	The argument that was at the meeting that no one should have their right to vote curtailed is false and naïve. It is false because the Mayor has a deliberative vote and this is unaffected by the curtailment of his casting vote. It is naïve because no one who understands the value of freedom of speech would champion the right to vote ahead of the right to speak freely. (Note 5).	Note 5. No comment.
Councillor Paver	7.1 Permissible procedural motions	<p>My proposal, the simple addition of one standing order, covers all the circumstances in which a Mayor might seek to exercise his casting vote to secure an unfair advantage to his side of the debate.</p> <p>It should be noted that although my proposal secures freedom of speech better than the proposal of the committee, it does not directly remove the power of the Mayor under both the existing and draft standing orders to put the motion whether or not their remain Councillors wishing to speak. For reason of practical convenience this power should not be directly curtailed. If the Mayor abuses it (and I think the proposed change to the standing order of debates give greater opportunity for abuse because the mayor may call his supports to speak first and then put the motion) Councillors will have to rely vigilantly on clause 7.1(1) (g) – that the ruling by the presiding person be disagreed with, to overturn the Mayor's ruling.</p> <p>At this point my proposed general rule can apply to ensure that in the event of a tie the Mayor comes down in favour of freedom of speech. (Incidentally, I am not in favour of limiting the type and/or wording of</p>	<p>Note 6. Submission requests that clause 7.1 is amended to remove the word permissible.</p> <p>The word permissible in this context simply communicates that:</p> <p><i>“Only the following procedural motions, as defined, are to be used.”</i></p>

Proposer	Clause	Submission	Officer Response
		<p>procedural motions that may be put and, to make it clear that there is no limit, I would like to see the word “Permissible” deleted from clause 7.1. (Note 6).</p> <p>I think I have said enough to show that a mere change to the standing orders of debate does not meet the objective of ensuring that everyone have the opportunity to speak. The potential for abuse of power by the Mayor remains. It must be addressed directly in the manner that I have suggested.</p>	
Councillor Paver	3.10 Reports and Recommendations	<p><b>3.10 Reports and recommendations</b></p> <p>No government that fails to act in the public interest is a good government. The public interest is not served by decisions that are not reasoned but made capriciously.</p> <p>Reasoned decision making requires knowledge of the substantive laws to be administered and the procedural laws that regulate the decision making process. In the context of the Albany City Council’s planning jurisdiction the provisions of the town planning scheme have the force of law and they are both substantive and procedural in character. Strategies and policies, both state and local, generally do not have the force of law but Council is obliged at common law to have regard to them when they are relevant to a matter to be decided.</p> <p>Since Councillors are for the most part laymen, staff have an ethical duty, buttressed by statute and contract to place before Councillors all matters that are relevant to their decisions. By “relevant” is meant “legally relevant”.</p> <p>As far as discretionary planning decisions are concerned the provisions of the town planning scheme and of state and local strategies and policies are all legally relevant. Experience has show that when staff have not placed these provisions fully, timeously and unambiguously</p>	

Proposer	Clause	Submission	Officer Response
		<p>before Council, decisions have been reached that have been unlawful and/or inconsistent with them (Stirling Terrace, The Foreshore, Barry Court, The Fish Factory, Big Grove, The Lifestyle Village). In consequence the community has lost confidence in Council's ability to comply with the law and/or come to rationally consistent decisions.</p>	
		<p>To restore the confidence of the community this state of affairs needs to be addressed and addressed effectively. It is quite clear that existing statutory and contractual injunction are no guarantee that Staff will not fail to put legally relevant material fully, timeously and unambiguously before Council. This is why I have recommended that the new Standing Orders address this matter.</p> <p>Unfortunately, whether at the prompting of staff or not, the draft Standing Orders do not address it. All they do is quote from Section 5.41 of the Local Government Act 1995; which provides that the CEO's function is, inter alia, to "ensure that advice and information is available to the Council so that informed decisions can be made". This simply maintains the status quo, and experience has shown that despite serious commitments by the last CEO the problem remains.</p> <p>Some Councillors on the Governance committee appear to have swallowed the line that this is a "performance matter" that should be addressed only by the CEO and not by themselves. I find it extraordinary in the light of experience that Councillors should think so. If, as has been shown time and time again, the CEO is unable to address effectively a matter that goes to the heart of rational decision making, Councillors must, in the performance of their own duty to act in the public interest, take steps themselves to avoid their decisions being tainted by the failure of staff to present legally relevant information either fully, timeously or unambiguously.</p>	
		<p>The Standing Orders should lay down clearly that Staff are required to present to Council, fully, timeously and unambiguously all material that is legally relevant to the agenda item. "Timeously" should be defined to</p>	

Proposer	Clause	Submission	Officer Response
		<p>mean no later than at the time the agenda and bulletin are presented to Councillors, “Unambiguously” should be defined to mean “clearly and in a manner that is not misleading” and “legally relevant” should be defined to include the relevant provision of the scheme and of state and local strategies and policies. The Standing Orders should ensure that if Staff fail to do this the agenda item is withdrawn and represented properly at a later date. Councillors should not leave themselves free to adopt the recommendation in these circumstances.</p> <p>Doing so in the past has resulted in non compliance with mandatory procedural obligations of the scheme and state policies, which is unlawful, and in ad hoc substantial departures from the provisions of local strategies and policies, which in turn have resulted in the ex post facto amendment of strategies and policies to preserve consistency.</p> <p>The reform of the Standing Orders in the manner suggested will be inestimable value to Council. Staff will be required to do their work with greater care. Staff recommendations, whether original or amended, and alternate motions prepare by staff, that are inconsistent with the provisions of the scheme and state and local strategies and policies, will be brought to light, and Councillors will have a reasonable opportunity to consider the implications properly before reaching their decisions.</p>	
		<p>Dealing with this matter in the Standing Orders might be difficult and I am not suggesting that my recommendations may not need qualification and modification.</p> <p>But I do feel, and have always maintained, that Councillors should have met with the lawyers and explained to them the mischief that they want addressed. As it is they have not even tried to deal with this matter. The result is that staff are not made accountable to Council for their failure to comply with statutory, contractual and ethical duties to the people of Albany, other than through the CEO who, if experience is a guide, it too compromised by considerations of managerial expediency to take effective steps to stop it. Moreover, Councillors will continue to be the</p>	<p>Note 7. Directions to officers do not fall within the purpose and intent of the proposed standing orders.</p> <p>Clause 1.3 of the draft Standing Orders states:</p> <p><i>1.3 Purpose and intent</i>  <i>(1) The purpose of this local law is to provide a set of procedures to assist in the good conduct of meetings of the Council, of committees and of the electors.</i>  <i>(2) This local law is intended to result in—</i></p>

Proposer	Clause	Submission	Officer Response
		<p>fall guys for staff incompetence, negligence or worse. They and not staff will be held accountable for their unlawful and irrational decisions because they have the power and the duty to take steps to ensure that their decisions accord with right and reason. (Note 7).</p>	<p>(a) <i>better decision-making by the Council;</i>                      (b) <i>orderly and efficient conduct of meetings dealing with business of the Council;</i>                      (c) <i>greater community participation and understanding of the business of the Council; &amp;</i>                      (d) <i>more open and accountable local government.</i></p>
Councillor Paver	5.2 Alternate motions	<p><b>The treatment of alternative motions</b></p> <p>The proposed addition to the Standing Orders of a provision requiring staff to present legally relevant material fully, timeously and unambiguously, whenever they make a recommendation on a discretionary planning matter, was intended to bring to light staff recommendations on a discretionary planning matter, was intended to bring to light staff recommendations that were inconsistent with the scheme and with state and local strategies and policies, and to give Council a reasonable time to consider the ramifications of the inconsistency.</p> <p>The counterpart to this proposal was another proposal to deal with similar mischief brought about by Councillors who present at the last minute alternative motions on discretionary planning matters that depart substantially from the provisions of the scheme, and state and local strategies and polices. My suggestion was that the new Standing Orders should define “substantial departure” and make such motions inadmissible if Councillors did not have notice of them by the close of business on the day following the agenda briefing session. Unfortunately very early on in the process of reforming the Standing Orders staff confused the issue for Councillors and this confusion is very evident in the draft standing orders. (Note 8).</p>	<p>Note 8. Clause 5.1 of the draft Standing Orders states:</p> <p><i>5.2 Alternate motions</i>                      (1) <i>A member may submit an alternative motion for consideration by the Council that differs from a committee or officer's recommendation contained in the meeting agenda.</i>                      (2) <i>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.</i></p> <p>(3) <i>The Council may by absolute majority dispense with the requirement of clause 5.2(2) where the Council is satisfied that the alternative motion does not—</i>                      (a) <i>reflect a significant departure from the intent of the recommendation; or</i>                      (b) <i>involve the determination of a matter or exercise of a discretion under the Town Planning Scheme.</i></p>
		<p>The draft Standing Orders lays down the following regime for alternative motions.</p>	<p>Note 9. Clause 5.2(3) of the Standing Orders addresses this concern; being:                      (3) <i>The Council may by <u>absolute majority</u></i></p>

Proposer	Clause	Submission	Officer Response
		<ol style="list-style-type: none"> <li>1. All alternative motions must be requested of staff by noon on the day following the agenda briefing session.</li> <li>2. Alternative motions that are not requested in this time are considered to be late.</li> <li>3. Later alternate motions are only admissible if the majority of Councillors decide.</li> <li>4. Later alternate motions that depart significantly from the intent of officer recommendations are not admissible at all.</li> <li>5. Late alternate motions on matters calling for discretionary planning decision are not admissible at all.</li> </ol> <p>My concerns on this regime are as follows:</p> <ol style="list-style-type: none"> <li>a) The only alternative motions that have caused mischief in the past have been those that have concerned the exercise by Council of its discretionary planning jurisdiction and that have proposed substantial departures from the provisions of the scheme and state and local strategies and policies. These need special treatment in the Standing Orders. All other alternate motions do not. (Note 9).</li> </ol>	<p><i>dispense with the requirement of clause 5.2(2) where the Council is satisfied that the alternative motion does not—</i></p> <p><i>(a) reflect a significant departure from the intent of the recommendation; or</i></p> <p><i>(b) involve the determination of a matter or exercise of a discretion under the Town Planning Scheme.</i></p>
		<ol style="list-style-type: none"> <li>b) Councillors who are capable of drafting their alternative motions themselves should be placed under a legal requirement to “request” alternative motions from staff. Councillor autonomy in this regard should be vigorously defended. (Note 10).</li> <li>c) A Councillor “request” to staff to prepare an alternative motion does not constitute notice of motion to other Councillors. Councillor only have notice when they, not staff, receive the motion. It is notice to Councillors and not notice to staff that is required and the draft Standing Orders are silent on the amount of notice Councillors require. (Note 11.)</li> </ol>	<p>Note 10. To facilitate good governance, alternate motions should be reported on to detail known cause and effect.</p> <p>Note 11. Clause 3.11 of the draft Standing Orders states:</p> <p><i>3.11 Motions of which previous notice has been given</i></p> <p><i>(1) A member may, at an ordinary meeting of the Council, give notice of a motion for consideration by the Council that shall be considered at the next convened ordinary</i></p>

Proposer	Clause	Submission	Officer Response
			<p><i>Council meeting.</i></p> <p><i>(2) The notice of motion is to be in written form and signed by the member giving notice prior to the commencement of the meeting at which the notice is given.</i></p> <p><i>(3) A notice of motion lapses unless the motion is moved at the meeting prescribed by clause 3.11(1) by—</i></p> <p><i>(a) the member who gave the notice; or</i></p> <p><i>(b) another member authorised in writing by the member who gave the notice.</i></p>
		<p>d) Alternate motions are not late items but motions on items contained in the agenda. It follows that whether or not a request to staff for an alternate motion should be treated as notice thereof to Councillors alternate motions should not be treated as if they were late items. Their admissibility should not be subject to the majority vote of Council.</p> <p>e) No one other than staff ever suggested that alternate motions that depart significantly from the intent of officer recommendations should be inadmissible without sufficient notice. Councillors should remain free to disagree with the recommendations of staff. This is true even and perhaps particularly, in the area of discretionary planning decisions. Staff are not paragons of virtue. Experience has shown that they make recommendations from time to time that are inconsistent with the provisions of the scheme and state and local strategies and policies. When faced with such recommendations Councillors surely should retain the right to present alternate motions at any time. (Note 12).</p> <p>f) No one ever suggested that all alternative motions on discretionary planning matters should be inadmissible without</p>	<p><i>(4) The Council may, by absolute majority, dispense with the notice requirements of clause 3.11(1) where the Council is satisfied that the motion—</i></p> <p><i>(a) relates to a matter of urgency that complies with clause 3.6(2); and</i></p> <p><i>(b) could not reasonably be dealt with at the next ordinary meeting of Council.</i></p> <p>Note 12. If an elected member doesn't agree with the officers' recommendation, the elected member votes against it.</p> <p>To facilitate good governance, alternate motions should be reported on to detail known cause and effect.</p>

Proposer	Clause	Submission	Officer Response
		<p>sufficient notice. The suggestion was confined to those alternate motions that proposed a substantial departure from the provisions of the scheme and state and local strategies and policies.</p>	
		<p>Without going on any further it should be clear from the above that the draft Standing Orders on alternate motions are an unadulterated fiasco. They create more problems than they solve. They restrict the autonomy of Councillors beyond what is needed to deal with the particular mischief initially identified in the Governance Committee. They treat a request to staff as notice to Councillors.</p> <p>They confuse alternate motions with late motions, making “late” alternate motions that significantly depart from the intent of officer recommendations altogether inadmissible. And they do this without establishing an objective yardstick by which to determine a “significant departure”. They make all “late” alternative motions on discretionary planning matters inadmissible without discriminating between those that do and those that don’t depart substantially from the provisions of the scheme and state and local strategies and policies. (Note 13).</p>	<p>Note 13. The elected group determines if a significant departure has occurred.</p>
Councillor Matla	Nil	Simple, easy to interpret document.	
Councillor Bostock	4.15 Points of Order – When valid	<p>That clause 11.4(c) from the current standing orders should be included at Clause 4.15 of the new Standing Orders, being:</p> <p><i>Standing Orders Local Law 2000, clause 11.4 Points of Order—When Valid</i></p> <p>The following are to be recognised as valid points of order—</p> <p>(a) that the discussion is of a matter not before the Council or committee;</p> <p>(b) that offensive or insulting language is being used;</p> <p>(c) drawing attention to the violation of any written law, or policy of the Local Government, provided that the member making the point of order states the written law or policy believed to be breached.”</p>	<p>Note 14. Clause 4.15 of the draft Standing Orders, addresses this request.</p> <p><i>4.15 Point of order</i></p> <p><i>(1) A member may direct the presiding person’s attention to a breach of these Standing Orders by any other member and when doing so is to specify the grounds of the breach.</i></p> <p><i>(2) A member expressing a difference of opinion with, or contradicting, a speaker is not to be recognised as raising a point of order.</i></p> <p><i>(3) The presiding person is to decide all points</i></p>



Proposer	Clause	Submission	Officer Response
		(Note 14).	<p><u>of order and the decision of the presiding person is final and must be accepted by the meeting without argument or comment, unless in any particular case, the meeting then resolves that a different ruling is to be substituted for the ruling given by the presiding person.</u></p> <p>(4) A motion, amendment or other business ruled to be out of order is to be no longer discussed and requires no resolution.</p> <p>(5) Where anything said or done by a member is ruled out of order, the presiding person may require the member to make an explanation, retraction or apology as the case may be.</p>
Councillor Bostock	5.7 Order of call in debate	<p>Councillor Bostock requested that the following areas of concern be noted:</p> <p>That clause 5.7 Order of Call in Debate:</p> <p>The presiding person is to call speakers to a substantive motion in the following order:</p> <ul style="list-style-type: none"> <li>a. the mover, to state the motion;</li> <li>b. a seconder, to second the motion;</li> <li>c. the mover, to speak for the motion;</li> <li>d. the seconder, to speak for the motion; <u>(the seconder should be able to speak for or against the motion)</u></li> <li>e. a speaker against the motion;</li> <li>f. other speakers for and against the motion; and</li> <li>g. the mover, to take the right of reply which closes debate.</li> </ul> <p>(Note 15).</p>	<p>Note15. Clause 5.7 of the draft Standing Orders states:</p> <p><i>5.7 Order of Call in Debate</i></p> <p><i>The presiding person is to call speakers to a substantive motion in the following order—</i></p> <ul style="list-style-type: none"> <li><i>(a) the mover, to state the motion;</i></li> <li><i>(b) a seconder, to second the motion;</i></li> <li><i>(c) the mover, to speak for the motion;</i></li> <li><i>(d) the seconder, to speak for the motion;</i></li> <li><i>(e) a speaker against the motion;</i></li> <li><i>(f) other speakers for and against the motion;</i></li> </ul> <p><i>and</i></p> <ul style="list-style-type: none"> <li><i>(g) the mover, to take the right of reply which closes debate.</i></li> </ul> <p>The suggestion would contradict clause 5.6 of the draft Standing Orders, being:</p> <p><i>Clause 5.6 Motions to be seconded</i></p> <ul style="list-style-type: none"> <li><i>(1) Subject to clause 5.6(2) a motion or</i></li> </ul>

Proposer	Clause	Submission	Officer Response
			<p><i>amendment is not to be discussed or put to the vote unless seconded.</i></p> <p><i>(2) A nomination to any position is not required to be seconded.</i></p> <p>This submission would detract from the efficient conduct of the meeting.</p>
Councillor Bostock	5.2 Alternate motions	Councillor Bostock stated that clause 5.2. 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 was too restrictive to Councillors and that it could exclude important information being brought to the attention of fellow Councillors. (Note 16).	<p>Note 16. The draft Standing Orders do not prevent relevant information being presented to Council. This is communicated by speaking for or against the motion.</p> <p>The provision to provide additional information is enhanced by clause 5.7 of the draft Standing Orders, in particular 5.7(f), being:</p> <p><i>5.7 Order of call in debate</i>  <i>The presiding person is to call speakers to a substantive motion in the following order—</i>  <i>(a) the mover, to state the motion;</i>  <i>(b) a seconder, to second the motion;</i>  <i>(c) the mover, to speak for the motion;</i>  <i>(d) the seconder, to speak for the motion;</i>  <i>(e) a speaker against the motion;</i>  <i>(f) other speakers for and against the motion;</i>  <u><i>and</i></u>  <i>(g) the mover, to take the right of reply which closes debate.</i></p>
Councillor Paver	6.1	The Standing Orders should be completely reviewed by the committee before being presented to Council. Councillor Paver stated that the Standing Order doesn't adequately address revocations of decisions. (Note 17).	<p>Note 17. Revocations of decisions are addressed by clause 6.1 of the draft Standing Orders, being:</p> <p><i>6.1 Revocation motions</i></p>

Proposer	Clause	Submission	Officer Response
			<p><i>(1) The requirements for support of a motion for revocation or change of a Council decision are dealt with in the Act and Administration Regulations.</i></p> <p><i>(2) A member wishing to move a revocation motion at a meeting must give to the CEO notice of the revocation motion in accordance with clause 3.11(2) but in addition, the notice must—</i></p> <p><i>(a) specify the decision proposed to be revoked or changed;</i></p> <p><i>(b) include a reason or reasons for the revocation motion; and</i></p> <p><i>(c) be signed by at least one third of the sitting members of the Council.</i></p> <p><i>(3) Where notice of a revocation motion is given in accordance with this clause, the CEO must not implement or continue to implement the decision the subject of the revocation motion unless—</i></p> <p><i>(a) no member moves the revocation motion;</i></p> <p><i>(b) the revocation motion is moved but not seconded; or</i></p> <p><i>(c) the revocation motion is moved and seconded but not supported by the kind of majority required by law, at the meeting prescribed by clause 3.11(1).</i></p> <p><i>(4) A motion that a revocation motion be deferred shall only be carried by the decision of an absolute majority.</i></p>
Mayor Evans	Nil	Mayor Evans supported the reviewed Standing Orders.	
Councillor Wolfe	3.4 Order of business	Councillor Wolfe stated that he believed the Standing Orders addressed all the criteria that run an effective meeting. Recommended that the <u>Announcements by mayor and councillors without discussion</u> is moved	Note 18: This submission/change request was effected prior to Local Law being advertised for public comment.

ORDINARY COUNCIL MEETING MINUTES – 19/05/09

\*\*REFER DISCLAIMER\*\*

Proposer	Clause	Submission	Officer Response
		<p>prior to <u>Public statement and question time</u> in clause 3.4.</p> <p>Councillor Wolfe stated that he believed the Standing Orders would provide a good framework for running an effective meeting. (Note 19)</p>	
Councillor Buegge	3.4 Order of business	Councillor Buegge agreed with above suggestion, being: Recommended that the <u>Announcements by mayor and councillors without discussion</u> is moved prior to <u>Public statement and question time</u> in clause 3.4. (Note 18).	As above.
Councillor Buegge	3.7 Announcements by Elected Members without discussion	Councillor Buegge raised concern that clause 3.7 Announcements by Elected Members without discussion, being: (1) Elected members may announce or raise any matter of interest affecting the City and there is not to be any discussion on the matter. (2) An announcement or raising of a matter is not to exceed two minutes duration. (Note 19)	Note 19. To be monitored by the elected group.
Councillor Price	Casting Vote	Councillor Price stated that she was comfortable that the casting vote should be retained by the presiding member of a committee or meeting (Note 20).	<p>Note 20. Casting vote is detailed in the Act.</p> <p>Section 5.21(3) of the <i>Local Government Act 1995</i> states:</p> <p><i>(3) If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.</i></p>

Item 18.1 continued.

## GOVERNMENT CONSULTATION

12. In accordance with section 3.12 of the Local Government Act 1995, a draft copy of the proposed local law was sent to the Department of Local Government and Regional Development (DLGRD) for review.
13. A response/submission was received on Tuesday May 2008 from DLGRD (see copy in the Elected Members' Report and Information Bulletin) which recommended a number of minor working and interpretations changes. The recommended changes have been incorporated into the City's draft local law as detailed in the Elected Member' Report/Information Bulletin.

## STATUTORY IMPLICATIONS

14. Section 3.12 of the Local Government Acts 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 summarized in the notice;*

*(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*

*(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

*(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*

*(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

*(3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*

*(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

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

Item 18.1 continued.

(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 local laws they have made and any explanatory or other material relating to them.*

(8) *In this section —*

*“making” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

## **FINANCIAL IMPLICATIONS**

15. Statutory advertising costs are funded from the 2008/09 budget.

## **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

16. 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.*

## **POLICY IMPLICATIONS**

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

## **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

18. Option One. Adopt the draft Standing Orders Local Law 2009 as detailed in the Information Bulletin.
19. Option Two. Adopt the draft Standing Orders Local Law 2009 with alteration. Note: Where alterations will make a local law significantly different to what was initially proposed, the procedure for making the local law must be recommenced.
20. Option Three. Not adopt the proposed local law. The implication will mean that the current standing orders will stay in place, until a new Standing Order Local Law is drafted and adopted.

## **SUMMARY CONCLUSION**

21. As the amended draft local law is not significantly different from what was originally proposed, Council can continue the process of adopting the local law acknowledging that:

### ***“1.3 Purpose and intent***

*(1) The purpose of this local law is to provide a set of procedures to assist in the good conduct of meetings of the Council, of committees and of the electors.*

*(2) This local law is 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.”*

Item 18.1 continued.

ITEM NUMBER: 14.4.4 OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

i) THAT Council receive the submission from the public on the draft City of Albany *Standing Orders Local Law 2009*.

AND

ii) THAT Council, in accordance with section 3.12 of the Local Government Act 1995 (as amended), agrees to MAKE the City of Albany Standing Orders Local Law 2009 (as detailed in the Elected Member's Report/Information Bulletin) subject to the Local Law being modified in accordance with the recommendations of the Department of Local Government and Regional Development.

**ITEM NUMBER: 18.1 ALTERNATE MOTION BY COUNCILLOR PAVER**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR BOSTOCK**

**i) THAT Council DECLINES TO ADOPT the draft Standing Orders Local Law 2009; and  
ii) THAT Council CONTINUES TO OPERATE under the Standing Orders Local Law 2000.**

**MOTION LOST 3-8  
ABSOLUTE MAJORITY**

**For the Motion:** Councillors Bostock, Torr and Paver.

**Against the Motion:** Mayor Evans, Councillors Buegge, Dufty, Kidman, Matla, Price, Stanton and Wolfe.

**Councillors Reason:**

The draft standing orders fail to address adequately the potential for presiding members to exercise their casting vote to restrict freedom of speech, do nothing to promote good governance by ensuring as far as possible that Council decisions are based on a proper consideration of relevant information presented fully, unambiguously and timeously to Councillors, erroneously treat alternate motions as if they were late items, and unreasonably restrict the autonomy of Councillors to move at any time alternate motions that disagree with officer recommendations.

**OFFICERS REPORT**

**Author:** Manager Executive Service (S Jamieson)

**STATUTORY IMPLICATIONS**

There are no statutory implications relating to this item.

**POLICY IMPLICATIONS:**

There are no policy implications relating to this item.

Item 18.1 continued.

**FINANCIAL IMPLICATIONS:**

No change.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN:**

No Change.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS:**

Nil.

**COMMENT:**

In principle Council have completed the review of the current standing orders by giving the public the opportunity to compare the proposed and existing Standing Orders Local law.

Councillor Paver tabled his address in Appendix D.

The Chief Executive Officer read aloud the purpose and intent of this local law.

**ITEM NUMBER: 14.4.4 OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED COUNCILLOR PRICE**

**SECONDED COUNCILLOR BUEGGE**

i) **THAT Council receive the submission from the public on the draft City of Albany *Standing Orders Local Law 2009*.**

**AND**

ii) **THAT Council, in accordance with section 3.12 of the Local Government Act 1995 (as amended), agrees to MAKE the City of Albany Standing Orders Local Law 2009 (as detailed in the Elected Member's Report/Information Bulletin) subject to the Local Law being modified in accordance with the recommendations of the Department of Local Government and Regional Development.**

**MOTION CARRIED 8-3  
ABSOLUTE MAJORITY**

**For the Motion:** Mayor Evans, Councillors Buegge, Dufty, Kidman, Matla, Price, Stanton and Wolfe.

**Against the Motion:** Councillors Bostock, Torr and Paver.



**ITEM NUMBER: 18.2**

**ITEM TITLE: PROPOSAL TO SEEK FUNDING TO REFURBISHMENT THE FORMER SHIRE OF ALBANY MERCER ROAD OFFICE FACILITIES UNDER THE FEDERAL GOVERNMENT JOBS INITIATIVE**

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

<b>File Number or Name of Ward</b>	:	PRO 351 (Fredrickstown Ward)
<b>Summary of Key Points</b>	:	Proposal to seek funding for refurbishment of leased building at 39 Mercer Road Albany.
<b>Land Description</b>	:	Portion of Lot 5 Mercer Road, Walmsley
<b>Proponent</b>	:	South Coast Natural Resource Management Inc.
<b>Owner</b>	:	City of Albany
<b>Reporting Officer(s)</b>	:	Manager City Assets (P Brown)
<b>Disclosure of Interest</b>	:	Nil
<b>Previous Reference</b>	:	OCM 20/11/07 – Item 13.5.1
<b>Bulletin Attachment(s)</b>	:	Nil
<b>Maps and Diagrams:</b>	:	Nil.

**BACKGROUND**

1. In January 2008, the City of Albany entered into a lease to lease out the former Shire of Albany administration building to South Coast Natural Resource Management Inc (SCNRM) for a term of five (5) years, plus five.
2. The Mercer Road building was constructed in the 1970s for the former Shire. There has been only minor refurbishment over the past years; with the building considered to be a sound asset.

**DISCUSSION**

3. SCNRM Inc. has approached the City of Albany to advise that they are proposing to submit a funding application under the Federal Government Jobs Fund Initiative. The proposal seeks funding under section 3.3 Infrastructure Employment Project Funding (in particular 3.3.1 environmental initiatives and social and cultural infrastructure).
4. The proposal plans to refurbish the existing building to implement 'best practice' environmental efficiencies including, energy efficient air conditioning, insulation, solar panels, storm water capture and reuse, and general building internal fit out.

**PUBLIC CONSULTATION / ENGAGEMENT**

5. There has been no public consultation associated with this item

**GOVERNMENT CONSULTATION**

6. SCNRM Inc. will submit the application.

Item 18.2 continued.

### **STATUTORY IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

8. Albany Insight ~Beyond 2020  
*Lifestyle and 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 the environment.'*

### **FINANCIAL IMPLICATIONS**

9. The cost of proposal is estimated at \$500,000 and will be fully funded by the grant with no costs to Council.
10. The current return and conditions on the lease will remain unchanged.

### **POLICY IMPLICATIONS**

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

### **ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

12. Council may choose not to support this proposal and the building will continue to operate under its current lease and in its current state.

### **SUMMARY CONCLUSION**

13. The building, constructed in the 1970s, does not comply with current building standards with regards to environmental standards under the Building Code of Australia (BCA). While there is no requirement to retrospectively apply these standards, any major refurbishment would be subject to these standards.
14. The funding proposal by South Coast Natural Resource Management would seek to improve the carbon footprint of the building and potentially prolong the life of the facility by improving the amenity and function of the building to meet present day expectations.
15. The proposal, at no cost the City, aligns with Councils vision for sustainable development.

Item 18.2 continued.

**ITEM 18.2 - OFFICER RECOMMENDATION (SUPPORT)**  
**VOTING REQUIREMENTS: SIMPLE MAJORITY**

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

**THAT Council agrees to SUPPORT the proposal by South Coast Natural Resource Management Inc. to submit an application to the Federal Government Jobs Initiative for the refurbishment of the former Shire of Albany administration building located Lot 5 Mercer Road, Walmsley.**

**MOTION CARRIED 8-3**

**For the Motion:** Mayor Evans, Councillors Buegge, Dufty, Kidman, Matla, Price, Stanton and Wolfe.

**Against the Motion:** Councillors Paver, Torr and Bostock.

**19.0 CLOSED DOORS**

**19.1 DEVELOPMENT APPLICATION – PROPOSED HOLIDAY ACCOMMODATION - LOTS 2 AND 1823 FRENCHMAN BAY ROAD, FRENCHMAN BAY**

Councillor Paver declared an impartial interest in this item and remained within the Chambers. The nature of his interest is that he has a tourism marketing business which he feels will not affect his objectivity in relation to this matter. Council also lives at Goode Beach, though not within sight of the proposed development.

**MOVED COUNCILLOR STANTON  
SECONDED COUNCILLOR BUEGGE**

**THAT Council go behind closed doors to discuss item 11.1.1 Development Application – Proposed Holiday Accommodation - Lots 2 And 1823 Frenchman Bay Road, Frenchman Bay.**

**In accordance with Section 5.23 (2) (d) on the Local Government Act 1995 – legal advice obtained. Item 11.1.1 was considered behind closed doors.**

**MOTION CARRIED 9-2**

**For the Motion:** Mayor Evans, Councillors Buegge, Dufty, Kidman, Matla, Price, Stanton, Torr and Wolfe.

**Against the Motion:** Councillor Bostock and Paver

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR BUEGGE**

**THAT Council come out from behind closed doors.**

**MOTION CARRIED 10-1**

**For the Motion:** Mayor Evans, Councillors Bostock, Buegge, Dufty, Kidman, Matla, Paver, Price, Stanton and Wolfe

**Against the Motion:** Councillor Torr

**MOVED COUNCILLOR PAVER  
SECONDED COUNCILLOR BOSTOCK**

**THAT all relevant submissions received by the City of Albany in relation to this application be made available as a public document.**

**MOTION CARRIED 10-1**

**For the Motion:** Councillors Bostock, Buegge, Dufty, Kidman, Matla, Paver, Price, Stanton, Torr and Wolfe

**Against the Motion:** Mayor Evans

**NB: In accordance with the Privacy Act, this information is unable to be made available as a public document.**

Item 19.1 continued.

**MOVED COUNCILLOR BOSTOCK  
SECONDED COUNCILLOR PAVER**

**Council resolves as follows:**

- 1. THAT Council consents to the use of Lot 2 & 1823 in their entirety for Holiday Accommodation and associated uses, subject to the necessary Scheme Amendments to facilitate the same, which it will seek to initiate immediately.**
- 2. Upon completion of the aforementioned scheme amendments, subsequent development approval will be required with regard to the resort proposal.**
- 3. To ensure orderly and proper planning development approval will only be determined following:**
  - a) the submission of a Foreshore Management Plan prepared in consultation with the DPI and DOW and the community, demonstrating compliance with the requirements of SPP 2.6;**
  - b) the submission of a Fire Management Plan in consultation with DEC and FESA demonstrating compliance with the requirements of WAPC Policy DC3.7**
  - c) the submission of a completed hydrological study and report that addresses EPA concerns that development may impact adversely on the catchment area of the springs;**
  - d) the submission of written confirmation by EPA that the route of the sewerage pipeline from Little Grove to Frenchman Bay has been approved;**
  - e) the submission documents demonstrating that Lots 2 and 1823 have been amalgamated and that the development proposed is for the whole amalgamated site; and**
  - f) the submission of a scale model in accordance with Clause 6.2 of the Albany Residential Design Code Policy and photomontages from affected vantage points on Vancouver Road and Whalers Beach.**
- 4. While Council is prepared in the interest of orderly and proper planning to**
  - a) resolve the dichotomy in the Zoning in favour of Special Site: Caravan Park; and**
  - b) introduce changes to the use table to facilitate uses commonly associated with resort style holiday accommodation; it refuses to grant planning consent for the current proposal for the following main reasons:**
    - i) it fails to satisfy Council that it is small scale and low impact and otherwise in accordance with the letter and intent of the ARDC Policy.**
    - ii) it fails to satisfy Council that it will not have an unacceptable adverse impact on the environment and visual amenity.**
    - iii) it fails to satisfy Council that the requirement of SPP 2.6 and DC 3.7 can be met.**
    - iv) it fails to satisfy Council that it is sustainable tourist accommodation in accordance with the ALPS.**
    - v) it fails to satisfy Council that it is in sympathy with the objectives of the LRS.**
    - vi) it fails to satisfy Council that it has addressed adequately or at all many of the matters for consideration required by Clause 5.4 TPS 3.**

5. In the event that this resolution is subject to review by SAT, Council will request that the matter be dealt with by a full hearing without initial mediation and will appoint a planning lawyer, a landscape architect and two Councillors who have supported this resolution, to defend it.

**MOTION LOST 3-8**

**For the Motion:** Councillors Bostock, Paver and Torr

**Against the Motion:** Mayor Evans, Councillors Buegge, Dufty, Kidman, Matla, Price, Stanton and Wolfe.

Councillor Paver and Bostock tabled their speeches and are attached in Appendix D of the Minutes.

Councillor Paver left the Chambers at 10.50 and returned at 10.53pm.

**MOVED COUNCILLOR PRICE  
SECONDED COUNCILLOR BUEGGE**

**ITEM 11.1.1 - Development Application – ALTERNATE MOTION BY COUNCILLOR PRICE  
VOTING REQUIREMENT : SIMPLE MAJORITY**

**i) THAT COUNCIL:**

- a. **REFUSE** to grant planning consent for "Holiday Accommodation" at 1823 and Lot 2, Frenchman Bay Road, Frenchman Bay for the following reasons:
- 1) the scale and intensity of the proposed development is excessive and inconsistent with the scale and intensity of development contemplated by clause 6.2.1 of the City of Albany Residential Design Codes Policy ("the Policy");
  - 2) the information provided by the Applicant is not sufficient to allow the Council to conclude that the proposed development will not have an inappropriate adverse impact on visual amenity;
  - 3) to the extent the development proposes commercial facilities within the Special Sites-Caravan Park zone, such uses (other than the shop) are not permissible within the zone;
  - 4) the zoning of the land as Special Sites - Caravan Park demonstrates an intention that the land in that zone should be developed primarily for the purpose of a caravan park. The proposal to develop holiday accommodation to the exclusion of a caravan park is inconsistent with the purpose or objective of the zone;
  - 5) it is not possible to properly assess the planning issues associated with the development of the land, particularly in connection with visual amenity, where the owners' plans for the 3,000m<sup>2</sup> portion of the land in the eastern part of the site are unknown;
  - 6) the three-storey building component of the proposed development does not serve to reduce the development footprint in a meaningful way, and the setbacks of the development from boundaries are not maximised, and therefore the proposal does not meet the criteria of clause 6.2.2 of the Policy for the approval of a three-storey development; and
  - 7) it would be inconsistent with orderly and proper planning to approve the proposed development at this time as:
    - i. a suitable Foreshore Management Plan has not been prepared or adopted;

- ii. a detailed hydrological study has not been prepared by the Applicant or assessed by the Department of Water;
  - iii. a **FIRE** Management Plan prepared by suitably qualified consultant demonstrating the development is suitably buffered or can be designed to withstand a fire has not been prepared by the Applicant;
  - iv. the location of the required reticulated sewer has not been determined; and
  - v. The Applicant has not demonstrated the proposed development is a sustainable use which will generate a net public benefit in the short and long term
- b. **INVITES** the applicant to produce and submit a new plan after having first dealt with the issues of concern to the Council as detailed above.

**MOTION CARRIED 7-4**

**For the Motion:** Mayor Evans, Councillors Bostock, Buegge, Paver, Price, Stanton and Torr.

**Against the Motion:** Councillors Wolfe, Dufty, Matla and Kidman

#### **20.0 NEXT ORDINARY MEETING DATE**

Tuesday May 2009, 7.00pm

#### **21.0 CLOSURE OF MEETING**

There being no further business to discuss, the meeting closed a 11.30pm.

Confirmed as a true and accurate record of proceedings.

---

Milton John Evans, JP  
**MAYOR**

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

<b>Meeting Date</b>	<b>Report Item</b>	<b>Status</b>
	Nil.	

**APPENDIX B****DISCLOSURE OF INTEREST****WRITTEN NOTICE OF DISCLOSURE**

<b>Name</b>	<b>Item Number</b>	<b>Nature of Interest</b>
Cllr Paver	11.1.2	Impartial - Councillor Paver owns a tourism marketing business.
Cllr Paver	11.1.1	Impartial – Councillor Paver owns a tourism marketing business.
Cllr Paver	12.12.4	Financial – Councillor Paver supplies marketing services to the City of Albany in the field of tourism.
Mayor and Councillors	11.5.1	Impartial - The impact of the adoption of the LGSP in particular the provision of public open space.
Cllr Wolfe	12.11.1	Financial – land owner of the subject lease area.

**INTEREST DISCLOSED DURING THE COURSE OF THE MEETING**

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

**INTEREST DISCLOSED BY OFFICERS**

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



**APPENDIX C**

**SUMMARY OF ACCOUNTS  
CERTIFICATE**

**Municipal Fund**

Municipal Fund			
Cheques	Totalling		\$159,514.88
Electronic Fund transfer	Totalling		\$3,816,384.71
Credit Cards	Totalling		\$12,370.08
Payroll	Totalling		<u>\$772,871.47</u>
	<b>Total</b>		<b>\$4,761,141.14</b>

**CHIEF EXECUTIVE OFFICER**

This schedule of accounts to be passed for payment totalling **\$4,761,141.14** which was submitted to each member of the Council, dated May 2009, has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.

---

**Paul Richards**  
Chief Executive Officer

**MAYOR**

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling **\$4,761,141.14**, dated May 2009, was submitted to the Council, and that the amounts are recommended to the Council for payment.

---

**Milton John Evans, JP**  
Mayor

## TABLED DOCUMENTS

<b>Document Tabled By</b>	<b>Document Reference</b>
John Tonkin	Item 11.1.1
Richard Vogwill	Item 11.1.1
Cllr Kim Stanton	Item 11.5.1 – committee recommendation 4.
Cllr Roley Paver	Item 18.1
Cllr Dot Price	Item 11.1.1 (as item 19.1)
Cllr Jill Bostock	Item 11.1.1 (as item 19.1)
Cllr Roley Paver	Item 11.1.1 (as item 19.1)
Mayor Evans (Mayors Report)	Item 17.0

**STATEMENT BY JOHN TONKIN  
RESIDENT & RATEPAYER OF ALBANY  
REGARDING THE PROPOSED REDEVELOPMENT  
OF THE FRENCHMAN BAY CARAVAN PARK**

Your Worship the Mayor and Councillors of the City of Albany. I would like to talk to you tonight about the proposed redevelopment of the caravan park at Frenchman Bay.

If we were to closely examine the present financial crisis which besets the world, we would undoubtedly encounter the terms “greed” and “sustainability”. Here in Albany we are not immune from these terms and indeed, one way or another, they are already impacting upon our community. It therefore behoves us to consider these matters when making decisions which will impact on the future of Albany.

Many of us who have followed the history of Albany will agree that over time it has endured many failures due to poor planning and a lack of foresight. Indeed I see that the proposed development of the Frenchman Bay Caravan park fits into this category. Eco-tourism is the trend of the future and visitors will “pay” for the experience. With that in mind, a low key development which caters for all is what should be considered for the Frenchman Bay caravan park and definitely not the 5 star development proposal in its present format!

I know that some see the short term benefits of the present development proposal as overwhelming, however, I would ask that you consider the long term impacts on Albany’s tourism reputation and the unique natural beauty of our coastline. Once either of these is damaged it will take a long time to remedy and have devastating consequences on our lifeblood.

Another factor impeding Albany’s future appears to be the pervading attitude of being a “follower rather than a leader”. Just because something works somewhere else is no basis for suggesting that it will work in Albany. For example the 5 star set may not appreciate our variable weather or the fact that they are 25kms from the CBD where they can shop and experience the Albany restaurants. Let us instead be prepared to “lead” on this issue and provide an Albany unique experience which is sustainable in all facets of the term.

As Councillors you must sometimes feel intimidated by decisions you make and the possible flow on effects such as litigation. I believe that you have the right and responsibility to make balanced and long term decisions on behalf of the Albany Community without any fear of those decisions being challenged. To that end, I exhort you to refuse the present development application for the 5 star resort at the Frenchman Bay caravan park site.

Please consider the future sustainability of Albany and its natural beauty when making the decision in relation to the subject development.

Thank you for your time.

JOHN TONKIN

# Memorandum

Date: 19/05/2009  
To: Mayor, Councillors and CEO, City of Albany  
Cc: Frenchman Bay Association Committee and Sustainable Action Group  
From: Frenchman Bay Association (Richard Vogwill)  
RE: Proposed 5-Star Resort Development, Frenchman Bay

---

Mayor and Councillors,

The FBA requests that this document (Memo and FBA Report Addendum) be tabled and distributed as part of the record of the proceedings of this Council Meeting (19/5/09).

The Frenchman Bay Association (FBA) wishes to draw your attention to the following items.

**Item 1 - Addendum to the FBA Planning Review of the Development Application**

**CITY OF ALBANY  
DEVELOPMENT APPLICATION  
FOR  
HOLIDAY ACCOMMODATION  
LOT 2 FRENCHMAN BAY  
REVIEW OF PROPOSAL**

Using a Planning Consultant, the FBA recently completed the above review of the proposed 5-Star Development Application. On the 14 and 15 May 2009, our report was delivered (in both electronic and hard copy formats) to the Mayor and all Councillors.

Many of the comments and conclusions within the report refer to the apparent non-compliance of many aspects of the Development Application, within Section 5.4 of the (Albany) Town Planning Scheme No. 3.

Since completion of the report, an Addendum to the report has been completed and is tabled as part of the record of the proceedings for this meeting. This Addendum lists 28 conditions within Section 5.4 and comments on whether the conditions have been satisfied within the current Development Application. The comments are presented in bold and are based on three general criteria - **Satisfied, Not Fully Satisfied and Not Satisfied.**

For example, the findings of the review, relating to the proposed development's compliance with Section 5.4 of the Scheme, concluded that of the 28 issues/conditions **Not Satisfied** occurred three times more than **Satisfied** (**Not Satisfied 14; Not Fully Satisfied 9, Satisfied 4, and 1 To Be Determined**).

Several important examples of the **Not Satisfied** category include:

- The legal classification of the subject land is in doubt.
- It can be argued that the proposed development does not comply with Council's Residential Design Code Policy objectives for Frenchman Bay.
- Social issues that have an effect on the amenity of the locality - Not Satisfied and this view was supported in the report to Council part 24, namely "The outstanding issues therefore that need to be addressed under Section 5.4 appear to be social issues that effect amenity (j) and the preservation of the amenity (n)".
- Relevant submissions - Not Satisfied. Although most Public submissions did not object to the use of land for holiday accommodation, there were major objections to the current proposal's size, scale and visual impact.
- State Government Planning Policy - Project Sustainability - Not Satisfied. Sustainability, as defined in the 2003 State Sustainability Strategy, is defined as: "*meeting the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity*". Applying this definition to the current development proposal is one of interpretation. However, more evidence on the long term economic viability of this proposal is desirable based on the concerns of the wider Albany Community, following the collapse of the new Esplanade Development.

The main aim of our comments is to indicate that many of the issues relating to the development appear to have not been fully satisfied in relation to Section 5.4 of the Scheme, thus establishing the basis for requesting Council staff to respond with their own detailed assessment for Council consideration.

We suggest that this Addendum should be used as a guide by Councillors to allow them to make an informed and educated decision about this important Development Application.

### **Item 2 - Hydrology Study of Vancouver Spring**

There appears to have been no satisfactory hydrology study of the Spring completed to date. The geotechnical report by Landform Research is not considered to be an adequate baseline hydrology study of the Spring; a study which should allow a proper baseline assessment of the potential impact of the proposed development on the Spring.

Recent research in the Albany Library Historical Section and a search of the DoW WIN groundwater and surface water databases indicate that there are no historical hydrology data for this Spring - no water quality (is the spring water potable?; a lot of people drink the water; should a warning sign be erected?), and no flow rates (do the springs vary in flow rate, have they dried up historically?).

Any baseline report on the Spring should contain information on the hydrology and hydrogeology of the spring catchment; catchment size and characteristics; recharge/discharge relationships; historical flow rates; and spring water quality. If there are no historical data, the Hydrology report would describe the baseline hydrogeological conditions of the Spring, prior to any future

development of the site. Only in this manner, can the impacts of the proposed development on the Spring be properly assessed.

How can this be the case for such an important City of Albany Heritage Site?

In the City of Albany 2000 Municipal Heritage Inventory, the Management Recommendations for Vancouver Spring state:

*"Requires a high level of protection: provide maximum encouragement to the owner under the City of Albany Town Planning Scheme to conserve the significance of this place. A more detailed Heritage Assessment/Impact Statement to be undertaken before approval for any development. Incentives to promote conservation should be considered."*

We also feel that ongoing monitoring of the spring flow, water quality and groundwater levels in any nearby bores would be required to describe any future impacts.

\*\*\*\*\*

If you wish to discuss any of the above, please contact the FBA on 98444850 or 98444551.

Thank you for the opportunity to present our thoughts.

Frenchman Bay Association

## COMPLIANCE WITH MATTERS TO BE CONSIDERED BY COUNCIL (Section 5.4 OF TPS No.3)

The following sub sections under Section 5.4 OF TPS No.3 are those matters Council needs to be satisfied with when considering the tourist accommodation proposal. THE FOLLOWING IS NOT A COMPREHENSIVE LIST AND ONLY BE USED FOR INDICATIVE PURPOSES.

The comments are presented in **bold** and based on three general criteria **Satisfied, Not fully satisfied and Not satisfied**. The analysis of each sub section is based on available information at the time this report was drafted. This assessment should be continually updated as new information becomes available. The main aim of the comments is to indicate that many of the issues relating to the development appear to have not been fully satisfied in relation to Section 5.4 thus establishing the basis for requesting Council staff to respond with their own detailed assessment for Council consideration.

ITEM	STATUS	REMARKS
<i>(a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;</i>	<b><u>Not satisfied</u></b>	<p><b>The legal classification of the subject land is currently in doubt.</b></p> <p><b>It can be argued that the proposed development does not comply with Council’s Residential Design Code Policy objectives for Frenchman Bay.</b></p>
<i>(b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;</i>	<b><u>Not satisfied</u></b>	<p><b>Under “orderly and proper planning” :</b></p> <ul style="list-style-type: none"> <li>• <b>The broader planning context has not been fully addressed, Such as the interface with an adjoining proposed subdivision including its visual, and traffic impact and interface with the National Park.</b></li> <li>• <b>The other studies that need to be completed, such as Foreshore and Fire Management Plans ;</b></li> <li>• <b>Transport issues such as: a bus service to Albany; sea transport for guests; pedestrian /cycle paths;- Is it proposed to build a jetty or use the one proposed at Whale World?</b></li> </ul>

		<p><i>sympathetic to community and environmental considerations”.</i></p> <p><b>5.4.2 Accommodation</b>  <i>“Promote the development of sustainable tourist accommodation”</i></p> <p><b>5.4.4 Albany Icons</b> <i>“To protect and enhance Albany’s iconic sites”</i></p> <p>102. In relation to visual amenity ALPS also states under Section 4.5.2 the objective:  <i>“Maintain the outstanding visual amenity of the City and public view scapes and iconic elements”.</i></p> <p>Refer to para. 1 above.</p>
<p><i>f) any town planning Scheme Policy adopted by Council under Clause 6.9, and any other plan or guideline adopted by Council under the Scheme.</i></p>	<p><b><u>Not Satisfied</u></b></p>	<p><b><u>Residential Design Codes Policy</u></b></p> <p>Due to the lack of direction on scale of buildings in the urban landscape, development standards have been incorporated into Council’s Residential Designs Code Policy, which sets out under section 6.2 (Frenchman Bay), the following objects for the site:</p> <p><i>“To ensure development conserves the outstanding natural and environmental values of the area.</i></p> <p><i>To encourage innovative tourism development appropriate to the local natural environment.</i></p> <p><i>To provide an incentive to reduce the footprint of development.</i></p> <p><i>To ensure that the impacts of any areas of higher development on the natural topography are minimized.</i></p> <p><i>To ensure development on the site is not seen from the beach other than in the area immediately in front of the eastern parking area.”</i></p>



<i>k) the cultural significance of any place or area affected by the development.</i>	<b><u>Satisfied</u></b>	<b>See (h)</b>
<i>(l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;</i>	<b><u>Not fully satisfied</u></b>	<b>A Vegetation Assessment was undertaken by consultants Landform Research in 2006/07 It appears the findings of this report have yet to be built into the final design e.g. a 10 metre minimum buffer to the National Park and vegetation management issues.</b>
<i>(m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire, or any other risk;</i>	<b><u>Not fully satisfied</u></b>	<b>This cannot be fully determined until all supplementary studies are completed, especially a Fire Management produced by a specialist consultant. The Landform Research geotechnical investigations concluded that there were very high to moderate to low land slip risks. Has the development application been modified based on the recommendations of this report?</b>
<i>(n) the preservation of the amenity of the locality;</i>	<b><u>Not fully satisfied</u></b>	<b>This cannot be fully determined until various studies are completed, especially the impact of the visual amenity until further work is done. This view was supported in the report to Council part 24. Refer to( j) for details.</b>
<i>(o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;</i>	<b><u>Not satisfied</u></b>	<b>There are general discussions on this matter but no detailed plans, such as a Tourism Precinct Plan. The relationship compatibility etc. with an adjoining proposed subdivision and the national park has not been determined. .</b>
<i>(p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring, and parking of vehicles;</i>	<b><u>Not fully Satisfied</u></b>	<b>The consultant traffic report did not include bus, service(including rubbish trucks) access, parking and service vehicles. A Waste Management Plan also needs to be completed prior to any consideration of the proposal by Council. Subsequent to this report there is now a proposed subdivision adjoining the development. Comment is required</b>

<i>(u) whether adequate provision has been made for access by disabled persons;</i>	<b><u>Not satisfied</u></b>	There is no information, either in the Revised Development Application or supplementary information on how this requirement is addressed.
<i>(v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;</i>	<b><u>Not satisfied</u></b>	Although a consultant has prepared a Flora and Fauna Assessment there is no overall landscape plan identifying the areas of remnant vegetation to be protected and additional plantings to screen the development.
<i>(w) whether the proposal is likely to cause soil erosion or land degradation;</i>	<b><u>Not satisfied</u></b>	The 'Landform Research geotechnical investigations' concluded "even with the presents of a heavy structure the fire and rainfall loading may be sufficient potential to potential lead to the slumping of the old scarp, particularly with a fire event followed by heavy rainfall." These issues appear not to have been resolved.
<i>(x) the potential loss of any community service or benefit resulting from the planning approval;</i>	<b><u>Not fully satisfied</u></b>	.It is not clear if the village centre and its facilities will be accessible for the general public. It is important that they are as the previous facilities i.e. shop and cafe and community facilities were both for guests and public use. For example a recent TPS Amendment for in the size of a local centre between La Perouse, Klem and Vancouver Roads in Goode Beach took this factor into account.
<i>(y) any relevant submission received on the application;</i>	<b><u>Not Satisfied</u></b>	Public Submissions. Although most submissions did not object to the use of land for holiday accommodation there were major objections to the current proposal's size, scale and visual impact.

## COMMENTS ON FINDINGS.

The findings of this review relating to the proposed development's compliance with Section 5.4 of the Scheme concluded that **Not Satisfied** occurred three times more frequently than **Satisfied**. Although this is a broad analysis the results indicate that many of the issues relating to the development appear have not been satisfied in relation to Section 5.4 thus providing the basis for requesting Council staff to provide a detailed assessment for Council consideration.

It is recommended that use of a similar system to that presented above i.e. addressing individual subsections of Section 5.4 of the Scheme, be used by Council when considering larger development applications so that assessment process is more informed and transparent for all stakeholders.

Mayor and Councillors, we have received legal advice that the zoning of this land is a matter fundamental to the assessment and determination of the proposal before us.

If part of the land is zoned Parks and Recreation then the electors of Albany are entitled to expect that the zoned use will generate a net public benefit commensurate with its zoning.

If part of the land is zoned Special Site - Caravan Park, then the omission of a caravan park on any part of the land is inconsistent with the purpose of the zoning.

The application before us is for "Holiday Accommodation" which is a discretionary use for the Special Site Caravan Park zone. During an interview with Mr Slarke, Cr Stanton and I received confirmation from Mr Slarke that the use of discretion does not only include discretion to approve but discretion to refuse an application provided that refusal is accompanied by sufficient and relevant reasons.

My reasons for recommending refusal are:

1) The scale and intensity are excessive and inconsistent with clause 6.2.1 of the City of Albany Residential Design Codes Policy. The majority of submitters have written that they would accept a development with reduced and less intrusive bulk and scale.

2) Assessing the impact of this proposal on the amenity of the area has been complicated by a refusal to allow Councillors to visit the site to assess this impact from where the buildings are proposed to be constructed and no 3d model has been prepared. The photo montages do not show a panoramic view of the proposed development from the beach looking up. Mr Slarke has pointed out to us that evidence from affected neighbours can be important in determining existing amenity. During the Earl St determination before the SAT, the Tribunal members visited the homes of several of us claiming affected amenity. They also viewed the amenity of the area from the foreshore looking up to the development site. Part of the judgement handed down about Earl St was that, had it been open for the SAT to approve the development proposed, the application would have been declined because of its effect on the amenity of the area. Amenity is an important issue which cannot be ignored and it has clearly been identified by the majority of our submitters.

3) Mayor and Councillors, the other reasons for refusal are self evident in the motion: I will briefly refer to these again.

3) } as worded in the Motion (attached)  
5) }  
6) }  
7) }

points 5, 6, 7

However, in agreement with the majority of submitters, I would be content to invite the Applicant to resubmit a new plan which addresses all of the issues identified, especially amenity, bulk and scale. Therefore it is important to include that invitation in the motion itself.

I ask Councillors to support this motion so that the development proposal is not refused completely, but improved for everyone's benefit.

  
Cr Dot Price  
19/5/2009

OCM 19 May 2009

Item 11.1.1 Development Application, Holiday Accommodation, Frenchman Bay.

The anomaly in this matter is not primarily the failure to re- zone the land when the freehold was sold, but an unrealistic expectation that Special Site, Caravan Park classification can deliver this type of development. As you will all have noted, legal advice has demonstrated that the officer's recommendation in February was unlawful. This application requires a 'change of use' and as such proper steps must be taken.

The application as it stands is flawed in a number of ways it has alarmed other Government Departments, the public and Councillors. It is acknowledged that this is an outstanding location and as such it demands the utmost care and control as it is developed. That care and control is absent it is not possible to manage a project adequately by pages of conditions, protection must be put in place before approval. It is totally inappropriate for Council to be asked to approve this proposal with the evident complications and lack of adequate safeguards and it remains contrary to orderly and proper planning.

We have a legal framework and policies to protect our wonderful country, particularly its coastal land, development within these carefully prepared parameters is responsible, and to ignore them is negligent.

My motion this evening has acknowledged the private ownership of this land and facilitated its use for a holiday resort in the proper orderly manner. The requirement for subsequent planning approval is necessary to ensure our policies are adhered to, affording this scenically sensitive site the necessary protection.

Councillors this motion is not to prevent development of this site, it is the orderly, proper way of delivering it. By virtue of allowing the discretionary change of use on this site, council is offering a concession to the proponent, it is therefore reasonable to expect conscientious observance of state and local policy in a future development proposal.

Councillors I ask for your support, this motion is representing a way out of the difficulty we find ourselves in, it helps the staff, the proponent, the concerned residents, and offers the opportunity to properly protect and preserve the amenity of the area. Last but not least it will make our job manageable, with all the appropriate plans and reports and safeguards in place we can confidently approve a proposal without fears that it will flounder in a similar manner to the Esplanade Development.

Councillor Jill Bostock.

OCM 19 May 2009

Item 11.5.1 Committee Recommendation 4 Little Grove Structure Plan.

We have been dealing with structure plans for many months and council's acceptance of the arbitrary designation of POS on individual landholders has caused undue stress to those concerned. I am therefore both surprised and delighted at Councillor Stanton's recognition of the inequity of this practice.

On Anzac day I watched a report about Australian battles, not in Gallipoli or Viet Nam, but here on Australian soil. The indigenous peoples fight for survival. An Aboriginal elder noted "that life is about looking after your land and your family, if you cannot do that, there is no point in fighting."

This observation recognises basic human rights and these are embodied in common law.

Common law dictates "freedom from arbitrary deprivation of ones property."

Ladies and Gentlemen this structure plan as did the South Lockyer Structure Plan contravenes common law. In both cases individual members of our community have been unfairly discriminated against and have had their land rights compromised. The act of arbitrarily placing POS on a landholder's property is unjustified discrimination, where burden is distributed unequally amongst landholders equally deserving. In other words it is not lawfully acceptable to treat people differently, either all landholders have 10% POS designated on their land or none of them do.

Those singled out in these Structure Plans are denied the right to choose the positioning of POS on their land or indeed the right to pay in lieu of provision. They are also denied the right to build, a workshop, a granny flat or anything else on the designated land, such imposition would undoubtedly devalue the resale potential of their property.

Councillors we are all aware of the distress this matter has caused to our community it is simply not acceptable for us to sanction discrimination. POS should be provided by those that are subdividing; uninvolved landholders should not be affected or compromised in any way. To this end, I ask you to support this motion

Councillor Jill Bostock

OCM 19 May 2009

Item 18.1 Adoption of Standing Orders Local Law

Standing Orders are to ensure that our meetings are effective, that they are conducted in an ordered and efficient manner and facilitate good governance. When Council reviewed this Local Law, many Councillors were satisfied that our current orders are sufficient. However a few issues and principles of good governance were raised and the Standing Orders before us this evening is the attempt to address those issues.

Unfortunately rather than improving a reasonable document and incorporating good governance principles, this proposed Local Law has eroded Councils autonomy and will work against good governance. In short it has failed to deliver that which we hoped to achieve. In an attempt to address the recurring problem of insufficient and last minute information which compromised decision making confusion has arisen between late and alternative motions resulting in punitive control in councillors ability to move alternative motions. I wonder if Councillors appreciate that had the new Standing Orders been in force today, our meeting would be very different, there are several motions that would simply be inadmissible.

There are other areas we were attempting to improve such as protecting the important philosophy of Freedom of Speech, and the deliverance of relevant, concise and timely information neither of which were satisfactorily resolved.

Clearly the document was written in good faith and one can appreciate the great difficulty in achieving good practical outcomes with the written word but we should be grateful to Councillor Pavers close inspection, highlighting the unforeseen repercussions of this Law, since its adoption would have far reaching and detrimental effect on Councillors ability to work effectively.

Councillors I know we all put in a lot of work and it is disappointing that we have not achieved the desired outcome but since this is the case, it would be unhelpful indeed detrimental to adopt a Law that will hinder rather than aid us in the decision making process. It makes no sense to replace a working document with one that will undoubtedly compromise good governance. I therefore urge you to vote in favour of this motion; our original Standing Orders are not perfect but they have served us thus far.

Councillor Jill Bostock

OCM MAY 2009

Item 11.1.1

Address by Councillor Paver in support of Alternate motion by  
Councillor Bostock

Mr Mayor

Councillor Bostock's motion is a very good one. We cannot approve this development by playing with words the way staff have done in their recommendation. The fact is our planning scheme does not permit us to approve this development so long as the land is zoned both Special Site: Caravan Park and Parks and Recreation. As the lawyer said in his advice, the main problem with approving this development under the dual zoning is : "What is the ultimate purpose intended for the reserve?" that is, What is the ultimate purpose of land zoned Parks and Recreation under TPS3? Whatever this is, it cannot be for the purpose of a development of this nature containing as it does private strata titled holiday homes. If Councillors adopt the officer's recommendation in clause 2 and decide that the development is consistent with the ultimate purpose intended for the reserve they will be making an unlawful decision because the scheme does not permit it. Do not be confused by staff's argument that the ultimate purpose intended for the reserve is that it be Special Site: Caravan Park. Our duty is to interpret the scheme as it is and not as it might have been had the staff of the old Shire of Albany gazetted all the land conveyed into private estate as Special Site: Caravan Park.

Councillors should also know that even it is permissible to take extraneous matters into account when interpreting the scheme, that is, even if it is permissible to decide that the ultimate purpose of a Parks and Recreation zone is a Special Site: Caravan Park, which it clearly is not, there remains the problem that the use table may not permit all the uses commonly associated with 5 star resorts.

Looked at therefore in the light of the legal advice we have received, Councillor Bostock's motion is a generous compromise. It is generous to the City because it addresses both the zoning and the use table impediments to this development in a manner that is lawful. As the lawyer says there is a real risk that if we approve this development as the staff recommend our decision will be challenged by opponents either in the Supreme Court under common law or in SAT under their third party right of appeal. The strongest ground the opponents to this development have to successfully challenge an approval is that this development is not



permitted under the scheme as it stands. It is also generous to the developers because it gives them confidence that Council will not oppose resort style accommodation on the site.

Under Councillor Bostocks motion all that the developers need now do is to address all the matters that orderly and proper planning require to be addressed before Council issues development approval. What staff have recommended we do is not by any stretch of imagination orderly and proper planning. Indeed it is totally nonsensical for us to approve this proposal without first being satisfied, amongst other things, that it can in fact meet the requirements SPP 2.6 and DC 3.7. To leave this to be determined after approval but before a building licence is issued, is to invite a host of problems if it is found that the footprint we have approved does not comply with those state policies.

Mr Mayor, this proposal is to Torndirrup National Park what the Earl Street proposal was to Central Albany. Some 90% of those who have made submissions on it, both members of the public and government agencies, have very grave concerns about its scale and impact on the locality. Now some Councillors may think that land owners should be allowed to do what they like on their land. But this is just not so. As Geoffrey Robertson says in his book "The Statute of Liberty" "Individuals have no right to use their land free from planning controls that serve the best interests of the community". It is a matter of some regret that the community has had to rely mainly on state policies to ensure that any development on this site serves their best interests. But rely on them we must. It is interesting to note, Mr Mayor, that in his proposal for an Australian Statute of Liberty Geoffrey Robertson points out that "A right to be free of visual desecration features in many national bills, and Australians have more need of it than most". Mr Mayor, we do not yet have a bill of rights containing a right to be free of visual desecration. But we do have Councillor Bostock's motion which is the next best thing if we are to serve the best interests of the community. I urge all Councillors to support it.

Kim Stanton' Speech re Item11.5.1 - Planning and Envir. Strategy Committee  
Recommendation #4 re the Little Grove Structure Plan

Little Grove has been very fortunate because as long ago as 1982, the South Coast Progress Assoc. lobbied the then Shire of Albany to ask the Public Works Department to give up some of their Reserve # 22735 to be included in Reserve # 24747. This land lay between Frenchman Bay Rd and Bay View Dr. Little Grove. The reason for this extra land was to build an oval to service the needs of the residents, particularly the children of Little Grove.

It took until January 1985 to finalise the negotiations and in October the same year the Albany Shire approved a loan to the SCPA to obtain a water licence, sink a bore and for the work required to make this sporting ground. The planned oval was 1.2 ha of kikuyu grass and they also had plans for cricket pitches and bowling greens. The tennis courts were built next to the SCPA Hall, and those same tennis courts are referred to in the L/G Structure Plan.

Interestingly enough the WA Water Authority took until April 1991 to transfer Reserve #22735 over to the Shire of Albany, even though work had commenced on the oval and the bore and water tank etc were in place. At the same time in 1991 the Shire decided that the proposed Fire Station should be put on the north corner of the now extended Reserve as it fronted F/Bay Rd and the oval could be used for fire drill practice and as an evacuation centre. However the Fire Station did not commence until late 1993.

In 1995 the total land leased by SCPA was 7ha and they hoped that the proposed new Little Grove Primary School would use this oval in conjunction with the school's oval. It was always hoped that a league football club would use the oval too, but that did not occur, because like today, most sporting clubs and their players want to be in the centre of the town, near Centennial Oval etc. Even surveys done in Little Grove in the early 2000's proved that children wanted to play organised sport on town ovals with their friends, not here in Little Grove. The oval has been regularly mowed by the Shire and City of Albany.

My alternate motion tonight gives a clear indication of the recreational areas already in place.

The September 2008 Liveable Neighbourhood Policy Update #01, clearly states on Page 98 in Element 4 re Public Parkland quoting the following-

“ The Liveable Neighbourhood Policy seeks to achieve a balance between bushland and/or vegetation retention and provision of water management features with the provision of useable open space. There is a clear recognition by the WAPC of the value of natural features and conservation values as an integral part of a parklands appeal to the community. There needs to be a balanced approach that –

- improves land efficiency through the use of multi-purpose parks (eg shared sports fields with schools) and
  - maximises the use of smaller parks close to or in the core areas (ie neighbourhood and town centres) and locates larger parks nearer to the edges of neighbourhoods.”
- (end of quote)

It also refers to school ovals in the Parkland Function and Distribution Section R3 which says to “take into account shared use of open space eg ovals and schools.”

Both the ovals, the one behind the SCPA Hall and the school oval at the L/Grove Primary School comply with the above requirements.

The reasoning that they are outside the 400m some POS and the City of Albany planners talk about, is a recommendation that could be used for non-recreational areas that will be given up in the 10% when sub-division does occur.

Of these 2 ovals already in existence one is on the periphery of the L/G Structure Plan (the actual border of) and the school oval is already inside the Structure Plan. We also have Mills Park with swings and skate park right next door to the school oval. These are within 8 minutes walking of the majority of this Structure Plan.

I urge my fellow councillors to support my amended motion as the above reasoning demonstrates and clearly shows to the WAPC that we do indeed conform with all their POS requirements for the proposed Little Grove Structure Plan and that recreation requirements have been foremost in previous planning by the Shire and City of Albany and our own local Progress Association.

OCM May 2009

Item 18.1

Address by Councillor Paver in support of his alternate motion.

Mr Mayor

When the Governance Committee reviewed Council's standing orders its express objective was to produce a local law that in the words of clause 1.3.2 promotes better decision making. An examination of the draft standing orders however, reveals not only that the committee has not achieved this objective but also that it has unnecessarily and unreasonably restricted the autonomy of Councillors. Let me explain.

Mr Mayor, among the mischiefs the Governance Committee set out to address is the capacity of a presiding member under the existing standing orders to abuse the power of the casting vote. This can happen when a Councillor moves a procedural motion to suspend the order of debate so as to get an opportunity to speak and the vote on the motion is tied. In such circumstances the presiding member, to advance his own cause, can use the casting vote to prevent from speaking a Councillor who he knows will express a contrary point of view. Few would disagree that this is an abuse of power. It is important, however, to note that this is not the only occasion on which a presiding member can abuse the power of the casting vote. He can do so also when a Councillor moves a procedural motion to close the debate and the vote is tied, and when a Councillor moves to disagree with a ruling of the presiding member to close the debate and the vote is tied.

It follows that to address this mischief effectively the standing orders must contain a general rule that the presiding member may not exercise his casting vote against freedom of speech. Only in this way does one cover all the circumstances that can give rise to it. The Governance Committee, however, failed to include such a general rule. All it did was to alter the existing order of debate without realising that this is itself an impediment to the abuse of power.

*Mr Mayor, freedom of speech is the cornerstone of good decision making in all liberal democracies. History shows that without it error, incompetence, negligence, corruption and tyranny flourish in the dark. Since the draft standing orders do not adequately protect this freedom, and indeed by altering the order of debate, increase the opportunity for*

*arbitrariness by a presiding member, they are conducive to worse and not better decision making and should not therefore be adopted.*

Another major mischief that the Governance Committee was invited to address in the draft standing orders is the propensity for Council to come to bad, and indeed, unlawful discretionary planning decisions because it has not had proper regard to relevant considerations. I am not going to describe all the occasions on which this has happened with what appears to be increasing frequency. But I do want to stress that it was only with regard to discretionary planning decisions that this mischief was considered sufficiently serious to warrant addressing in the new standing orders.

Now, this mischief can arise in two ways. The first is when the planning officers fail to provide Councillors fully, timously and unambiguously material that is relevant to discretionary planning items on the agenda. It was proposed to the Committee that the new Standing Orders should require them to do so, should define the words relevant material, fully, timously and unambiguously, and should provide that a clear breach of this requirement will cause the affected discretionary planning items to be withdrawn or deferred until a later Council meeting.

Unfortunately, the Committee ultimately declined to address this mischief at all in the draft standing orders thereby eschewing a golden opportunity to promote better discretionary planning decisions.

*The arguments advanced to justify this inaction have been that this is a performance matter best dealt with by the CEO, that this should be dealt with in the code of conduct, and that staff are already statutorily and contractually bound to provide relevant information to Council. These arguments, however, appear to be motivated more by a desire to avoid exposing staff to allegations of breaches of standing orders than by a desire to promote the reputation of Council for good governance. Those who put them have not understood that the purpose of addressing this cause of the mischief is not to punish staff but to ensure that Councillors are given adequate time to consider properly relevant material that has not been placed fully, timously and unambiguously in front of them.*

The second way in which the mischief of bad discretionary planning decisions can arise is when Councillors, with insufficient notice to their fellow Councillors, present alternate motions that depart substantially from the provisions of the town planning schemes and of state and local

strategies and policies. To deal with this it was proposed to the Committee that the new standing orders should provide that unless alternate motions of this nature are submitted for comment by staff and distribution to Councillors within 24 hours of the agenda briefing session they shall cause the discretionary item to which they relate to be withdrawn or deferred until a later meeting.

Now the clause that attempts to deal with this mischief in the draft standing orders is clause 5.2. It needs careful forensic analysis because without it one cannot appreciate that it goes far beyond what was originally proposed to address the mischief.

Firstly, it treats a request to staff for an alternative motion as notice to Councillors. This of course is erroneous nonsense. Staff may get a request for an alternate motion and not distribute it to Councillors until just before the meeting. What is required for good decision making is not constructive notice but actual and reasonable notice to Councillors.

Secondly, it treats all alternative motions that have not been requested of staff by 12 noon on the day following the agenda briefing session as if they were late items admissible only upon a majority vote of Council. This compounds the nonsense about Councillors having constructive notice by virtue of the request to staff. The fact is alternate motions are not late items but motions on items notice of which has been given in the agenda. By treating them as late items admissible only on the majority vote of Council, clause 5.2 unnecessarily and unreasonably restricts of the autonomy of individual Councillors who should generally be free to put alternate motions at any time with or without the assistance of staff.

Thirdly, it treats as altogether inadmissible any alternate motion not requested of staff by 12 noon on the day following the agenda briefing session, if it departs significantly from the intent of an officer recommendation. This is miching malecho. Aside from the problem of constructive notice, who will determine the intent of the officer recommendation and since when have staff been the repository of all wisdom? Councillors must, with one important exception, retain their individual autonomy to put at any time alternate motions of their own drafting that oppose a recommendation of staff.

The important exception of course relates to the mischief of Councillors presenting to Council with insufficient notice alternate motions that depart substantially from the provisions of town plan schemes, strategies

and policies. Clause 5.2 addresses this by outlawing altogether all alternative motions on discretionary planning items unless they have been requested of staff by 12 noon on the day following the agenda briefing session. This goes further than is necessary or desirable for two reasons. Firstly, it catches all alternate motions on discretionary planning items and not just those that depart substantially from the provisions of town planning schemes, strategies and policies. Secondly it outlaws them altogether instead of treating them as a reason for withdrawing or deferring the discretionary planning item until a later meeting.

Consider one of the consequences of clause 5.2. Staff may make a recommendation on a discretionary planning item. If a Councillor, two days after the agenda briefing session, discovers relevant material that shows that the staff recommendation is inconsistent with Council's schemes, strategies and policies, any alternate motion he might wish to present will not be admissible because it will reflect a significant departure from the intent of the officer's recommendation. If anyone thinks that this is conducive to better decision making I am a monkey's uncle.

I think I have said enough to show that the draft standing orders will not make for better decision making. Since they will not we might as well jettison them and stick with the devil we know.

**NOTES FOR MAYOR'S REPORT  
ORDINARY COUNCIL MEETING – TUESDAY 19<sup>th</sup> MAY 2009**

Members of Council / guests

It is my pleasure to report on Mayoral commitments for April/May 2009 outside the scope of the Council Standing Committee and Meeting structure.

The most significant activity from a community perspective focused on ANZAC celebrations which commenced with a visit by HMAS Arunta representing the Royal Australian Navy at both the Dawn and Commemoration Services.

The City hosted a Civic Reception for the Commanding Officer and a mixed group of officers and crew on Friday, 24<sup>th</sup> April, which was also attended by a number of dignitaries, notably Dr Kenneth Chern, U.S. Consul General Perth and Senator Judith Adams.

A wreath was layed on behalf of the City at the traditional RSL Kapyong Memorial Service at St. John's Church.

**Saturday 25<sup>th</sup> April**

I attended and layed wreaths on behalf of the City at both the Dawn and Commemorative Services.

Whilst there are still a number matters requiring attention the first service at the Albany Peace Park went well and will no doubt improve with experience and some further work on the Park.

- **29 April to 1 May inclusive**

Western Australian Local Government Association 3-day Local Government and Indigenous Communities Conference in Perth titled Functional Communities – “Closing the Gap”. Speakers, 19 in total, included Ministers John Castrilli and Grylls , Fred Chaney AO, Lieut. General John Sanderson AC, Pat Walker (Director General Department of Indigenous Affairs) Warren Mundine and Peter Yu.

The City of Albany was the first local authority to embrace an Aboriginal Accord. We have an aboriginal liaison officer employed - but more needs to be done to facilitate that accord into the daily runnings of our City.

I took the opportunity to talk to many indigenous people in attendance including a representative of the Navajo Nation in US, Andrew Thomas. The message was clear – there is an urgent need to have Council representation for our significant Aboriginal Nyoongar community.

- **4<sup>th</sup> May – Structural Reform Workshop**

A memorandum report was circulated to Councillors on 06 May 2009 (MM808199) by Peter Brown, Manager City Assets.

In summary the Workshop was informative and constructive and underlined the broad scope and complexities of the reform agenda in Western Australia.

My thanks to the Deputy Mayor and those Councillors who assisted at the following activities:

24<sup>th</sup> April – Wreath laying at Clarence Estate ANZAC service

28<sup>th</sup> April - Citizenship Ceremony

14<sup>th</sup> May – PCYC Annual General Meeting

15<sup>th</sup> May – Volunteer Week Acknowledgement Function

16<sup>th</sup> May – Lions Gala Dinner and Auction

17<sup>th</sup> May – Family Church Service.

News of the passing of Dr Joe Lubich AO has saddened many within the community. Joe was a respected medical practitioner in Albany for many years, former Deputy Mayor of the Town of Albany for many years, inaugural Councillor of The City of Albany and friend and colleague to many.

Joe will be sadly missed and our sincere condolences are extended to Joe's wife Judy and family.

Our Freeman of the City, Mrs Enid Home fell ill during the month and was hospitalised for a period – flowers were arranged on behalf of the City. I understand Enid is improving and on behalf of Council I wish her a speedy recovery.