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# AGENDA

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## ORDINARY MEETING OF COUNCIL

To be held on  
Tuesday, April 2010  
7.00pm  
City of Albany Council Chambers

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## **DISCLAIMER**

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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.

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## **NOTICE OF AN ORDINARY COUNCIL MEETING**

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His Worship The Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday April 2010 in the Council Chambers, North Road, Yakamia commencing at 7.00 pm.

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**WP Madigan**  
Acting Chief Executive Officer

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\*\* REFER DISCLAIMER \*\*

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ORDINARY COUNCIL MEETING AGENDA – 20/04/2010  
\*\* REFER DISCLAIMER \*\*

**APPENDICES**

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**1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Mayor declared the meeting open at

**ITEM 1.0 - MOTION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

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

**2.0 OPENING PRAYER**

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

**3.0 ANNOUNCEMENTS BY MAYOR AND COUNCILLORS WITHOUT DISCUSSION**

**ITEM 3.0 - MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Mayor’s report be received.**

**4.0 RESPONSE TO PREVIOUS UNANSWERED QUESTIONS FROM PUBLIC QUESTION TIME**

Nil

## **5.0 PUBLIC QUESTION AND STATEMENT TIME**

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

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

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

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

**Mayor**

M J Evans JP

**Councillors:**

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

**Staff:**

Acting Chief Executive Officer	WP Madigan
Executive Director Works & Services	K Ketterer
Executive Manager Business Governance	S Jamieson
Executive Manager Community Services	D Schober
Executive Manager Corporate Services	M Weller
Senior Planning Officer	T Wenbourne
Assistant Business Governance Officer	J Williamson

**Public Gallery and Media:**

**Apologies/Leave of Absence:**

West Ward	Cr D Dufty
Breaksea Ward	J Bostock
Frederickstown Ward	Vacant

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil



**8.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**8.1 Ordinary Council Meeting minutes as previously distributed.**

**ITEM 8.1 – MOTION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Ordinary Council Meeting held on 16 March 2010, as previously distributed be confirmed as a true and accurate record of proceedings.**

**ITEM 8.1 – MOTION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Special Council Meeting held on 10 March 2010, as previously distributed be confirmed as a true and accurate record of proceedings.**

**ITEM 8.1 – MOTION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Special Council Meeting held on 24 March 2010, as previously distributed be confirmed as a true and accurate record of proceedings.**

**9.0 DECLARATIONS OF INTEREST**

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

Name	Item Number	Nature of Interest

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

In accordance with 5.23 (2) (a) (b) of the Local Government Act 1995; being:

- (c) a contract entered into, or which may be entered into, by the local government and which relates to the matter being discussed at the meeting.

22.1 Lease of Septage Waste Facility Located at the Water Corporation Tree Farm Site

**11.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**12.0 ADOPTION OF RECOMMENDATIONS EN BLOC**

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# **DEVELOPMENT SERVICES**

## **Reports**

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**DEVELOPMENT SERVICES REPORTS**

**13.0 REPORTS – DEVELOPMENT SERVICES**

**13.1 DEVELOPMENT**

**ITEM NUMBER:** 13.1.1

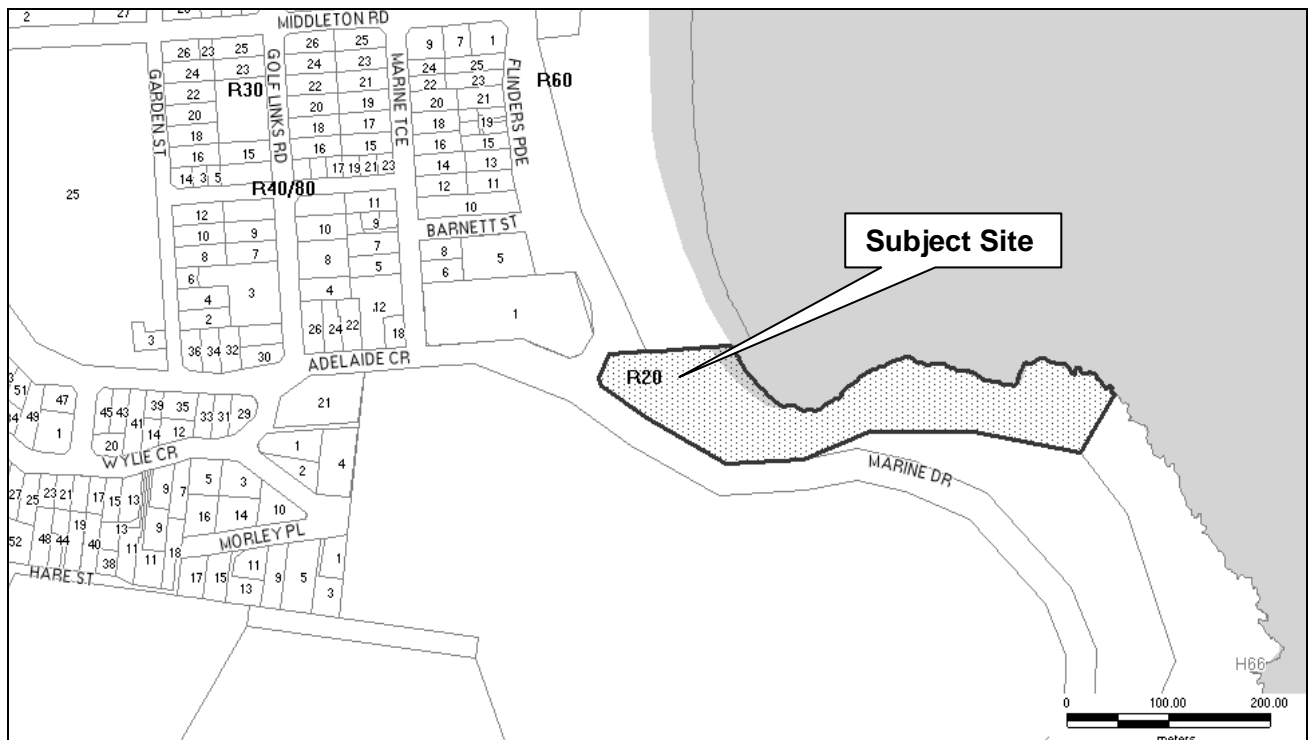
**ITEM TITLE:** REQUEST FOR SUPPORT FOR AN EXTENDED TRADING PERMIT FOR LIQUOR WITHOUT A MEAL – CALAMARI’S AT BEACHSIDE RESTAURANT – MIDDLETON BEACH RESERVE 26149

**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** : A133837 (Frederickstown Ward)
- Summary of Key Issues** : Request for support for an extended trading permit to supply liquor without a meal
- Land Description** : Calamari’s At Beachside Restaurant, Middleton Beach Reserve 26149
- Proponent** : Skatt (WA) Pty Ltd as Trustee for the MacKenzie Family Trust
- Owner** : Crown Land vested with City of Albany
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Calamari’s at Beachside
- Previous Reference** : Nil
- Bulletin Attachment Reference** : Section 40 Request letters and site plan
- Consulted References** : City of Albany Town Planning Scheme No.1A (TPS 1A)  
Liquor Act 1988 (as amended)

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued

**BACKGROUND**

1. The property is leased from the City of Albany with the current lease due to expire on 31 July 2017. The operators are requesting a renewal of their lease (reported as a separate item later in the agenda – Item 14.11.1) and at the same time have requested Council to support their application to the Department of Racing, Gaming and Liquor (DRGL) for an Extended Trading Permit to sell and supply liquor without a meal.
2. The property operates as a restaurant with a take-away food facility. Planning consent for the restaurant and a kiosk was granted in March 1986 with no planning conditions attached.
3. The restaurant used to operate on a BYO basis before a Restaurant Licence was applied for and granted on 19 January 2009. The restaurant licence covers the restaurant, alfresco and garden areas.
4. Checks have been made with the Department of Racing, Gaming and Liquor, which have confirmed that Calamari's At Beachside is a licensed restaurant that can serve alcohol to patrons having meals seated at a table. There are no restrictions on hours of operation, but liquor can only be served whilst the kitchen is open.
5. This matter is referred to Council as it is for an extended trading permit covering the alfresco area and it is located in close proximity to the beach, a children's playground and is on a Reserve dedicated for public recreation. It is therefore outside the direction of the guidelines from Council to staff given in August 2009.

**DISCUSSION**

6. Council direction to City of Albany staff in August 2009 was to support applications for restaurants to use small bar licenses provided the licence area does not extend onto or incorporate public land (eg alfresco areas), the premises are not located adjacent to locations which have a high potential to be frequented by children (beaches, public parks etc) and the licensed premises can be adequately demarcated.
7. Despite being in close proximity to the beach and a children's play area, the property is clearly defined with the alfresco and garden area enclosed to the southwest and southeast with a tall palisade fence. Access from the northeast is restricted and can be controlled due to the building covering that part of the alfresco area. As such, there are not the same concerns as there would be for an alfresco on the highway verge outside a CDB hotel.
8. Apart from at weekends, the restaurant is likely to be at its busiest in the evenings when most daytime child visitors to the beach and playground will have gone home. As such there is a reduced likelihood of children being exposed to adult alcohol consumption.
9. In their covering letter the proponent has stated that alcohol will only be provided by way of table service at the existing tables in the restaurant and alfresco area. Such a restriction can also be placed as a condition on any licence granted. Therefore, this extended trading permit will not result in the premises operating significantly differently to its current activity and would not have the appearance of a hotel bar or tavern.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued

10. In other correspondence relating to the lease arrangements, the proponent has requested the City as landlord indicate a future use of the property to include a small bar or tavern. Such uses would require an application for planning scheme consent for change of use and as this is a Crown Reserve vested with the City with a designated purpose for recreation, such application could not simply be approved under staff delegation. Under the new planning processes policy any applications for such use would be subject to public advertising and consultation before being referred to Council for determination.
11. As such, it would be premature for the City as landlord to indicate in any lease arrangements that such a use could be viewed favourably as it must be determined on its planning merits at the time of application. The lease could then be reviewed should such planning consent be granted.

**PUBLIC CONSULTATION / ENGAGEMENT**

12. The Department of Racing, Gaming and Liquor requires the applicant's to advertise their application in accordance with the Department's procedures. This would be undertaken as the application is lodged with the Department of Racing, Gaming and Liquor if the support of Council is forthcoming and they proceed with their application.

**GOVERNMENT CONSULTATION**

13. The Department of Racing, Gaming and Liquor are responsible for making a decision on whether the application to serve liquor without a meal is in the public interest. The proponent has not yet lodged the application with the department.

**STATUTORY IMPLICATIONS**

14. Section 60 (4) (ca) of the Act states:

*“(4) The purposes for which an extended trading permit may be issued are —  
(ca) a restaurant, authorising the licensee of a restaurant to sell liquor for consumption on the premises, whether or not ancillary to a meal, during hours which are permitted hours under a hotel licence.”*

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

16. There are no strategic or corporate plan implications relating to this item.

**POLICY IMPLICATIONS**

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

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.1 continued

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

18. The Council has two options to consider being to:
- a) advise the proponents that Council will support their application for an extended trading permit to allow the serving of alcohol without a meal, subject to conditions, which are considered to adequately address Council concerns:
    - 1. liquor only being available whilst food is available from the restaurant kitchen.
    - 2. liquor being served by way of table service to patrons seated at tables.OR
  - b) advise the proponents that Council refuses to support the application for the extended trading permit for liquor without a meal
19. If the Council opt to refuse to support the application for the extended trading permit, the application could still be lodged with the Department of Racing, Gaming and Liquor with the refusal noted as an objection. The final decision on whether the permit is granted or not rests with the Department of Racing, Gaming and Liquor.

**SUMMARY CONCLUSION**

20. The application for the extended trading permit for liquor without a meal is for a clearly defined area that can be adequately controlled and managed.
21. The busier evening times when the restaurant is open does not conflict with the peak child daytime usage of the beach and playground area, so the possibility of children being exposed to adult alcohol consumption is reduced.
22. The proposal is to serve alcohol to patrons seated at tables and this can adequately be controlled by condition.

**ITEM NUMBER – 13.1.1 OFFICER RECOMMENDATION :**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ADVISES the applicants that it is supportive of their application for an extended trading permit to allow the serving of alcohol without a meal, subject to:**

- A. liquor only being available whilst food is available from the restaurant kitchen.**
- B. liquor being served by way of table service to patrons seated at tables.**

**DEVELOPMENT SERVICES REPORTS**

**ITEM NUMBER: 13.1.2**

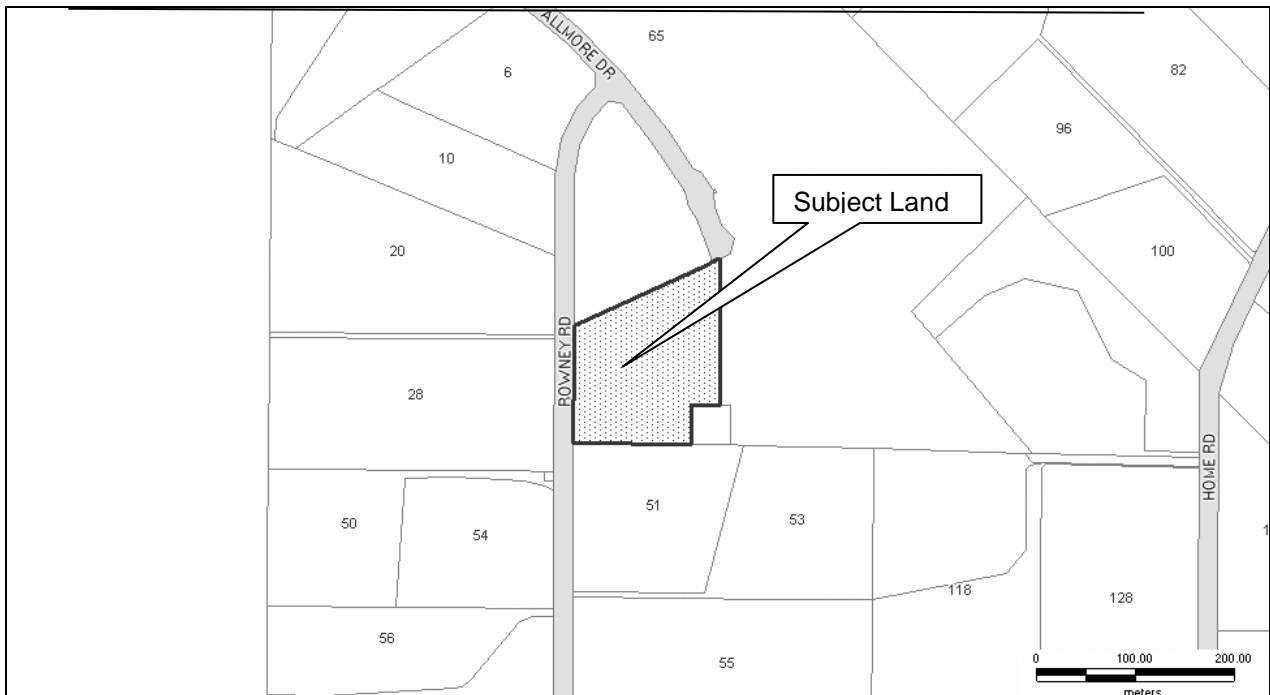
**ITEM TITLE: DEVELOPMENT APPLICATION – RECONSIDERATION OF SINGLE HOUSE (DETERMINATION OF BUILDING ENVELOPE) – LOT 202 ROWNEY ROAD, ROBINSON**

**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** : A210766 (Vancouver Ward)
- Summary of Key Issues** : Allow a building envelope to be established in the Development Exclusion Area
- Land Description** : Lot 202 Rowney Road, Robinson
- Proponent** : Ayton Baesjou
- Owner** : Mr T Ackley
- Reporting Officer(s)** : Senior Planning Officer (T Wenbourne)
- Disclosure of Interest** : Nil
- Business Entity Name** : Not Provided
- Previous Reference** : OCM 21/10/2003 – Item 11.3.4  
OCM 17/02/2004 – Item 11.3.6  
OCM 17/08/2004 – Item 11.3.1
- Bulletin Attachment(s)** : Application for Planning Scheme Consent (refused)  
Additional information – justification & site plan
- Consulted References** : Town Planning Scheme No.3

**Maps and Diagrams:**





**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued

**BACKGROUND**

1. Special Rural Area 10 was adopted by Council on 17 August 2004. This amendment permitted subdivision to create lots down to a size of 2ha over the amendment area. These lots are to be developed in accordance with and subject to the constraints as shown on the subdivision guide plan in accordance with the special provisions incorporated into Town Planning Scheme 3.
2. The subject site is centrally located within the subdivision area. It is constrained by a bore buffer and a ridgeline protection area, identified on the subdivision guide plan as 'Development Exclusion Areas'. The site also has an area of identified existing tree cover along much of the west boundary stretching east to the development exclusion areas. These identified constraints leave a clear strip of lower lying land close to the north boundary as the only area for development on this lot.
3. However, this is restricted further given the requirement of the special provisions for the guide plan area for all buildings and structures to be setback a minimum of 15m from all lot boundaries. In other cases and with adjoining owners consent, Council has relaxed boundary setbacks where circumstances have required a relaxation; for example to retain remnant vegetation.
4. The subdivider claims to be unable to sell this lot due to the identified constraints. He says people have been interested in the block, but when it is pointed out where they cannot build, they are no longer interested.
5. The subdivider lodged the application in an attempt to establish a building envelope in a perceived more desirable building position, but this was within the identified Development Exclusion Area. Very little information was submitted with the application and no substantial justification advanced in support of the proposal. As staff considered there is sufficient unconstrained space to allow a dwelling to be constructed and due to the special provisions for the subdivision expressly preventing the construction of buildings, tanks and structures in the 'Development Exclusion Area', the application was refused under delegated powers.
6. The refusal has been appealed to the SAT for review. As part of the review, the proponent has provided more detail in support of their proposal.
7. This matter is referred to Council for final determination as the requested building envelope is within a development exclusion area specifically identified on a subdivision guide plan adopted under Town Planning Scheme 3.

**DISCUSSION**

8. The application seeks Planning Scheme Consent to define a building envelope on the subject lot within the development exclusion area (ridgeline protection area) at the edge of the bore buffer.
9. The proposed building envelope is approximately 20m wide and 40m long. This building envelope would require the removal of two clumps of Peppermint trees and the management of other trees just outside the building envelope as shown on the site plan.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued

10. In the past the site was part of a wider grazing pasture, so there is little or no ground cover vegetation other than grass. Parkland clearing could easily be applied anywhere on the site to provide a required 20m low fuel buffer around a dwelling to reduce fire risk without the need to remove trees. With the gaps in the tree canopy there is little difference in terms of fire risk between the proposed building envelope and the lower lying unconstrained land.
11. From the SAT mediation site visit, staff can understand the desire behind the requested position for the building envelope. It is only elevated a few metres above the low lying land that can currently be developed and the surrounding established trees would for the most part screen a dwelling from view from the surrounding lots. It would provide a less conspicuous and exposed building location than the unconstrained lower lying land. The proposed location also avoids the higher land of the ridgeline to the east and one has to question why the subdivider extended the ridgeline protection area so far in the first instance.
12. However, the subdivision guide plan was advanced by the subdivider at the time they applied for the rezoning and subdivision. They mapped the constraints, such as the bore buffers, the ridgeline protection areas and the existing vegetation. It was the subdivider who also chose the number of lots and the boundary alignments for those lots. From the constraints applicable to the land of this chosen lot, it is clear that it was always the subdivider's intention that any development on this lot was to be on the lower lying land along the northern boundary. But now he claims not to be able to sell the lot due to these constraints and has lodged this application to try to change them. The people who have already bought into the subdivision, particularly on surrounding lots may have been influenced by the understanding that the Development Exclusion Area meant exactly that and there was no prospect of the ridgeline being built on.
13. In order to permit the requested building envelope in an area identified as a development exclusion area on the subdivision guide plan, Council would have to support an amendment of the subdivision guide plan or adopt a policy relaxing the development exclusion area relating to this lot.
14. In coming to a recommendation on this proposal the arguments are finely balanced. The proposed building envelope is marginally higher than the unconstrained land, but the surrounding trees could be retained and managed, providing screening of any dwelling in the wider landscape setting. Such screening is not readily available for any development on the unconstrained lower lying land. If minded to support this proposal it raises the question and possibly sets a detrimental precedent in relation to the rest of the ridgeline protection areas defined as Development Exclusion Areas over the other lots within the subdivision guide plan.
15. Whilst sympathetic to the request to relax the subdivision guide plan, the opinion of staff remains that the part of the site to the north of the development exclusion area is a viable building site for this lot. It may be that the adopted constraints make this lot less desirable than others and perhaps this should be better reflected in the asking price. It may also be that there is a surplus of these lifestyle lots on the market and buyers have a greater choice.
16. Additionally, the cost to Council ratepayers in terms of officer time required to process the amendment or draft the policy to formally recognise the proposed building envelope cannot be justified where it relates to just one lot with an established and reasonable alternative.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued

**PUBLIC CONSULTATION / ENGAGEMENT**

17. No public consultation has been undertaken, but should Council opt to support the proposal the required policy or amendment would need to be advertised.

**GOVERNMENT CONSULTATION**

18. No government consultation has been undertaken, but should Council opt to support the proposal the required policy or amendment would need to be referred to external agencies for comment.

**STATUTORY IMPLICATIONS**

19. The land is zoned “Special Rural” under Town Planning Scheme 3 (TPS 3). The subdivision guide plan for this special rural area was adopted by Council as an amendment to TPS 3.
20. This application seeks approval for the principle of development contrary to the special provisions for this land adopted as part of the amendment.
21. Council cannot approve the proposal as it stands and a further process either as an amendment to the scheme or adoption of a policy particular to this lot would have to be approved before the building envelope proposed could be created.

**FINANCIAL IMPLICATIONS**

22. This application is subject of a re-consideration order by the SAT and Council's decision will be referred back at a directions hearing /mediation. This has a cost to Council in terms of officer time.
23. If minded to support the proposal, the additional cost of the policy or amendment preparation, advertising and consultation would be applicable.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**POLICY IMPLICATIONS**

25. Should Council want to support the proposal, the most straight forward way to recognise the alteration of the subdivision guide plan would be to adopt a Council Policy recognising the alteration of the development exclusion area specific to this individual lot.
26. Council is currently going through the process of reducing the overall number of individual policies and consolidating most that remain into one policy document. A policy relating to just one lot could be a standalone document outside of this consolidated policy framework or could be incorporated into the larger document with the details of this subdivision. However, this would hold up the adoption of the consolidated policy.

**DEVELOPMENT SERVICES REPORTS**

Item 13.1.2 continued

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

27. As already stated, the arguments in this case are finely balanced and Council could opt to support the proposed location for a building envelope. Whilst a straightforward decision can be made in this regard, aside from the process of recognising the alteration of the subdivision guide plan, it throws into question the level of protection afforded to the development exclusion areas.
28. Although this may be viewed as a minor relaxation, it could be opening a Pandora's box when you look at the amount of land covered by development exclusion areas in this subdivision alone. It may lead to further requests to remove or alter the defined development exclusion areas. This would in turn have associated cost implications for the Council.

**SUMMARY CONCLUSION**

29. The requested building envelope is proposed in a 'Development Exclusion Area' adopted as part of the amendment to Town Planning Scheme 3.
30. The chosen location would require the removal of two clumps of Peppermint Trees, but trees around the proposed building envelope could be retained and managed to reduce fire risk. These trees would provide greater screening of any development in the wider landscape context compared to the area currently available for development.
31. However, to support the proposal would require an amendment of the subdivision guide plan or the adoption of a policy recognising the alteration of the development exclusion area for this single lot. It is staff opinion that this is unnecessarily onerous and a burden on Council resources when a sufficient useable development area is already available on this lot and was always intended for the development on this lot.

**ITEM NUMBER – 13.1.2 OFFICER RECOMMENDATION :  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ADVISES the State Administrative Tribunal it has reconsidered the proposal and UPHOLDS the original decision to REFUSE Planning Scheme Consent for Single House (determination of building envelope) at Lot 202 Rowney Road, Robinson for the following reasons:**

- A. The development proposed is contrary to the provisions of Town Planning Scheme 3 (5.1 of Special rural 10) development exclusion area and suitable alternatives exist on the site.
- B. The development would require the clearing of vegetation which could be avoided and is contrary to the objectives of the zone and provision 7.0 of the Special Rural Zone 10 of Town planning Scheme 3.
- C. The development does not meet the following matters which need to be considered by Council as stated under 5.4 of Town Planning Scheme 3;
  - “a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*
  - i) 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.”*

**DEVELOPMENT SERVICES REPORTS**

**13.2 DEVELOPMENT POLICY**

**ITEM NUMBER:** 13.2.1  
**ITEM TITLE:** FINAL APPROVAL OF SCHEME AMENDMENT – REZONING LOTS 5, 14, 15 & 65 ALBANY HIGHWAY ,LOT 60 KELLY STREET LOT 61, 62 , 200 & 201 LOCKE STREET FROM THE ‘FUTURE URBAN’ AND ‘INDUSTRY’ ZONE TO THE ‘OTHER COMMERCIAL ‘ ZONE

**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** : AMD 174 (Vancouver Ward)  
**Summary of Key Points** : Final Approval of the amendment to Rezone;  
• portions of Lots 5, 14, 15 & 65 Albany Highway from the “Future Urban” zone to the “Other Commercial” zone,  
• Lot 60 Kelly Street from the “Future Urban” zone to the “Other Commercial” zone,  
• Lot 201 Locke Street from the “Future Urban” and “Industry” zone to the “Other Commercial” zone, and  
• Lots 61, 62 & 200 Locke Street from the “Industry” zone to the “Other Commercial” zone.
- Land Description** : Lots 5, 14, 15 & 65 Albany Highway ,Lot 60 Kelly Street Lot 61, 62 , 200 & 201 Locke Street
- Proponent** : Ayton Baesjou Planning  
**Owner** : Various  
**Reporting Officer(s)** : Coordinator Statutory Planning (J van der Mescht)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 15/09/09 item 13.2.1  
**Bulletin Attachment(s)** : 1. Copy of Submissions  
2. Schedule of Submissions
- Consulted References** : Albany Local Planning Strategy  
**Councillor Lounge** : Nil

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued

**BACKGROUND**

1. Amendment 174 proposes to amend Town Planning Scheme No. 1A by rezoning;
  - a. portions of Lots 5, 14, 15 & 65 Albany Highway from the “Future Urban” zone to the “Other Commercial” zone,
  - b. Lot 60 Kelly Street from the “Future Urban” zone to the “Other Commercial” zone,
  - c. Lot 201 Locke Street from the “Future Urban” and “Industry” zone to the “Other Commercial” zone, and
  - d. Lots 61, 62 & 200 Locke Street from the “Industry” zone to the “Other Commercial” zone.
2. The Scheme Amendment was submitted with the appropriate supporting information and initiated by Council at the Ordinary Meeting held on 15 September 2009.
3. The successful completion of this amendment will facilitate the future development of the land in accordance with the provisions of the ‘other commercial’ zone in Town Planning Scheme (TPS) No.1A.
4. Council is now required to consider and determine the submissions received from the 42 day public consultation period.

**DISCUSSION**

5. The scheme amendment was assessed and is generally supported by the respective Government Departments and agencies. Additional advice/matters for consideration were also provided as part of the Government Department and agency submissions. All the matters raised in the submissions can be dealt with at the time of development and subdivision as provided for in the scheme provisions.
6. Issues relevant to the amendment raised within the submissions are as follows:
  - Management of environmental issues such as the protection of native vegetation and the protection of the Natural Swamp on the periphery of the subject area.
  - Possible issues of site contamination that should be assessed prior to permitting any sensitive land uses in the area.
  - All development to be connected to reticulated water and sewer.
7. The “other commercial” zone, is considered an appropriate zone for the current land uses and is furthermore generally consistent with the future strategic intention for the land as documented in the ALPS and recommended in the Activity Centres Planning Strategy. The amendment will in addition remove the dual zonings from the subject lots.
8. Staff recommend that the scheme amendment be finalised without modifications.

**PUBLIC CONSULTATION/ENGAGEMENT**

9. The Amendment was advertised in accordance with the requirements of the Town Planning Regulations 1967 from 15 January 2009 to 26 February 2009 by placement of a sign on-site, direct referral to affected and adjoining/nearby landowners, relevant State Government agencies and advertisement in the local newspaper.
10. No objections were received from members of the public and 1 submission that supports the proposal was received from one of the Landowners.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued

**GOVERNMENT CONSULTATION**

11. The Amendment documents were initially referred to the Environmental Protection Authority (EPA) as required by the Planning and Development Act 2005 for environmental assessment. The EPA has advised that the Amendment has been assessed and does not require further formal assessment.
12. The Amendment was also referred to WestNet Energy (Alinta Gas), Telstra, Water Corporation, Western Power, Department of Environment and Conservation, Fire and Emergency Services Authority (FESA) and Main Roads WA (Great Southern Region) for assessment and comment.
13. Responses were received from Westnet Energy, Telstra, Water Corporation and the Department of Environment and Conservation and are summarised in the attached Schedule of Submissions.

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

16. The subject land is shown as 'Mixed Business' within the ALPS and the Commercial Strategy.
17. The draft Local Planning Scheme No. 1 (which has recently been initiated by Council) is proposing zoning of "Highway Commercial" for the area.
18. The proposal is generally consistent with the objectives and outcomes of ALPS and more specifically the Activity Centres Planning Strategy that states;

*"6 Recommended Strategy - 6.7 Mixed Business Areas*

*There are currently three general areas in Albany suitable for development as Mixed Business areas, and shown as such on one or other of the Strategy Maps:*

- *Centennial Park.*
- *Orana.*
- *Chester Pass Road.*

*Given the very strategic location of these areas, it is considered reasonable to continue to facilitate their transition from industrial areas to Mixed Business areas...*

*The three industrial areas undergoing commercial change should not be forced to retain their industrial role, particularly along commercially valuable road frontages. While it is likely that large sections of these areas located away from the main roads will continue to serve an industrial function, other sections are particularly suitable for Mixed Business uses, including certain types of retail uses. There would appear to be no land use planning imperative requiring that these trends be resisted in the interests of preserving the land for industry...*

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.1 continued

*It is not intended that the non-central Mixed Business areas indicated on the Strategy Map be regarded as having hard and fast “zoning” boundaries. From a strategic planning perspective there is potential for interpreting them with a reasonable amount of flexibility. The boundaries shown on the Strategy Map are indicative only, and their firm definition should only be determined as part of the more detailed statutory planning process, using this ACPS as a guide.”*

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

20. Council has the following options in relation to this item, which are:
- To seek final approval to the scheme amendment without modification;
  - To seek final approval to the scheme amendment with modifications; or
  - To not seek final approval to the scheme amendment.
21. Council's decision on the scheme amendment is in effect a recommendation to the WA Planning Commission and Minister for Planning. The Minister for Planning is empowered under the *Planning and Development Act 2005* to make the final decision on the scheme amendment.

**SUMMARY CONCLUSION**

22. Staff recommend that the proposed Scheme Amendment be adopted by Council without modifications, on the basis that The “other commercial” zone, is considered an appropriate zone for the current land uses and is furthermore generally consistent with the future strategic plans and intention for the land.

**ITEM NUMBER – 13.2.1 OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

- 1) THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* and regulation 25(1)(c) of the *Town Planning Regulations 1967* resolves to **ADOPT WITHOUT MODIFICATION** Amendment No. 174 to Town Planning Scheme No. 1A as follows:
- “i) Rezoning portions of Lots 5, 14, 15 & 65 Albany Highway from the “Future Urban” zone to the “Other Commercial” zone;*
  - ii) Rezone Lot 60 Kelly Street from the “Future Urban” zone to the “Other Commercial” zone;*
  - iii) Rezone Lot 201 Locke Street from the “Future Urban” and “Industry” zone to the “Other Commercial” zone;*
  - iv) Rezone Lots 61, 62 & 200 Locke Street from the “Industry” zone to the “Other Commercial” zone; and*
  - v) Amending the Scheme Maps accordingly.”*

**AND**

- 2) That Council **RECEIVE** the Schedule of Submissions and **ADOPTS** the officer's recommendation to either dismiss, uphold or note each individual submission as contained within the Schedule of Submissions
- 3) The development guidelines policy be updated to include a requirement for a site contamination report and management plan as a condition of development should any sensitive land use be proposed in the “other commercial” zone.



**DEVELOPMENT SERVICES REPORTS**

**CITY OF ALBANY TOWN PLANNING SCHEME No.1A  
AMENDMENT No. 174  
SCHEDULE OF SUBMISSIONS**

<b>No.</b>	<b>Name/Address of Submitter</b>	<b>Summary of Submission</b>	<b>Officer Comment</b>	<b>Council Recommendation</b>
1	Environmental Protection Authority Locked Bag 33 Cloisters Square PERTH WA 6850	The Environmental Protection Authority (EPA) has determined that the scheme amendment is not required to be formally assessed.	Nil.	The submission is noted.
2	Western Power Locked Bag 2511 Perth WA 6001	No objections.	Nil.	The submission is noted.
3	Telstra Forecasting & Area Planning – South Western Access Network & Technology Locked Bag 2525 Perth WA 6001	No objections.	Nil.	The submission is noted.
4	Water Corporation Great Southern Regional Office 215 Lower Stirling Terrace ALBANY WA 6330	No objections.  There will be a requirement to provide a reticulated water and Sewer service to each of the lots.	At the time of subdivision and/or development the connection of the property to reticulated water and Sewer can be required.	The submission is noted.
5	Barnesby Ford P.O. Box 105 ,Albany WA 6331	No objections. Fully supports the proposal and thanks the City for progressing the Amendment.	(Received after deadline ) Nil.	The submission is noted.
6	Department of Environment and Conservation 120 Albany Highway ALBANY WA 6330	No objections.  Native vegetation in the rear sections of lots 5 and 15 is in a good to very good condition but with some invasion of woody weed species in particular Sydney Golden wattle. There should be no presumption of clearing this vegetation (other than removing invasive non-endemic species) without successful application to DEC.  There should be no presumption that the Natural swamp on Lot 300 and to the ENE of lot 60 can be used to fulfil a drainage function.  As the “Other Commercial” zone may permit sensitive land uses it may be necessary to require checking for	As part of the standard process for assessing Subdivision and/or development applications the protection of any remnant native vegetation on the site will be considered and Department of Environment and Conservation (DEC) should be consulted. Any proposed clearing would have to be subject to DEC approval.  A requirement for a site contamination report and management plan if required should be a condition of development should any sensitive land	The submission is noted.  These matters are noted and can be dealt with at a development and subdivision stage.  It is recommended that the development guidelines Policy be updated to include this requirement. As this affects industrial areas and other Commercial areas in general.

**DEVELOPMENT SERVICES REPORTS**

**CITY OF ALBANY TOWN PLANNING SCHEME No.1A**

**AMENDMENT No. 174**

**SCHEDULE OF SUBMISSIONS**

<b>No.</b>	<b>Name/Address of Submitter</b>	<b>Summary of Submission</b>	<b>Officer Comment</b>	<b>Council Recommendation</b>
		possible site contamination (from industrial uses) and for this requirement to be included in the Scheme documentation.	use be proposed. It is recommended that the development guidelines Policy be updated to include this requirement. As this affects industrial areas and other Commercial areas in general.	

**DEVELOPMENT SERVICES REPORTS**

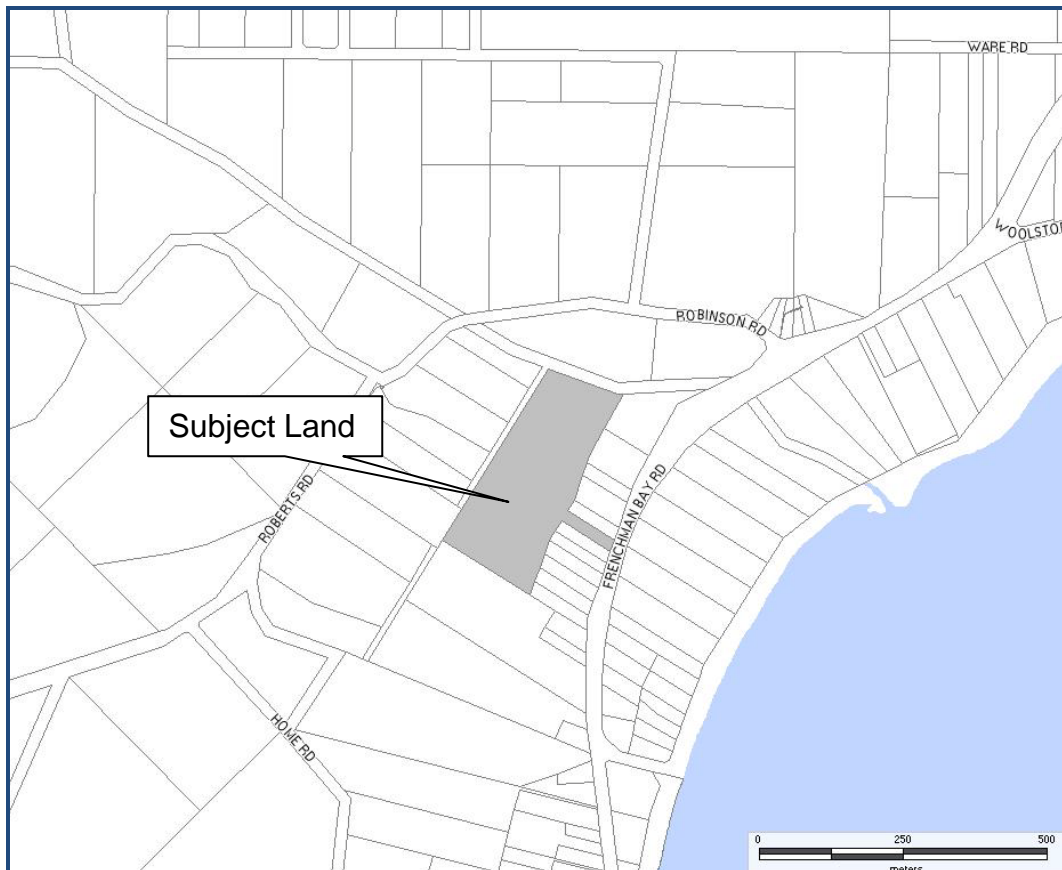
**ITEM NUMBER:** 13.2.2  
**ITEM TITLE:** **INITIATION OF SCHEME AMENDMENT – REZONING OF LOT 114 FRENCHMAN BAY ROAD, ROBINSON**

**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 266 (Vancouver Ward)  
**Summary of Key Issues** : Determine whether to initiate the proposed Town Planning Scheme Amendment to rezone Lot 114 Frenchman Bay Road, Robinson from the ‘Rural’ and ‘Residential Development’ zones to the ‘Special Rural’ zone.
- Land Description** : Lot 114 Frenchman Bay Road, Robinson  
**Proponent** : Harley Global  
**Owner** : Mr J Drinan & Ms M Price  
**Reporting Officer(s)** : Planning Officer (C McMurtrie)  
**Disclosure of Interest** : Nil  
**Previous Reference** : OCM 19/09/06 (SAR 098)  
**Bulletin Attachment(s)** : 1. Scheme Amendment document  
**Consulted References** : 1. WA Planning Commission (WAPC) Statements of Planning Policy (SPP’s) SPP1 & SPP 3  
2. Albany Local Planning Strategy
- Councillor Lounge** : Copy of OCM 19/09/06 Item 11.3.2 (SAR 098)  
Copy of Land Capability Assessment

**Maps and Diagrams:**



**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued

**BACKGROUND**

1. Amendment 266 proposes to amend Town Planning Scheme No. 3 (TPS3) by rezoning Lot 114 Frenchman Bay Road, Robinson from the 'Rural' and 'Residential Development' zones to the 'Special Rural' zone.
2. A Scheme Amendment Request (SAR 098) was reported to the Ordinary Council Meeting held on 17 November 2009. Council resolved:

*“THAT, subject, but not limited to, the following matters being addressed to the satisfaction of Council:*

- i) a land capability assessment;*
- ii) a conceptual structure plan taking into consideration visual management; and*
- iii) an identification of servicing needs and infrastructure requirements to accommodate future subdivision,*

*Council advises that it is prepared to entertain the submission of a formal application for rezoning Lot 114 Frenchman Bay Road from the split zoning ('Rural' and 'Residential Development') to a fully serviced (sewered) 'Residential Development' zone.”*

3. While the matters outlined above have all been broadly addressed in the amending document, the strategic direction set out in the Albany Local Planning Strategy (ALPS) and the outcome of a Land Capability Assessment undertaken by Coffey Environments has led to a change in the proposed zoning from 'Residential Development' to 'Special Rural'.

**DISCUSSION**

4. The lot covers an area of 5.78ha and lies to the north-west of Frenchman Bay Road, approximately 4km from the centre of Albany. The land is relatively flat and has been cleared, with the only significant vegetation being two large shelter belts that have been planted across the lot on a roughly east-west axis. A large shed stands to the eastern side of the lot, at the end of the access leg that runs east to Frenchman Bay Road. The land is currently used for the agistment of horses.
5. The land to the north, west and south of the subject lot is zoned 'Rural', while the land to the east and a small portion on the eastern fringe of the subject lot itself is zoned 'Residential Development'. The area has been identified as being suitable for 'Rural Residential' development in the draft Albany Local Planning Strategy (ALPS).
6. The Land Capability Assessment has highlighted that due to the flat, low-lying nature of the land, it is prone to waterlogging following heavy rains. The proposal to rezone to 'Special Rural' allows the nomination of building envelopes, which in this instance can be located in an area of the lot that is not subject to waterlogging.
7. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Furthermore, the amending documents adequately address the matters raised by Council at the SAR stage.

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Item 13.2.2 continued

**PUBLIC CONSULTATION/ENGAGEMENT**

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

**GOVERNMENT CONSULTATION**

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

**STATUTORY IMPLICATIONS**

10. All Scheme Amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
11. Council's resolution under Section 75 of the *Planning and Development Act 2005* is required to amend the Scheme.
12. An Amendment to a Town Planning Scheme adopted by resolution of a Local Government must then be referred to the EPA for assessment.
13. 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.
14. 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**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

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

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

- Providing for growth in urban areas, rural townsites and rural living areas as designated in ALPS.
- Minimising the development footprint on the landscape to help protect biodiversity and the environment.
- Promoting energy conservation.
- Providing greater housing choice.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued

- Minimising journey length from home to work/school/services and encouraging the use of public transport, cycling and walking.
- Reducing government expenditure on servicing current and future populations.

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

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

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

- Discourage the creation of additional rural townsites for living purposes.
- Avoid the development of Rural Living areas on productive agricultural land, other important natural resource areas and areas of high bushfire risk, flooding and environmental sensitivity.
- Avoid the development of Rural Living areas on future and potential long-term urban areas.
- Provide compact growth of selected existing rural townsites in accordance with Table 4, based on land capability and available services and facilities.
- Minimise potential for generating land-use conflicts.

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

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

19. Overall, the proposal is considered to be consistent with the various Strategic Objectives and aims set out in the draft ALPS.

**POLICY IMPLICATIONS**

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

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

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

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

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued

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

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

The key policy objectives in SPP 3 are as follows:

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

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

23. 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.

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

25. 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**

26. The proposal seeks to create a small 'Special Rural' area to make better use of rural land on the urban fringe that is unsuitable for agricultural production. It is considered that this would be in keeping with the objectives of Section 8.3.5 of the draft ALPS.

27. Overall, the proposal is considered to be consistent with State Planning Policy and the strategic planning direction set by the draft ALPS. Staff would therefore recommend that the Scheme Amendment be initiated.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.2 continued

**ITEM NUMBER – 13.2.2 – OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council in pursuance of section 75 of the *Planning and Development Act 2005* and *Regulation 25(1)(c)* of the *Town Planning Regulations 1967* resolves to INITIATE WITHOUT MODIFICATION Amendment No. 266 to Town Planning Scheme No. 3 for the purposes of:**

- 1) Rezoning Lot 114 Frenchman Bay Road, Robinson from the ‘Rural’ and ‘Residential Development’ zone to the ‘Special Rural’ zone and amending the Scheme Maps accordingly; and**
- 2) Amending Schedule 1 – ‘Special Rural Zones – Provisions Relating to Specified Areas’ to include special provisions for Special Rural Area No. X**



**DEVELOPMENT SERVICES REPORTS**

**ITEM NUMBER: 13.2.3**  
**ITEM TITLE: OUTBUILDING POLICY REVIEW**

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

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

<b>File Number or Name of Ward</b>	: Not Applicable
<b>Summary of Key Points</b>	: Review the size allowances for outbuildings on various lot sizes across the City and introduce flexibility for wall heights in certain circumstances
<b>Land Description</b>	: City of Albany
<b>Proponent</b>	: Nil
<b>Owner</b>	: Nil
<b>Reporting Officer(s)</b>	: Senior Planning Officer ( T Wenbourne)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM 20/09/05 Item 11.3.2 OCM 16/10/07 Item 11.3.3 OCM 16/03/10 Item 13.5.1
<b>Bulletin Attachment(s)</b>	: Copy of Outbuilding Policy
<b>Consulted References</b>	: Nil
<b>Councillor Lounge</b>	: Nil

**BACKGROUND**

1. In recent months there have been a number of applications submitted for oversized (larger area) and overheight outbuildings. It is as a result of these that Council has requested staff to review the current outbuilding policy in consultation with the Planning and Environment Strategy and Policy Committee.
2. The Committee reviewed the sizes of outbuildings permitted on the various sizes of lots within the different zones with the recommendation referred to Council (OCM 16/03/10 Item 13.5.1). This was referred back to staff and the Committee to incorporate a set of performance standards into the policy to provide for minor variations in wall heights to complement the current provisions.

**DISCUSSION**

3. Staff have considered the submission from Koster's Steel and the request of Council to address performance criteria for minor variations to be included in the policy wording.
4. The main issue raised in the Koster's Steel submission is the maximum wall height restriction on smaller lots where the wall height is currently limited to 3m. The recommendation is considered to cover all aspects raised and allow staff the flexibility to consider a minor variation without requiring 'exceptional circumstances' to be demonstrated in every instance. These matters could be dealt with under delegation without having to be referred to Council for final determination.
5. As the Planning and Environment Strategy and Policy Committee did not have a March meeting, the draft policy is referred directly to Council for consideration and adoption for the purposes of advertising, prior to final adoption.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.3 continued

**PUBLIC CONSULTATION / ENGAGEMENT**

6. If adopted for the purposes of advertising, the policy will be subject to a 28-day advertising and consultation period. Any submissions received will be reported to the Planning and Environment Strategy and Policy Committee for discussion and possible amendment of the policy before referral back to Council for final adoption.

**GOVERNMENT CONSULTATION**

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

**STATUTORY IMPLICATIONS**

8. Regulating the size and height of outbuildings associated with housing developments is achieved through two (2) mechanisms.

At clause 6.10.1 of the Residential Design Codes the stated objective is;

*“to ensure that:*

- (a) outbuildings and fixtures attached to buildings do not detract from the streetscape, or the amenity of the development or that of adjoining residents; and*
- (b) adequate provision is made for incidental facilities serving residents’ needs.”*

The Codes then set out an ACCEPTABLE (as of right) DEVELOPMENT standard requiring that *“all outbuildings collectively do not exceed in area or 10% in aggregate of the site area (whichever is the lesser), does not exceed a wall height of 2.4m or a ridge height of 4.2m”*. The Codes then establish PERFORMANCE CRITERIA which requires that *“outbuildings not to detract from the streetscape or the visual amenity of residents or neighbouring properties”*.

9. The second mechanism is the relevant provisions of the City of Albany Town Planning Schemes dealing with zones within the schemes. Those provisions may require a specified setback to be achieved within a certain development, for cladding materials to be certain hues, for the size of a shed to be limited or the activities conducted within an outbuilding to be constrained to a certain area.
10. The introduction of a policy to regulate outbuilding sizes has added an additional layer of information to assist City staff in determining the parameters that can be applied to interpret streetscape and visual amenity expectations of the performance criteria of the Codes. Council must have regard to the policy but it is not bound by the policy in its decision-making process.

**FINANCIAL IMPLICATIONS**

11. The proposed amendment to the policy is considered to reflect the changing needs of residents and introduces some flexibility for minor variations in certain circumstances. It is these issues that have recently been challenged following Council decisions with Reviews at the SAT currently underway.
12. The amendment of the policy may allow reconsideration of the matters under SAT Review and reduce the number of reviews lodged over outbuildings in the future. All matters taken to the SAT for Review have associated cost implications for Council.

**DEVELOPMENT SERVICES REPORTS**

Item 13.2.3 continued

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**POLICY IMPLICATIONS**

14. The former Town of Albany introduced a policy to regulate the size of outbuilding in July 1995, which was then replaced in 2001 with the City of Albany Outbuilding policy; that policy sought to provide a consistent set of standards within the City, following the amalgamation process. The policy was subsequently reviewed in 2003, 2005 and 2007 in response to community concerns over the suitability of the policy.
15. The policy has been reviewed every couple of years and as such it is now time for the policy to be reviewed again to ensure it remains current and up to date.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

16. The Council could decide the current policy is adequate and opt not to change it. This may result in increased applications for oversized and overheight outbuildings with tenuous claims of 'exceptional circumstances' advanced in support of the applications. This may result in more SAT Reviews of refused applications with recent decisions of Council used to argue inconsistent decision making has been applied.
17. Alternatively, Council may decide the proposed policy is too restrictive and refers the policy back to the Committee for further consideration to relax the sizes and heights allowed. But this raises the question of where do you draw the line? There needs to be some control to protect visual amenity of the wider community and Council cannot afford to allow a free for all with regard to outbuildings.

**SUMMARY CONCLUSION**

18. Following the recommendation of Council, the outbuildings policy has been reviewed to introduce greater variation in the floor area allowances dependant on the zoning and size of the lot.
19. It is also proposed to introduce flexibility with regard to minor variations to wall heights on the smaller lots in certain circumstances.
20. These proposed amendments to the policy are considered to accommodate the changing needs of individual property owners, whilst protecting the visual amenity of the wider community.

**DEVELOPMENT SERVICES REPORTS**

**ITEM 13.2.3- OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council AMEND the City of Albany Outbuilding Policy by:**

**i) Altering Table One to:**

**Table One – Outbuilding Requirements**

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined floor area of all outbuildings on lot)	Special Requirements
Residential / Future Urban / Residential Development Zone (Lots less than 1000m <sup>2</sup> )	3 metres	4.2 metres	100m <sup>2</sup>	If floor area of outbuildings is to exceed 60m <sup>2</sup> the use of non-reflective materials is required.
Residential / Future Urban / Residential Development Zone (Lots 1000m <sup>2</sup> – 3999m <sup>2</sup> )	3 metres	4.2 metres	120m <sup>2</sup>	If floor area of outbuildings is to exceed 60m <sup>2</sup> the use of non-reflective materials is required.
Residential / Future Urban / Residential Development Zone (Lots 4000m <sup>2</sup> or greater)	3.5 metres	4.2 metres	150m <sup>2</sup>	If floor area of outbuildings is to exceed 60m <sup>2</sup> the use of non-reflective materials is required.
Yakamia Creek Zone	3.5 metres	4.5 metres	120m <sup>2</sup>	If floor area exceeds 100m <sup>2</sup> the use of non-reflective materials is required.
Conservation Zone	3.5 metres	4.5 metres	140m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Special Residential Zone (Lots less than 3999m <sup>2</sup> )	4.2 metres	4.8 metres	120m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Special Residential (Lots greater than 4000m <sup>2</sup> )	4.2 metres	4.8 metres	150m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Special Rural Zone (Lots less than 2ha)	4.2 metres	4.8 metres	200m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Special Rural Zone (Lots 2ha to 3.99ha)	4.2 metres	4.8 metres	220m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Special Rural Zone (Lots 4ha or greater)	4.2 metres	4.8 metres	240m <sup>2</sup>	Refer relevant planning scheme requirements for siting and materials.
Rural Zone (Lots less than 2ha)	4.2 metres	4.8 metres	200m <sup>2</sup>	The siting of the outbuilding away from more obtrusive locations.
Rural Zone (Lots 2ha to 3.99ha)	4.2 metres	4.8 metres	220m <sup>2</sup>	The siting of the outbuilding away from more obtrusive locations.
Rural Zone (Lots 4ha or greater)				The siting of the outbuilding away from more obtrusive locations.

**ii) The inclusion of performance criteria when Planning Scheme Consent is required:**

***Planning Scheme Consent***

***Planning Scheme Consent will only be required where the above criteria cannot be complied with. The following variations may be approved at the Planning Officers discretion without being presented to Council;***

- i) for roof forms other than a regular ridged roof, such as a mono-pitched (skillion) roof, a relaxation of the height of the wall (up to 15%) may be supported, or***
- ii) where the land upon which the outbuilding is to be erected has a slope greater than 1 in 5 the height of the wall shall be measured on the wall that is located at the higher point of the site where the land has not been subject to cut and/or fill.***

***For all other variations of the Outbuilding Policy the applicant shall demonstrate exceptional circumstances as to why the policy should be relaxed with the proposal being presented to an ordinary meeting of Council***

**DEVELOPMENT SERVICES REPORTS**

**13.3 HEALTH, BUILDING & RANGERS**

Nil

**13.4 EMERGENCY MANAGEMENT**

Nil

**13.5 DEVELOPMENT SERVICE COMMITTEES**

Nil

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# **CORPORATE & COMMUNITY SERVICES Reports**

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**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.1.1**  
**ITEM TITLE: LIST OF ACCOUNTS FOR PAYMENT**

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

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

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

**BACKGROUND**

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

**DISCUSSION**

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

**Municipal Fund**

Trust	Totalling	\$99,991.10
Cheques	Totalling	\$38,204.21
Electronic Fund Transfer	Totalling	\$2,912,623.55
Credit Cards	Totalling	\$6,967.76
Payroll	Totalling	\$810,379.52
	<b>TOTAL</b>	<b><u>\$3,868,166.14</u></b>

3. As at the 31<sup>st</sup> March 2010, the total outstanding creditors, stands at \$603,237.44
4. Cancelled cheques – Nil

**PUBLIC CONSULTATION /ENGAGEMENT**

5. Nil

**GOVERNMENT CONSULTATION**

6. Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued

**STATUTORY IMPLICATIONS**

7. Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
8. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund. This delegation was last reviewed in December 2007 – Item 14.4.1.
9. Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

**FINANCIAL IMPLICATIONS**

10. Expenditure for the period to 31 March 2010 has been incurred in accordance with the 2009/10 budget parameters.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***Community Vision:***

*Nil*

***Priority Goals and Objectives:***

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

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

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

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

13. Nil



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.1 continued

**SUMMARY CONCLUSION**

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

**ITEM 12.1.1 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 31 March 2010 totalling \$3,868,166.14.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.1.2**

**ITEM TITLE: FINANCIAL ACTIVITY STATEMENT – 31 MARCH 2010**

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

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

<b>File Number or Name of Ward</b>	: FIN 040 (All Wards)
<b>Summary of Key Points</b>	: Detailed Statement of Financial Activity reporting on the revenue and expenditure of the City of Albany for the reporting period ending 31 March 2010
<b>Reporting Officer(s)</b>	: Finance Manager (P Wignall)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: N/A
<b>Bulletin Attachment(s)</b>	: Nil

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 31 March 2010 has been prepared and is listed below.
2. In addition to the statutory requirement to provide the elected group with a Statement of Financial Performance, the City provides the elected group with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**DISCUSSION**

3. In accordance with section 34(1) of the Local Government (Financial Management) Regulations 1996, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. For the financial year 2009/10 variations in excess of 10% are reported to the elected group.

**STATEMENT OF FINANCIAL ACTIVITY – AS AT 31<sup>st</sup> MARCH 2010**

6. See Appendix 1 to Report Item 14.1.2

**CITY OF ALBANY - BALANCE SHEET – AS AT 31<sup>st</sup> MARCH 2010**

7. See Appendix 2 to Report Item 14.1.2

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**INCOME STATEMENT FOR PERIOD ENDED – AS AT 31<sup>st</sup> MARCH 2010**

8. See Appendix 3 to Report Item 14.1.2

**PORTFOLIO VALUATION – MARKET VALUE – AS AT 31<sup>st</sup> MARCH 2010**

9. See Appendix 4 to Report Item 14.1.2

**PUBLIC CONSULTATION / ENGAGEMENT**

10. Nil

**GOVERNMENT CONSULTATION**

11. Nil

**STATUTORY IMPLICATIONS**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**FINANCIAL IMPLICATIONS**

13. Expenditure for the period ending 31 March 2010 has been incurred in accordance with the 2009/10 budget parameters with variations in excess of 10% detailed below.

<b>Section of Financial Activity Statement</b>	<b>Reason for Variation</b>	<b>Total Amount of Variation</b>
<b>Operating Revenue</b>	Other Revenue variance is mainly due to funding from SCNRM (25k), above budget income from penalty interest on overdue rates (34k) and sponsorship for City Events (\$17k).	\$97,691
<b>Operating Expenditure</b>	Materials and Contracts expenditure is currently below budget, with major variances including Fuel, Oil and Parts (\$252k), Road Maintenance (\$172k), Community Arts Projects (77k), Greenwaste collections (\$64k), the City of Albany art prizes (\$52k), and Tourism Marketing (66k).	\$1,010,514
	Utility Expenses are below budget, with the major variation relating to lower street lighting costs (approximately \$60,000).	\$95,316
	Other Expense variances mainly relate to various minor maintenance accounts.	\$137,034
<b>Capital Revenue</b>	Non-Operating Grants, Subsidies and Contributions	\$952,612

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.2 continued.

**Community Vision:**

*Nil*

**Priority Goals and Objectives:**

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

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

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

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Nil

**SUMMARY CONCLUSION**

18. Nil

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

**THAT Council RECEIVES the Financial Activity Statement for the period ending 31 March 2010.**

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 1

## STATEMENT OF FINANCIAL ACTIVITY YEAR TO DATE – 31 MARCH 2010

	Actual Year to Date 31-Mar-10	Current Budget Year to Date 31-Mar-10	Current Budget vs Actual Variance	
<b>REVENUE</b>				
Operating Grants, Subsidies and Cont	2,172,576	2,154,870	17,706	√
Fees and Charges	5,263,879	5,441,743	-177,864	X
Service Charges	3,005,718	2,996,718	9,000	√
Interest Earnings	567,172	520,746	46,426	√
Other Revenue	489,798	392,107	97,691	√
	<b>11,499,143</b>	<b>11,506,184</b>	<b>-7,041</b>	
<b>EXPENDITURE</b>				
Employee Costs	10,585,970	10,646,648	-60,678	√
Materials and Contracts	6,916,626	7,927,140	-1,010,514	√
Utility Charges	735,387	830,703	-95,316	√
Interest Expenses	565,076	594,750	-29,675	√
Insurance Expenses	471,965	486,857	-14,892	√
Other Expenditure	464,087	327,053	137,034	X
Depreciation	8,287,583	8,871,507	-583,924	√
	<b>28,026,694</b>	<b>29,684,658</b>	<b>-1,657,964</b>	
<b>Adjustment for Non-cash Revenue and Expenditure:</b>				
Depreciation	<b>-8,287,583</b>	<b>-8,871,507</b>	<b>583,924</b>	
<b>CAPITAL REVENUE</b>				
Non-Operating Grants, Subsidies and Cont	2,804,925	1,852,313	952,612	√
Proceeds from asset disposals	361,613	341,436	20,177	√
Proceeds from New Loans	0	0	0	
Self-Supporting Loan Principal Revenue	24,166	24,569	-403	X
Transfers from Reserves (Restricted Assets)	7,483,656	7,416,270	67,386	
	<b>10,674,360</b>	<b>9,634,588</b>	<b>1,039,772</b>	
<b>CAPITAL EXPENDITURE</b>				
Capital Expenditure	8,611,945	9,216,459	-604,514	√
Repayment of Loans	549,221	573,048	-23,827	√
Transfers to Reserves (Restricted Assets)	1,824,248	773,093	1,051,155	
	<b>10,985,414</b>	<b>10,562,600</b>	<b>422,813</b>	
Estimated Surplus B/fwd				
ADD Net Current Assets July 1 B/fwd	<b>-1,790,453</b>	<b>n/a</b>	<b>n/a</b>	
LESS Net Current Assets Year to Date	<b>11,187,856</b>	<b>n/a</b>	<b>n/a</b>	
Amount Raised from Rates	<b>-21,529,331</b>	<b>-21,474,828</b>	<b>-54,503</b>	

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

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

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 2 – BALANCE SHEET AS AT 31 MARCH 2010

	<b>Actual 31-Mar-10</b>	<b>Budget 30-Jun-10</b>	<b>Actual 30-Jun-09</b>
<b>CURRENT ASSETS</b>			
Cash - Municipal	10,458,493	776,514	477,330
Restricted cash (Trust)	1,484,804	1,976,788	1,987,438
Reserve Funds - Financial Assets	1,170,755	0	1,170,755
Reserve Funds - Other	1,700,626	2,647,383	7,360,046
Receivables & Other	2,591,619	1,600,000	2,912,825
Investment Land	(0)	0	(0)
Stock on hand	935,735	780,000	1,033,538
	<b>18,342,031</b>	<b>7,780,685</b>	<b>14,941,932</b>
<b>CURRENT LIABILITIES</b>			
Borrowings	538,676	1,230,000	1,087,897
Creditors prov - Annual leave & LSL	2,130,050	2,200,000	2,023,128
Trust Liabilities	1,427,642	1,778,124	1,930,516
Creditors prov & accruals	691,881	3,000,000	4,190,793
	<b>4,788,249</b>	<b>8,208,124</b>	<b>9,232,333</b>
<b>NET CURRENT ASSETS</b>	<b>13,553,782</b>	<b>(427,439)</b>	<b>5,709,599</b>
<b>NON CURRENT ASSETS</b>			
Receivables	106,322	152,865	106,322
Pensioners Deferred Rates	292,616	265,945	292,616
Investment Land	2,150,000	2,150,000	2,150,000
Property, Plant & Equip	73,750,617	131,774,682	67,901,036
Infrastructure Assets	180,124,299	197,134,056	186,048,238
Local Govt House Shares	19,501	19,501	19,501
	<b>256,443,354</b>	<b>331,497,049</b>	<b>256,517,713</b>
<b>NON CURRENT LIABILITIES</b>			
Borrowings	20,796,675	19,566,675	20,796,675
Creditors & Provisions	259,838	262,000	259,838
	<b>21,056,513</b>	<b>19,828,675</b>	<b>21,056,513</b>
<b>NET ASSETS</b>	<b>248,940,624</b>	<b>311,240,935</b>	<b>241,170,800</b>
<b>EQUITY</b>			
Accumulated Surplus	225,642,552	289,818,918	212,131,560
Reserves	4,523,438	2,647,383	10,264,605
Asset revaluation Reserve	18,774,634	18,774,634	18,774,634
	<b>248,940,624</b>	<b>311,240,935</b>	<b>241,170,800</b>

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 3 - INCOME STATEMENT FOR THE PERIOD ENDED – 31 MARCH 2010

Nature / Type	YTD Actual 2009/10	Budget-Total 2009/10	Actual 2008/09
<b>INCOME</b>			
Rates	21,529,318	21,346,462	19,277,114
Grants & Subsidies	1,885,679	3,069,252	4,051,358
Contributions, Reimb & Donations	286,898	362,187	408,897
Fees & Charges	5,263,879	7,294,973	7,276,163
Service Charges	3,005,718	2,996,718	2,698,198
Interest Earned	567,172	547,200	658,167
Other Revenue / Income	491,158	401,500	529,090
	<b>33,029,821</b>	<b>36,018,292</b>	<b>34,898,987</b>
<b>EXPENDITURE</b>			
Employee Costs	10,585,970	14,039,923	13,749,398
Utilities	735,387	1,311,912	903,193
Interest Expenses	565,076	1,179,588	1,322,148
Depreciation on non current assets	8,287,583	11,818,000	10,714,400
Contracts & materials	6,916,626	11,628,876	11,490,819
Insurance expenses	471,965	453,863	410,959
Other Expenses	465,207	(128,769)	11,553
	<b>28,027,814</b>	<b>40,303,393</b>	<b>38,602,470</b>
<b>Change in net assets from operations</b>	<b>5,002,007</b>	<b>(4,285,101)</b>	<b>(3,703,483)</b>
Grants and Subsidies - non-operating	2,744,908	70,066,581	6,497,507
Contributions Reimbursements and Donations - non-operating	60,017	5,175,706	4,738,136
Profit/Loss on Asset Disposals	(37,108)	(32,000)	61,301
Fair value - Investments adjustment	0	1,987,226	(193,144)
	<b>7,769,824</b>	<b>72,912,412</b>	<b>7,400,317</b>



## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

## APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE – 31 MARCH 2010

Security	Maturity Date	Security Cost (incl accrued Int)	Current Interest %	Market Value	Market Value	Market Value	Latest Monthly Variation
				Jan-10	Feb-10	Mar-10	
<b>MUNICIPAL ACCOUNT</b>							
Westpac	27/02/2010	1,000,000	4.60%	1,000,000			
Bankwest	15/02/2010	1,000,000	5.00%	1,000,000			
Westpac	17/02/2010	1,500,000	5.05%	1,500,000			
Bendigo	10/03/2010	1,000,000	5.17%	1,000,000	1,000,000		
NAB	30/03/2010	2,000,000	5.25%	2,000,000	2,000,000		
Westpac	30/03/2010	1,500,000	5.75%	1,500,000	1,500,000		
Bendigo	22/04/2010	1,000,000	5.40%	1,000,000	1,000,000	1,000,000	
Bankwest	22/04/2010	1,000,000	5.40%	1,000,000	1,000,000	1,000,000	
Bankwest	10/02/2010	1,000,000	4.00%	1,000,000			
Bendigo	19/03/2010	1,000,000	4.90%		1,000,000		
Bankwest	19/04/2010	1,000,000	5.15%		1,000,000	1,000,000	
ANZ	29/04/2010	2,500,000	5.13%			2,500,000	
Westpac	28/05/2010	1,500,000	5.50%		1,500,000	1,500,000	
Bendigo	18/05/2010	1,000,000	5.20%			1,000,000	
				<b>11,000,000</b>	<b>10,000,000</b>	<b>8,000,000</b>	n/a
<b>RESERVES ACCOUNT</b>							
NAB	2/02/2010	1,000,000	4.47%	1,000,000			
NAB	4/03/2010	1,000,000	4.90%		1,000,000		
NAB	18/04/2010	1,000,000	5.30%			1,000,000	
				<b>1,000,000</b>	<b>1,000,000</b>	<b>1,000,000</b>	n/a

## CORPORATE &amp; COMMUNITY SERVICES REPORTS

Item 14.1.2 continued.

**APPENDIX 4 - PORTFOLIO VALUATION - MARKET VALUE – 31 MARCH 2010****COMMERCIAL SECURITIES - CDOs (New York Mellon)\*\***

Saphir (Endeavour) AAA	4/08/2011	413,160	9.10%	354,120	354,120	354,120	0
Zircon (Merimbula AA)	20/06/2013	502,450	8.87%	155,750	155,750	155,750	0
Zircon (Coolangatta AA)	20/09/2014	1,002,060	9.12%	307,100	307,100	307,100	0
Beryl (AAAGlobal Bank Note)	20/09/2014	200,376	8.42%	159,380	159,380	159,380	0
		<b>2,118,046</b>		<b>976,350</b>	<b>976,350</b>	<b>976,350</b>	<b>0</b>
<b>COMMERCIAL SECURITIES - CDOs - Other</b>							
Magnolia (Flinders AA)	20/03/2012	171,994	9.32%	119,000	119,000	119,000	0
Start (Blue Gum AA-)	22/06/2013	276,708	8.77%	303	303	303	0
Corsair (Kakadu AA)	20/03/2014	273,710	8.37%	68,503	68,503	68,503	0
Helium (C=Scarborough AA)	23/06/2014	602,244	8.77%	6,600	6,600	6,600	0
		<b>1,324,656</b>		<b>194,405</b>	<b>194,405</b>	<b>194,405</b>	<b>0</b>
<b>PORTFOLIO TOTAL</b>				<b>13,170,755</b>	<b>12,170,755</b>	<b>10,170,755</b>	<b>0</b>

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

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.1.3**  
**ITEM TITLE: 2009/2010 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.

<b>File/Ward</b>	: FIN 047 (All Wards)
<b>Proposal/Issue</b>	: Council requested to adopt a Budget Review
<b>Subject Land/Locality</b>	: N/A
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Manager Finance (P Wignall)
<b>Disclosure of Interest</b>	: Nil.
<b>Previous Reference</b>	: Nil.
<b>Summary Recommendation</b>	: That Council adopt the Third Quarter Budget Review
<b>Bulletin Attachment</b>	: Proposed Review adjustments
<b>Locality Plan</b>	: N/A

**BACKGROUND**

1. In March 2010, Council officers conducted a review of 2009/10 revenue and expenditure for their areas.

**DISCUSSION**

2. There are a number of required amendments resulting from changed circumstances since the formulation of the Second Quarter Budget Review. The net impact of the proposed changes is nil. Significant items include:

a) Corporate and Community Services

*An amount of \$115,000 has been allowed for the Albany Entertainment Centre café fit-out as per Council Resolution in the OCM 19<sup>th</sup> January 2010. This has been funded from savings in Fuel.*

*Airport landing fees are trending below budget. An adjustment of \$80,000 has been made to accommodate this shortfall.*

*An amount of \$100,000 has been allowed for the re-configuration of North Road offices to facilitate re-alignment of Development Services work functions. This has been funded by savings in the Building Maintenance budget.*

b) Development Services

*Building Licence Fee income has been increased by \$75,000. The Australian Government's First Home Owners Boost has provided higher than expected income to date. Whilst the Australian Government's grant was phased out at 31 December 2009, current income levels indicate overall higher revenue.*

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.3 continued.

c) Works and Services

*An unanticipated charge of \$129,069 for 2007-08 Workers Compensation claims was received in January 2010 requiring increases in this line item.*

*The Drainage Management Plan budget line has been increased by \$62,000 due to higher consultant costs.*

*Net Landfill income has increased by \$168,059 in line with trends for the year to date.*

*Fuel, Oil and Parts costs have been reduced by \$367,000. Fuel prices are lower than anticipated in the budget and usage has decreased. An amount of \$115,000 of this saving has been applied to the Albany Entertainment Centre fit-out (refer above). Higher repair costs for machinery breakdown (\$85,000) have been funded by fuel, oil and parts savings.*

*Un-budgeted DEC grants totalling \$87,000 for Waste Construction have been received. The Leachate Management allowance has been reduced by \$130,500 in line with the anticipated work in this area in 2009-10.*

*Roads Masterplan work on Millbrook Road has increased by \$123,438. The increased cost was approved by Council at the 15<sup>th</sup> December OCM.*

*An additional allowance of \$85,000 has been made for the Mt Clarence Desert Corps Memorial. This was funded from savings in Parts and additional Waste income.*

d) General Purpose Income

*Interim Rates revenue has been incremented by \$76,000. This revenue is associated with re-classification of the rateable value of properties following completion of buildings and generally higher levels of building completions.*

3. A summary of the proposed Third Quarterly Review follows and a detailed list of all proposed adjustments is included in the Bulletin Attachment.

	<b>Original Budget</b>	<b>Current Budget</b>	<b>Proposed Budget</b>	<b>Proposed Adjustment</b>
General Management	1,271,718	1,308,628	1,291,788	(16,840)
Corp. & Community Serv.	9,055,789	9,677,328	9,983,303	305,975
Development Services	1,866,867	1,766,578	1,687,6328	(78,946)
Works & Services	11,054,254	10,721,093	10,576,265	(144,828)
General Purpose Income	(25,019,919)	(25,244,918)	(25,310,279)	(65,361)
Loans	1,771,291	1,771,291	1,771,291	0
<b>Total</b>	<b>0</b>		<b>0</b>	<b>0</b>

**PUBLIC CONSULTATION/ENGAGEMENT**

4. Nil

**GOVERNMENT CONSULTATION**

5. Nil

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.1.3 continued.

**STATUTORY IMPLICATIONS**

6. Under the Local Government Act, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
  - a) is incurred in a financial year before the adoption of the annual budget by the local government
  - b) is authorised in advance by a resolution (absolute majority required) or
  - c) is authorised in advance by the mayor in an emergency
7. Under the Local Government Act, Section 6.16 (3) fees and charges may be imposed during a financial year and amended during a financial year.

**FINANCIAL IMPLICATIONS**

8. The net impact on the Budget is Nil. However, efforts to drive cost savings and efficiencies continue.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

9. Nil

**POLICY IMPLICATIONS**

10. Nil

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

11. Nil

**SUMMARY CONCLUSION**

**ITEM NUMBER – 14.1.3 – OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council ADOPT the Third Quarter Budget Review.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.2 – ADMINISTRATION**

Nil

**14.3 – LIBRARY SERVICES**

Nil

**14.4 – DAY CARE CENTRE**

Nil

**14.5 – TOWN HALL**

Nil

**14.6 – RECREATION SERVICES**

Nil

**14.7 - ECONOMIC DEVELOPMENT**

Nil

**14.8 - TOURISM & VISITORS CENTRE**

Nil

**14.9 – AIRPORT MANAGEMENT**

Nil

**14.10 – CONTRACT MANAGEMENT**

Nil

**14.11 PROPERTY MANAGEMENT**

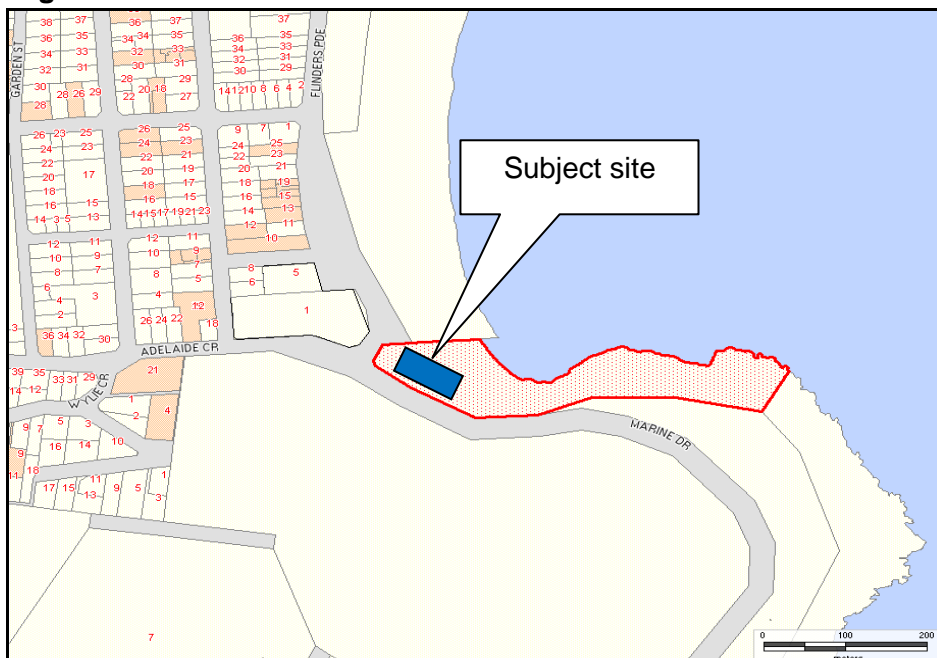
**ITEM NUMBER:** 14.11.1

**ITEM TITLE:** SURRENDER LEASE AND SIMULTANEOUSLY REPLACE WITH A NEW LEASE FOR SKATT (WA) PTY LTD AS TRUSTEE FOR THE MACKENZIE FAMILY TRUST TRADING AS CALAMARI'S AT BEACHSIDE, MIDDLETON BEACH

**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** : PRO070, A133837 (Frederickstown Ward)
- Summary of Key Points** : Consider request to surrender existing lease and simultaneously replace with a new lease for Skatt (WA) Pty Ltd as Trustee for the MacKenzie Family Trust trading as Calamari's At Beachside for a term of 21 years on Lot 651 portion of Reserve 26149 for the purpose of restaurant, café, small bar or tavern
- Land Description** : Portion of Reserve 26149, Lot 651 on Plan 191343, Middleton Beach
- Proponent** : Skatt (WA) Pty Ltd as Trustee for the MacKenzie Family Trust
- Owner** : Crown
- Reporting Officer(s)** : Property Officer (T Catherall)
- Disclosure of Interest** : Nil
- Business Entity Name** : Skatt (WA) Pty Ltd as Trustee for MacKenzie Family Trust
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Council's Policy – Property Management – Leases
- Maps and Diagrams** :



**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**BACKGROUND**

1. Reserve 26149 is under Management Order H633658 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of Recreation for a term not exceeding 21 years and subject to the consent of the Minister for Lands.
2. Lot 651 on portion of Reserve 26149 is located at street address 2 Flinders Parade, Middleton Beach.
3. In August 1997, the Town of Albany granted a lease for the premises at 2 Flinders Parade, Middleton Beach over an area of 1174m<sup>2</sup> for the purpose of beachside restaurant and café.
4. The lease for a term of 21 years with no option for a further term commenced on 1 August 1997 and expires 31 July 2017 with an annual rental of \$46,711.00 (including GST) per annum.
5. In accordance with the existing lease, the City of Albany is responsible for all structural maintenance including electrical wiring of the leased premises with the tenant responsible for all other repairs and maintenance.
6. A BYO Licence with respect to the Restaurant was held for a number of years prior to a Restaurant licence being granted on 19 January 2009. The existing licence covers the restaurant and alfresco areas allowing for alcohol to be served to customers having a meal seated at a table.
7. A written proposal has been received from Haynes Robinson Barristers & Solicitors acting for the current Lessee, Skatt (WA) Pty Ltd detailing the following requests:
  - (i) To surrender the existing lease and simultaneously replace with a new lease for a term of 21 years;
  - (ii) To expand the current permitted use for restaurant and café to include a small bar or tavern;
  - (iii) To allow for extension to current building by constructing an enclosed upper storey above the existing alfresco area; and.
  - (iv) Application for an Extended Trading Permit to allow for the sale and supply of liquor without a meal.
8. The Lessee wishes to have the opportunity to further develop the premises by constructing an enclosed upper storey above the existing alfresco area in order to capitalise on the available footprint and views.
9. Prior to embarking on capital works of this nature requiring a significant investment the Lessee is seeking to secure longer tenure over the premises.



**CORPORATE & COMMUNITY SERVICES REPORTS**

10. The Lessee has indicated, at some time in the future they may seek to offer small bar or tavern facilities to its customers and has requested this use in addition to restaurant and café be approved as permitted use under the proposed new lease.
11. A small bar licence authorises the sale and supply of liquor for consumption on the premises only, whether or not ancillary to a meal, with a maximum capacity of no more than 120 people at any one time.
12. A tavern licence authorises the sale and supply of liquor for consumption on the premises, whether or not ancillary to a meal, and the sale and supply of packaged liquor to patrons for consumption off the licensed premises.
13. The City of Albany as Landlord is not required to provide consent to the Extended Trading Permit application but the Lessee does require approval from Planning and Health Planning Department in capacity as Local Authority via Section 39 and 40.
14. Section 39 Certificate is an approval by Council which states that the premises comply with all relevant requirements under the Health Act 1911. This is confirmed with an inspection by one of Councils Environmental Health Officers.
15. Section 40 Certificate is an approval by Council which states that the selling of liquor is in accordance with the existing planning approval issued by Council.
16. The Department for Racing, Gaming and Liquor will not accept any liquor licence application without a Section 40 Certificate being issued by Council's Planning Team supporting the application.
17. The request for an Extended Trading Permit to allow for the sale and supply of liquor without a meal has been assessed by the City's Development Services Planning and Health teams. This is being reported to OCM 20.04.2010 Item 13.1.1 as a separate item in the agenda with the Officer recommendation supporting the Extended Trading Permit application.

**DISCUSSION**

18. If small bar or tavern is approved as a permitted use under the lease by the Landlord, liquor licensing matters would not allow for this use to take place, without further approvals relating to liquor licensing also being sought from the City's Development team and the Department for Racing, Gaming and Liquor.
19. The Lessee would be required to lodge an application for planning scheme consent for change of use to include small bar or tavern.
20. Planning Officers have indicated they could not support a tavern or small bar licence for the leased premises in this location given Council's 'Licensed Premises – Guidelines For Various Issues' adopted at OCM 18.08.2009 Item 13.5.1. These guidelines are applied by City staff when dealing with proposals within or affecting licensed premises.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

21. Item 3 of these guidelines states that City staff:

*iii) 'Support applications for restaurants to use small bar licensed provided the licence area does not extend onto or incorporate public land (eg alfresco areas), the premises are not located adjacent to locations which have a high potential to be frequented by children (beaches, public parks, etc) and the licensed premises can be adequately demarcated;'*

22. As Calamari's At Beachside is situated on portion of Crown Reserve 26149 and located adjacent a playground and Middleton Beach frequented by children any planning scheme application could not simply be approved as requires community consultation before being returned to Council for consideration.

23. As such the request for the City of Albany as Landlord to include small bar and tavern as an approved use permitted in the lease is not supported by City staff as this may be perceived as an endorsement for such uses.

24. In the future should any application be received for small bar or tavern this would be assessed on its merits at the time and if viewed favourably the lease could then be varied to amend the permitted use.

25. Calamari's At Beachside operates as Albany's only speciality seafood restaurant providing more formal meals in the restaurant and more casual meals in the alfresco area. The premises is the only licensed restaurant facility within 3 kilometres of that location.

26. The restaurants profitability is centred on the facility operating as a restaurant and promotion as a high quality supplier of speciality seafood showcasing local produce.

27. Calamari's management places a strong emphasis on sourcing local produce and contributes to the community by way of employment of staff and utilisation of associated services.

28. Any development works will be subject to prior approval of the City of Albany as Landlord and the Building and Planning Department in the capacity as Local Authority.

29. All costs associated with the construction, maintenance and operations of the leased premises will be payable by the proponent.

30. Under any new lease the Lessee will be responsible for the entire leased premises together with all building repairs and maintenance including structural and electrical wiring.

31. The new lease rental will be determined by a current market valuation provided by an independent Certified Practicing Valuer, with rent reviews in line with Council's Policy - Property Management - Leases for this category of lease agreements.

32. The proposed new lease will be negotiated in line with Council's Policy – Property Management – Leases.

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

**PUBLIC CONSULTATION / ENGAGEMENT**

33. Section 3.58 of the Local Government Act 1995 deals with the disposal of property including leased land and buildings.
34. 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.
35. 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**

36. As this is Crown land, Ministerial approval is required.

**STATUTORY IMPLICATIONS**

37. Section 18 (1) of the Land Administration Act 1997 states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on Crown land.
38. As this is Crown land, under a Management Order H633658 issued to the City of Albany for the purpose of Recreation, Ministerial approval will be required.
39. Section 3.58 of the Local Government Act 1995 deals with the disposal of property, including leased land and buildings.

**FINANCIAL IMPLICATIONS**

40. All costs associated with the preparation and implementation of the surrender and new lease documentation will be borne by the proponent.
41. The new lease 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.
42. The new lease income will be directed to COA 140530 Income – Miscellaneous Commercial.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

***“Community Vision***

*Nil.*

***Priority Goals and Objectives***

**CORPORATE & COMMUNITY SERVICES REPORTS**

Item 14.11.1 continued.

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

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

**City of Albany Mission Statement**

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

**POLICY IMPLICATIONS**

44. Council adopted a Property Management - Leases Policy in 2007. This policy aims to ensure that all requests for leases, for whatever purpose, will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
45. The recommendation is consistent with Council’s Policy – Property Management – Leases.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

46. Council has the following options in relation to this item, which are:
  - a. Approve the request to surrender existing lease and replace with a new lease allowing for existing permitted use for restaurant and café only, or
  - b. Approve the request to surrender existing lease and replace with a new lease allowing for the permitted use for restaurant, café, small bar or tavern, or
  - c. Decline the request.
47. Should Council not support the request, the existing lease will remain static until expiry on 31 July 2017.

**SUMMARY CONCLUSION**

48. In view of the service such a facility provides to tourists and the community in a vicinity where this is lacking, at no cost to Council, the proposal to surrender the existing lease and simultaneously replace with a new lease with permitted use for restaurant and café only is recommended.

Item 14.11.1 continued.

**ITEM: 14.11.1 OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council subject to section 3.58 of the Local Government Act 1995 and section 18 of the Land Administration Act 1997 APPROVES the request to surrender the existing lease and simultaneously replace with a new lease to Skatt (WA) Pty Ltd as Trustee for the MacKenzie Family Trust trading as Calamari's At Beachside for a term of 21 years on Lot 651 portion of Reserve 26149 for the permitted use of restaurant and café.**

**The lease being in compliance with Council's Policy – Property Management – Leases, with the following conditions:**

- Any outstanding money due under the existing lease be paid prior to surrender;
- The lease term being 21 years commencing the day after surrender date;
- The rental will be determined by a current market valuation provided by an independent Certified Practising Valuer prior to the commencement of the new lease, with rent reviews in line with Council's Policy - Property Management - Leases for this category of agreement;
- The Lessee being responsible for all Leased Premises (land and buildings) maintenance including structural and electrical wiring;
- All relevant approvals granted prior to any development works;
- The Leased Premises operates in accordance with all liquor licensing conditions;
- All costs associated with the construction, maintenance and operations of the Leased Premises to be payable by the proponent; and
- All costs associated with the preparation, execution and implementation of the lease to be payable by the proponent.

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.12 – CORPORATE & COMMUNITY SERVICES COMMITTEE**

**ITEM NUMBER: 14.12.1**

**ITEM TITLE: SENIORS ADVISORY COMMITTEE MEETING MINUTES – 18 MARCH 2010**

**File umber or Name of Ward** : MAN 131 (All Wards)  
**Summary of Key Points** : Receive the minutes of the Seniors Advisory Committee.  
**Reporting Officer(s)** : Executive Director Corporate & Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee meeting minutes – 18 March 2010

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.1 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Senior Advisory Committee held on the 18 March 2010 be RECEIVED.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.2**  
**ITEM TITLE: COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY AND POLICY COMMITTEE MEETING MINUTES – 19 MARCH 2010**

**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 Meeting minutes – 19 March 2010

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM: 14.12.2 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Community and Economic Development Strategy and Policy Committee held on the Friday 19 March 2010 be RECEIVED.**

**ITEM: 14.12.2 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**ALBANY WELCOME WALL PROJECT**

**THAT Council INTRODUCES a moratorium on the grant category allocations under the Financial Assistance Program to the years 2010/11 and 2011/12 with the exclusion of rate rebates.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.3**

**ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES – 13 JANUARY 2010**

**File Number or Name of Ward** : STR 208 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Corporate and Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee Meeting minutes – 13 January 2010

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM: 14.12.3 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the CONFIRMED minutes of the 2014/15 Anzac Centenary Strategy Committee held on the Wednesday 13 January 2010 be RECEIVED.**



**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.4**

**ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES – 12 FEBRUARY 2010**

**File Number or Name of Ward** : STR 208 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Corporate and Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee Meeting minutes – 12 February 2010

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM: 14.12.4 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the CONFIRMED minutes of the 2014/15 Anzac Centenary Strategy Committee held on the Wednesday 12 February 2010 be RECEIVED.**

**ITEM: 14.12.4 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ACCEPTS the committee's recommendation that the committee investigate the feasibility of recruiting Ambassadors to support the 2014/15 ANZAC Centenary event.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.5**

**ITEM TITLE: 2014/15 ANZAC CENTENARY STRATEGY COMMITTEE MEETING MINUTES – 5 MARCH 2010**

**File Number or Name of Ward** : STR 208 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director Corporate and Community Services (WP Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee Meeting Minutes – 5 March 2010

**COUNCIL'S ROLE: EXECUTIVE FUNCTION**

**ITEM: 14.12.5 - COMMITTEE RECOMMENDATION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the CONFIRMED minutes of the 2014/15 ANZAC Centenary Strategy Committee meeting held on the Friday 5 March 2010 be RECEIVED.**

**ITEM: 14.12.5 - COMMITTEE RECOMMENDATION 2**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Council CONSIDER funding the instalment of safety railings at Mt Clarence, across the face of the monument for the 2010 ANZAC Dawn Service.**

**Officer's Comment (K Ketterer)**

This relates to an operational matter and has already been funded.

**ITEM: 14.12.5 - COMMITTEE RECOMMENDATION 3**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council APPROVE Colonel Robert Mitchell as the Master of Ceremonies for the opening of the ANZAC Peace Park.**

Item 14.12.5 continued.

**ITEM: 14.12.5 - COMMITTEE RECOMMENDATION 4**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council formally ensure the protection of reserve funds for the 2014/15 Centenary event and:**

- i) To ensure an allocation of \$10,000 each year to the 2014/15 Centenary event reserve each year to 2014.**
- ii) To allow the 2014/15 ANZAC Centenary Strategy Committee to allocate any unused funds allocated to the opening of the ANZAC Peace Park to be used for the development of a concept plan for the 2014/15 event.**
- iii) To ensure that the \$70,000 held in reserve is converted to a dedicated reserve account and removed from the budget line.**

**ITEM: 14.12.5 - COMMITTEE RECOMMENDATION 5**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council CONSIDERS allocating \$100,000 from the 2010/11 budget to the 2014/15 ANZAC Centenary Strategy Committee to support the development of the operational costs to plan for the 2014/15 ANZAC events.**

**Officer's Comment (P Wignall)**

- i) In 2006-2007, an amount of \$50,000 was transferred to the Anzac Centenary Reserve as a result of a November 2006 OCM resolution. An allocation of \$10,000 has been transferred to the Anzac Centenary Reserve in each subsequent year and will continue until 2014. This is achieved by including a budget line item 'Contribution to Anzac' under the Special Projects-Events budget.
- ii) As a general rule, un-spent funding set aside for operating projects such as the opening of the Anzac Peace Park will not be carried over for use in the next financial year. A new, fully costed allowance for the development of a concept plan for the 2014-2015 event would be required if it is to be included in the 2010-2011 Budget.
- iii) The amounts referred to in i) above are held in a dedicated reserve account. In order to allocate the yearly amount of \$10,000 to the dedicated reserve, it must be included as a budget line item.

**CORPORATE & COMMUNITY SERVICES REPORTS**

**ITEM NUMBER: 14.12.6**  
**ITEM TITLE: ALBANY TOWN HALL THEATRE ADVISORY COMMITTEE MINUTES – 19 AUGUST 2009**

**File Number or Name of Ward** : SER 047 (All Wards)  
**Summary of Key Points** : Committee Items for Council Consideration.  
**Reporting Officer(s)** : Executive Director of Community & Corporate Services (W P Madigan)  
**Disclosure of Interest** : Nil  
**Bulletin Attachment(s)** : Committee Meeting minutes - 19 August 2009

**COUNCILS ROLE: EXECUTIVE FUNCTION**

**ITEM 14.12.6 – COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the UNCONFIRMED minutes of the Albany Town Hall Theatre Advisory Committee held on Wednesday 19 August 2009 be RECEIVED.**

**CORPORATE & COMMUNITY SERVICES REPORTS**

**14.13 – COMMUNITY DEVELOPMENT**

Nil

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# **WORKS & SERVICES Reports**

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**WORKS & SERVICES REPORTS**

**15.0 REPORTS – WORKS & SERVICES**

**15.1 WASTE MANAGEMENT**

Nil

## 15.2 CAPITAL WORKS

ITEM NUMBER: 15.2.1

ITEM TITLE: PROPOSED ROUNDABOUTS AT LOT 3000, EMU POINT DRIVE

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

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

<b>File Number (Name of Ward)</b>	: SER086 (Breaksea Ward)
<b>Summary of Key Points</b>	: Principle support for land resumptions for installation of roundabouts on Emu Point Drive
<b>Land Description</b>	: Lot 3000 Emu Point Drive
<b>Proponent</b>	: Landcorp
<b>Owner</b>	: Nil
<b>Reporting Officer(s)</b>	: City Projects Finance Officer – J Ferry
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: Landcorp
<b>Previous Reference</b>	: Nil
<b>Bulletin Attachment(s)</b>	: Nil
<b>Consulted References</b>	: Nil
<b>Councillor Lounge</b>	: Nil

### Maps and Diagrams





**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

**BACKGROUND**

1. The City of Albany was briefed by Landcorp over their proposed development at Lot 3000 Emu Point Drive. From discussions the City of Albany expressed support for introduction of roundabouts on Emu Point Drive/ Griffith Street intersection and at the second access point of Emu Point Drive to the development, due to safety concerns.

**DISCUSSION**

2. Landcorp are prepared to accommodate the request on the proviso that the City of Albany undertake any land resumptions required, including negotiations with landowners.
3. Landcorp have advised that they need in principle support from Council to allow Landcorp to investigate the inclusion of roundabouts at the entrances of the proposed development on Emu Point Drive.

**PUBLIC CONSULTATION / ENGAGEMENT**

4. Should resumptions be required, in accordance with legislative requirements of the Land Administration Act, effected landowners will be consulted. Abutting landowners will be notified for comment and an advertising period for public comment will commence should Council agree.

**GOVERNMENT CONSULTATION**

5. Should resumptions be needed, in accordance with the provisions of the Land Administration Act, all public utilities would be consulted and their comments included in any assessment of the proposal.

**STATUTORY IMPLICATIONS**

6. Under the Land Administration Act 1997, section 56, Dedication of Roads –  
*“(1). If in the district of a local authority –*
  - (a) land is reserved or acquired for use by the public, or is used by the public, as a road under care, control and management of the local government;*
  - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*
    - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or*
    - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so; or*
  - (c) land comprises a private road of which the public has had uninterrupted use for a period not less than 10 years, and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.”*

**WORKS & SERVICES REPORTS**

Item 15.2.1 continued.

**FINANCIAL IMPLICATIONS**

7. The proposed resumptions will have minimal cost implications to the Council as they involve mainly Crown Reserves (no cost) and a small area (± ) of private land at the Griffith Street/ Emu Point Intersection.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“4. Governance.....*

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

10. In the interest of public safety it is recommended that Council approve the two roundabouts with the appropriate road resumptions. As the Landcorp development has not been finalised, Council provide in principle support for the safety measures to enable them to be incorporated in the final proposal.
11. Once Landcorp has finalised its development proposal, which identifies the exact resumption components a further item will be put to Council to formalise these acquisitions for road purposes

**SUMMARY CONCLUSION**

12. Should the Council agree in principle to allow the works, Landcorp will investigate the inclusion of the roundabouts at the entrances of the proposed development on Emu Point Drive.
13. Once the land resumptions are identified, Landcorp will seek Councils approval to formalise this action in accordance with section 56 of the Land Administration Act.

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

**THAT Council:**

1. **AGREE** in principle for Landcorp to undertake investigating the provision of roundabouts on Emu Point Drive relating to their proposed project on Lot 3000, Emu Point Drive.
2. **CONFIRM** that Council will arrange for all land administration involved with the inclusion of roundabouts.
3. **CONFIRM** that Council will bear the costs of the land acquisitions.

**WORKS & SERVICES REPORTS**

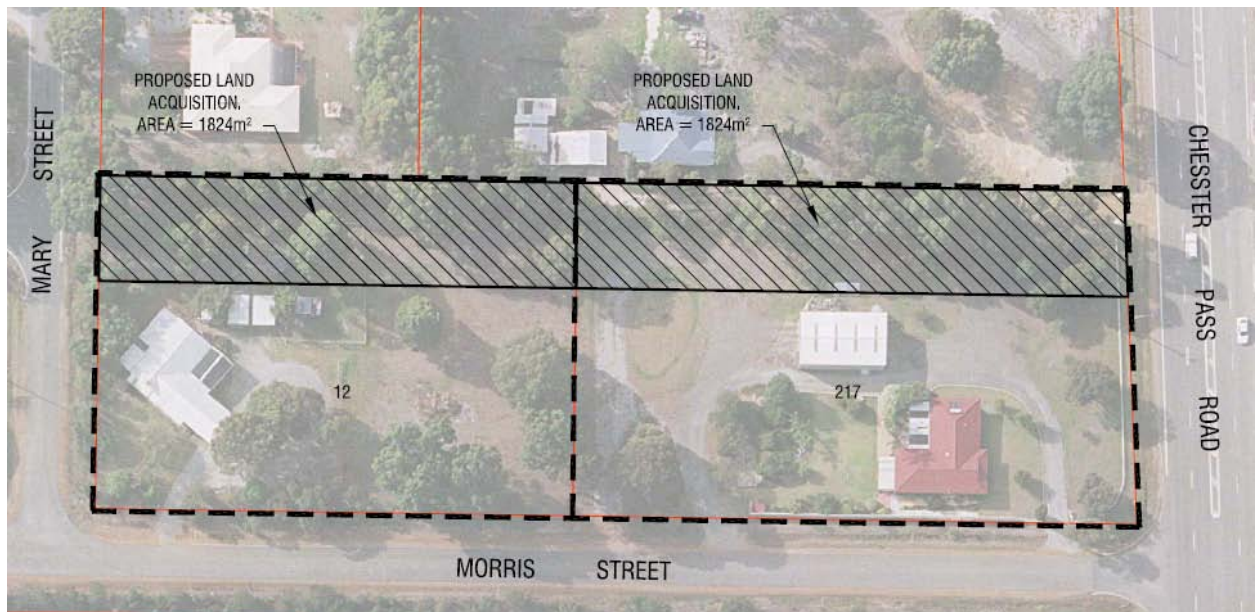
**ITEM NUMBER: 15.2.2**

**ITEM TITLE: PROPOSAL TO CLOSE PORTION OF GILL ROAD, MILPARA**

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

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

<b>File Number (Name of Ward)</b>	: SER088 (Kalgan Ward)
<b>Summary of Key Points</b>	: Proposal to close portion of Gill Road, Milpara
<b>Land Description</b>	: Portion Gill Road
<b>Proponent</b>	: G and O Parnell
<b>Owner</b>	: Crown
<b>Reporting Officer(s)</b>	: City Projects Finance Officer – J Ferry
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: Nil
<b>Previous Reference</b>	: Nil
<b>Bulletin Attachment(s)</b>	: Nil
<b>Consulted References</b>	: Nil
<b>Councillor Lounge</b>	: Nil
<b>Maps and Diagrams</b>	:



**WORKS & SERVICES REPORTS**

Item 15.2.2 continued.

**BACKGROUND**

1. An application has been received from Mr and Mrs Parnell to seek closure of portion of Gill Road Milpara and its subsequent sale, as the land in question is not used and has been maintained by the landowner.

**DISCUSSION**

2. Staff have investigated the request, and have identified the portion of land is an extension of a road reserve which is not required for future development.
3. A portion of Gill Road runs adjacent to Mr and Mrs Parnell's properties (12 Morris Street and 217 Chester Pass Road) and is unused road reserve.
4. The portion of road reserve under consideration abuts Mr and Mrs Parnell's properties and is covered in remnant bush.

**PUBLIC CONSULTATION / ENGAGEMENT**

5. The request for the closure of portion of Gill Road has been proposed by an abutting landowner, and should Council agree to the request, other affected landowners would be consulted, in accordance with legislative requirements of the Land Administration Act.

**GOVERNMENT CONSULTATION**

6. In accordance with the provisions of section 58 of the Land Administration Act, all public utilities would be consulted and their comments included in any assessment of the proposal.

**STATUTORY IMPLICATIONS**

7. Section 58 of the Land Administration Act, 1997, - Closure of Roads -  
*“(1). When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*  
*(2) When a local government resolves to make a request under subsection (1), the local authority must in accordance with the regulations prepare and deliver the request to the Minister.*  
*(3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*  
*(4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) –*
  - a. By order grant the request;*
  - b. Direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction;*  
*or*
  - c. Refuse the request.*

**WORKS & SERVICES REPORTS**

Item 15.2.2 continued.

- (5) *If the Minister grants a request under subsection (4) –*
- a. *The road concerned is closed on and from the day on which the relevant order is registered; and*
  - b. *Any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road –*
- a. *Becomes unallocated Crown land; or*
  - b. *If a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.”*

**FINANCIAL IMPLICATIONS**

8. There are no financial implications for Council, as the subsequent sale of the road reserve would be via the Crown and abutting landowners.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“4. Governance.....*

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

11. Council has the following options in relation to the proposal:
- a) Seek approval for the closure of portion of Gill Road, Milpara, or
  - b) Decline the request and leave the land as road reserve.

**SUMMARY CONCLUSION**

12. Should the Council agree to the closure of portion of Gill Road, Milpara the ongoing maintenance of the land would become the responsibility of the landowners.
13. It is recommended, that portion of Gill Road be closed in accordance with the provisions of the Land Administration Act, as it has been identified that the road reserve is not required for future development.

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

**THAT Council:**

- 1. **In accordance with the provisions of section 58 of the Land Administration Act, agrees to the closure of portion of Gill Road, Milpara (3,); and**
- 2. **Should there be no objections to the closure, staff proceed with the administrative requirements.**

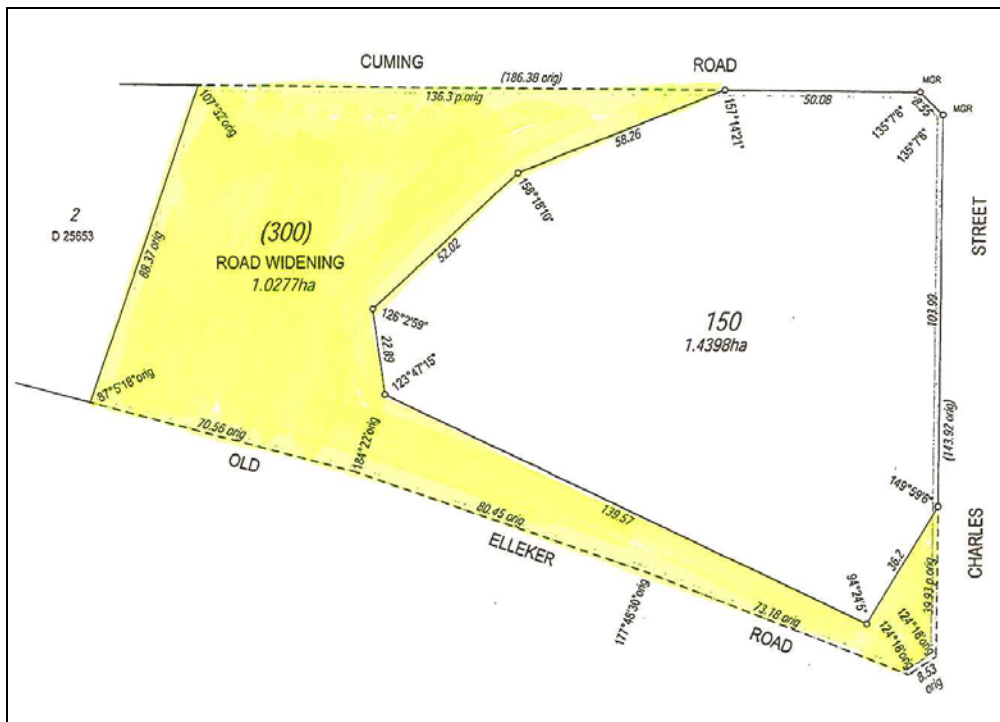
**WORKS & SERVICES REPORTS**

**ITEM NUMBER:** 15.2.3  
**ITEM TITLE:** DEDICATION OF CITY OF ALBANY LAND AS ROAD - ALBANY RING ROAD

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

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

- File Number (Name of Ward)** : SER086 (West Ward)
- Summary of Key Points** : Council’s approval to dedicate portion of land as road for the construction of Albany Ring Road
- Land Description** : Lot 1 Old Elleker Road
- Proponent** : Main Roads
- Owner** : City of Albany
- Reporting Officer(s)** : City Projects Finance Officer – J Ferry
- Disclosure of Interest** : Nil
- Business Entity Name** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Nil
- Consulted References** : Nil
- Councillor Lounge** : Nil
- Maps and Diagrams** :



**WORKS & SERVICES REPORTS**

Item 15.2.3 continued.

**BACKGROUND**

3. Main Roads purchased the portion of Lot 1 Old Elleker Road for the purposes of constructing the Albany Ring Road.
4. As per the Land Administration Act, a local authority is required to formally support the dedication of any land acquired for local, reserve purposes.

**DISCUSSION**

5. Part of the highway falls within the district of the City of Albany and Main Roads is seeking approval from the Council to dedicate that land as a road reserve for the construction of the Albany Ring Road.

**PUBLIC CONSULTATION / ENGAGEMENT**

6. There is no public consultation relating to this item.

**GOVERNMENT CONSULTATION**

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

**STATUTORY IMPLICATIONS**

8. Under the Land Administration Act 1997, section 56, Dedication of Roads –  
*“(1). If in the district of a local authority –*
  - (a) land is reserved or acquired for use by the public, or is used by the public, as a road under care, control and management of the local government;*
  - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government –*
    - (iii) the holder of the freehold in that land applies to the local government, requesting it to do so; or*
    - (iv) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so; or*
  - (c) land comprises a private road of which the public has had uninterrupted use for a period not less than 10 years, and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.”*

**FINANCIAL IMPLICATIONS**

9. Main Roads has indemnified the Council against all costs and charges in respect to the dedication action.

**WORKS & SERVICES REPORTS**

Item 15.2.3 continued.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

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

*“4. Governance.....*

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

12. Council may decline the request, but that action would result in Main Roads not being able to construct the full length of the proposed Albany Ring Road.

**SUMMARY CONCLUSION**

13. Should the Council agree to the dedication of land as road, Main Roads would comply with the provisions of the Land Administration Act 1997, dedicating the land as a road reserve, and be able to proceed with the construction of the Albany Ring Road.

**ITEM 15.2.3 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council APPROVES the dedication of land, being Lot 1 Old Elleker Road, as road in accordance with Section 56 of the Land Administration Act.**



## WORKS &amp; SERVICES REPORTS

**ITEM NUMBER:** 15.2.4  
**ITEM TITLE:** CONTRACT C10001 – PROVISION OF ENGINEERING CONSULTANCY SERVICES FOR ASSET MANAGEMENT PLAN – DRAINAGE DEVELOPMENT

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

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

<b>File Number or Name of Ward</b>	: C10001 (All Wards)
<b>Summary of Key Points</b>	: Provision of Engineering Consultancy Services for Works Contributing to the Development of an Asset Management Plan – Drainage.
<b>Land Description</b>	: Oyster Harbour West Bank Drainage Catchment.
<b>Proponent</b>	: Nil
<b>Owner</b>	: Nil
<b>Reporting Officer(s)</b>	: Manager City Assets (P Brown)
<b>Disclosure of Interest</b>	: Nil
<b>Business Entity Name</b>	: Opus International Consultants (PCA) Ltd
<b>Previous Reference</b>	: Asset Management Policy and Asset Management Improvement Strategy (OCM 13.2.1 16/06/09)
<b>Bulletin Attachment(s)</b>	: Sub-Catchment Boundary Map
<b>Consulted References</b>	: Nil
<b>Councillors Lounge</b>	: Nil

**BACKGROUND**

1. The City of Albany has a diverse range of hydrological conditions across seven (7) main urban catchments. These catchments have been studied intermittently with various flood modelling activities being completed. There has also been staged development of drainage systems since the City's first settlement that has led to a range of systems being created over time to differing standards.
2. The consultancy work associated with this contract will result in the data collection, condition assessments and gap identification in our existing catchment of Oyster Harbour West Bank to allow for the development of an Asset Management Plan – Drainage as set out in the WAAMI initiatives, the City's Asset Management Policy and the Asset Management Improvement Strategy.
3. Council resolved at its Ordinary Meeting of Council on February 2008 to participate in the Western Australian Asset Management Improvement (WAAMI) Programme which is being supported by the Western Australian Local Government Association (WALGA), Department of Local Government and Regional Development (DLGRD), Local Government Municipal Association (LGMA) and the Institute of Public Works Engineers Australia (IPWEA).

**WORKS & SERVICES REPORTS**

Item 15.2.4 continued

**DISCUSSION**

4. The tender was advertised in the West Australia newspaper on February 2010, Albany Advertiser on February 2010, the Albany Extra on February 2010 and the City of Albany's website. Twenty five (25) tender documents were downloaded from the City's website, however only one tender was received with the following result;

<b>Company</b>	<b>Cost</b>
Opus International Consultants (PCA) Ltd.	\$185,515

5. The tender document was considered using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine and overall point score for each tender. The criteria used for this tender is documented below.

<b>Criteria</b>	<b>Weighting</b>
Cost	30%
Demonstrated organizational experience in similar works including current staff resumes showing qualifications and related industry experience.	30%
Methodology showing a step by step approach to project and programme management	20%
Quality / Risk / Safety – provide details of quality (internal system and / or externally audited). Provide details of any safety and risk management plans. Information should be project specific.	20%

6. The following table summarizes the submission evaluated for consideration

<b>Company</b>	<b>Weighting</b>
Opus International Consultants (PCA) Ltd.	700

7. The Opus submission was very comprehensive with only minor points of clarification being related to the format of data to suit the City's existing GIS requirements.
8. The scope of services can be summarized, but not limited to, the following;
- Collection of outstanding data to 'D' Spec and City standards for Oyster Harbour West Bank catchment;
  - Delivery of data for incorporation into the City's GIS system including visual inspections on age and condition;
  - Condition analysis of existing systems over the Oyster Harbour West Bank Catchment;
  - Schematic designs for upgrade and renewal;
  - Presentation of schematic designs and consultation with the City.

**PUBLIC CONSULTATION / ENGAGEMENT**

9. There has been no public consultation associated with the item

**GOVERNMENT CONSULTATION**

10. There has been no government consultation associated with the item

**STATUTORY IMPLICATIONS**

**WORKS & SERVICES REPORTS**

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

**FINANCIAL IMPLICATIONS**

12. This project is funded under the 200/10 financial year budget (\$200,000 - Job no.1512)

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

13. In accordance with Albany Insight ~ Beyond 2020  
*“Item 4 Governance  
4.2 Manage our municipal assets to ensure they are capable of supporting our growing community.”*

**POLICY IMPLICATIONS**

14. This contract aligns with the City's Asset Management Policy and Improvement Strategy.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

15. There are no alternative options or legal implications associated with this item.

**SUMMARY CONCLUSION**

16. There has been significant works undertaken using internal resources over the past years and this external resource will be complimentary and complete our asset management work catchment by catchment. This can be considered our first stage of works for the development of a comprehensive asset management plan for drainage.

**ITEM NUMBER: 15.2.4 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council AWARD the tender C10001 for the Engineering Consultancy Service associated with the Asset Management Plan – Drainage to Opus International Consultants (PCA) Ltd for the sum of \$185,515 excluding GST.**

**WORKS & SERVICES REPORTS****ITEM NUMBER: 15.2.5****ITEM TITLE: FINAL ADOPTION OF THE ASSET MANAGEMENT PLAN - ROADS****THE NATURE OF COUNCIL'S ROLE IN THIS MATTER**

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

<b>File Number or Name of Ward</b>	: All Wards
<b>Summary of Key Points</b>	: Final adoption of Asset Management Plan – Roads
<b>Land Description</b>	: City of Albany Municipality
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Manager City Assets (P Brown)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: OCM Item 15.2.1 (19/01/10)
<b>Bulletin Attachment(s)</b>	: Asset Management Plan – Roads
<b>Consulted References</b>	:
<b>Maps and Diagrams</b>	: Nil

**BACKGROUND**

1. Council originally adopted the Asset Management Strategy – Roads in May 2001 for new and renewal management of our road network. This could have been considered an upgrade strategy that dealt with:
  - setting roads standards,
  - identifying gaps in the network, and;
  - presenting a priority ranking for upgrade i.e. sealing of gravel roads, widening and reconstruction activities
2. In July 2002, Council also adopted an Asset Management Strategy – Road Preservation. This strategy outlined the following additional matters associated with preservation such as intervention methodology for preserving the road assets i.e. reseals, surface corrections and gravel re sheets.
3. These original documents have been the guiding documentation since adoption in May 2001. Although the previous plan has remained a useful document, today it is necessary to review our strategy to take into account the changes in population, demographics and City development. There has also been the opportunity to review our asset management activities with the knowledge and experience of a state wide approach that has been offered by the Western Australian Asset Management Improvement Programme (WAAMI).
4. Council resolved at its Ordinary Meeting of Council on February 2008 (Item 13.1) to participate in the Western Australian Asset Management Improvement (WAAMI) Programme which is being supported by the Western Australian Local Government Association (WALGA), Department of Local Government and Regional Development (DLGRD), Local Government Municipal Association (LGMA) and the Institute of Public Works Engineers Australia (IPWEA).

**DISCUSSION**

5. This new Asset Management Plan – Roads takes into account the changes in population, demographics and City development. It also provides an overall picture of the City's liabilities in relation to new road requirements, renewal and maintenance activities over a five (5) year period.

**WORKS & SERVICES REPORTS**

Item 15.2.5 continued

**PUBLIC CONSULTATION / ENGAGEMENT**

6. The document was advertised on February 2010 to seek comment on the plan. Only one response was received from the South West Land and Sea Council. The content of the response was to remind the City of its obligations under the Aboriginal Heritage Act 1972 when undertaking works on the City reserves and stated particular roads of concern. The City has in place an Aboriginal Accord Strategy and all works are undertaken under the commitments in this document.

**GOVERNMENT CONSULTATION**

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

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

10. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan

*“Item 4 Governance*

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

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

**WORKS & SERVICES REPORTS**

Item 15.2.5 continued

**ITEM: 15.2.5 - OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ADOPT the Asset Management Plan – Roads.**

**WORKS & SERVICES REPORTS**

**ITEM NUMBER: 15.2.6**  
**ITEM TITLE: FINAL ADOPTION OF THE FLOOD MANAGEMENT STRATEGY**

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

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

<b>File Number or Name of Ward</b>	: All Wards
<b>Summary of Key Points</b>	: Final Adoption of the Flood Management Strategy
<b>Land Description</b>	: N/A
<b>Proponent</b>	: N/A
<b>Owner</b>	: N/A
<b>Reporting Officer(s)</b>	: Manager City Assets (P Brown)
<b>Disclosure of Interest</b>	: Nil
<b>Previous Reference</b>	: Works and Services Committee Minutes (OCM 20/10/09 Item 15.4.1)
<b>Bulletin Attachment(s)</b>	: Flood Management Strategy
<b>Consulted References</b>	: N/A
<b>Maps and Diagrams</b>	: Nil

**BACKGROUND**

1. In April 2005 and November 2008 the City experienced extreme rainfall events that caused significant damage to private property and civil infrastructure.
2. Repair and maintenance works were undertaken to ensure safety and functionality could be resumed as soon as possible. This Flood Management Strategy covers outstanding works that require design, scoping, project management and construction.

**DISCUSSION**

3. These events have raised the importance of the City’s need to address drainage issues using sound asset management principles to ensure that deficiencies in drainage systems are fully identified, prioritised for remediation and communicated to the community and Council via this Flood Management Strategy document.
4. It is anticipated that the implementation of this strategy will be in effect for two (2) years and form part of a suite of documents that support the development of an overall Asset Management Plan – Drainage that is scheduled for completion in January 2010.

**PUBLIC CONSULTATION / ENGAGEMENT**

5. The draft document was advertised for a period of 21 days January/February 2010. No comments were received.

**WORKS & SERVICES REPORTS**

Item 15.2.6 continued

**GOVERNMENT CONSULTATION**

6. Consultation will be undertaken with key government stakeholders including the Department of Water (DOW) and the Department of Environment and Conservation (DEC).

**STATUTORY IMPLICATIONS**

7. Under the Local Government Act 1995 – Schedule 3.2 outlines the City's responsibility to undertake drainage activities.

**FINANCIAL IMPLICATIONS**

8. The November 2008 event was also declared a disaster by the Fire and Emergency Authority of Western Australia (FESA) and under the Western Australia Natural Disaster Relief and Recovery Arrangements (WANDARRA), the City has applied for \$270,000 for the repair works undertaken to date. Potential additional funding may be recouped using the Category B section of the eligible claims under the WANDARRA programme. This category relates to betterment and counter disaster projects that may be approved as prevention measures.
9. The City of Albany 2009/2010 budget includes and allocation of \$ 1,000,000 to tackle to worst effected flood issues. These funds will be allocated in accordance with the priorities established in this Flood Management Strategy.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

10. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan  
*Item 4 Governance*  
*4.2 Manage our municipal assets to ensure they are capable of supporting our growing community.*

**POLICY IMPLICATIONS**

11. This strategy aligns with the City's Asset Management Policy.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

13. The adoption of this strategy will provide direction for staff to manage the priorities associated with flood events. While specifically targeted at the past flood events and the resulting data collected, any new events can be categorized and systematically managed based on the criteria in the strategy.

**ITEM 15.2.6- OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT: Council ADOPT the Flood Management Strategy.**

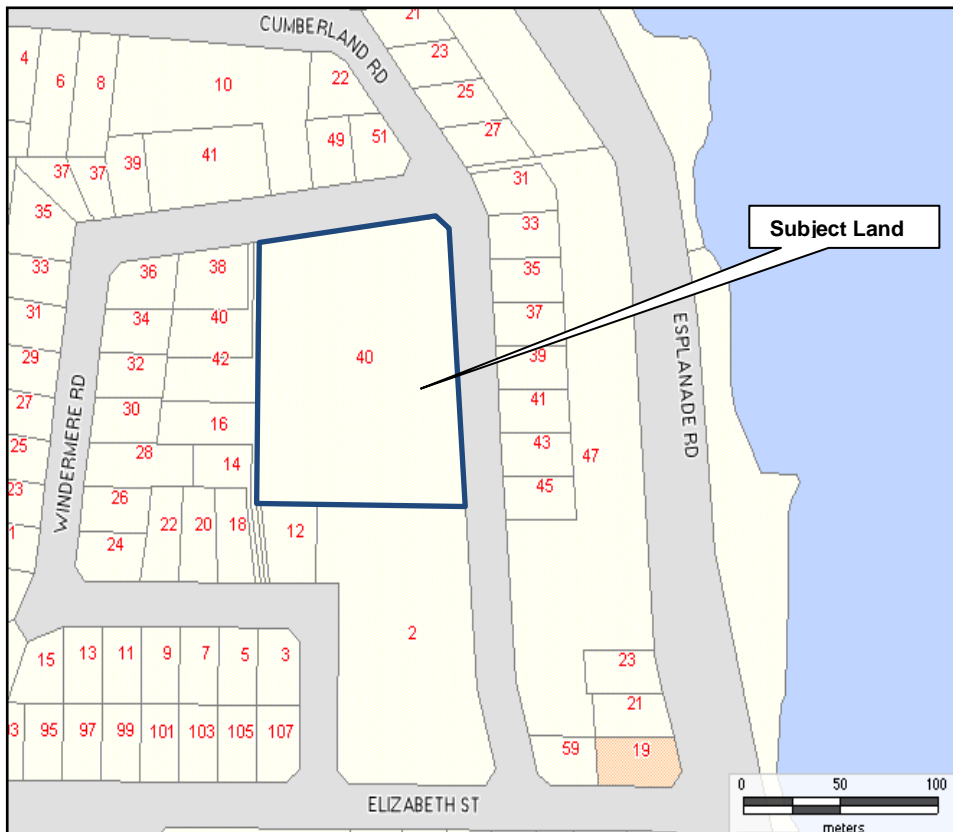


**ITEM NUMBER:** 15.2.7  
**ITEM TITLE:** DRAFT ANCHORAGE PARK CONCEPT LANDSCAPE PLAN

**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** : MAN108 (Kalgan Ward)
- Summary of Key Points** : Receive the draft concept landscape plan for Anchorage (Yoorl) Park and release it for public comment
- Land Description** : 50 Windemere Road, Lower King
- Proponent** : City of Albany
- Owner** : Crown Reserve (R43484) (Vested with the City of Albany)
- Reporting Officer(s)** : Reserves (Bush and Coastal) Officer (A. Tucker)
- Disclosure of Interest** : Nil
- Previous Reference** : Nil
- Bulletin Attachment(s)** : Anchorage (Yoorl) Park Landscape Concept Plan, 2009
- Consulted References** : Nil
- Councillors Lounge** : Nil
- Maps and Diagrams** :



**WORKS & SERVICES REPORTS**

Item 15.2.7 continued

**BACKGROUND**

1. Anchorage Park is part of a broader site complex in and around Oyster Harbour in Albany and has been identified by the traditional owners of Albany as an important heritage site with significant historical, archaeological, cultural and ecological values that require protection and restoration.
2. The site was used traditionally prior to the development of the adjoining housing estate as a camping area near the foreshore. A recent archaeological excavation of the site revealed evidence of stone artefacts and ochre 12,500 years old.
3. Due to its significance to the Noongar community, this is a valuable heritage promotion, restoration and rehabilitation project.

**DISCUSSION**

4. A landscape concept plan has been developed by Sally Malone and Helen Leighton on behalf of the Department of Indigenous Affairs. This plan has been developed in consultation with representatives from the local Noongar community (including Elders), City of Albany staff and the immediate neighbours of the park.
5. The objective of the concept landscape plan is to establish a site that represents and acknowledges two very significant cultural sites. One is an adjacent archaeological 'scatter' site which has recently been estimated to be 12,500 years old (DIA Registered Site #21498) and the second is an area within the park itself that is a traditional use cultural site known as Knapp's camp (DIA Registered Site #22555). There are also proximity links to other sites including the Oyster Harbour Fish Traps.
6. The plan provides an integrated design for the park, of which the basis was drawn up by Noongar Elders. The plan has been broken down into a 3 stage plan, with minor landscape enhancements (weed management and revegetation works, install car parks and bollards around the boundary), stage 1 landscape enhancement and interpretation (install pathways and boardwalk over water, install picnic tables and barbeques and undertake improvements to playground area), stage 2 landscape enhancement and interpretation (complete pathways, install fountains, create a safe haven fauna island).
7. The plan provides an integrated design and presents implementation options that if implemented will transform Anchorage Park into a high profile culturally aware and significant site that can be enjoyed by the Noongar and non-noongar community alike.

**PUBLIC CONSULTATION / ENGAGEMENT**

8. The concept landscape plan has been developed in conjunction with local Noongar Elders, and the immediate park neighbours. The plan, once received by Council, will be published for wider public comment for a period of 21 days.

**GOVERNMENT CONSULTATION**

9. The concept landscape plan has been developed for the Department of Indigenous Affairs and is supportive of the plan and its contents.

**WORKS & SERVICES REPORTS**

Item 15.2.7 continued

**STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

11. The Albany Heritage Reference Group Aboriginal Corporation (AHRGAC) has prepared a \$100,000 funding bid to the Australian Government Indigenous Heritage Project for the cost of interpretation and public art components of the plan.

12. Ongoing costs for maintenance and renewal will be the responsibility of the City of Albany. The park will be recognised within the Asset Management Plan Reserves (Developed) which is currently in draft form and will be presented to Council at the OCM of 21/05/10.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

13. In accordance with Albany Insight ~ Beyond 2020 Strategic Plan, the Anchorage (Yoorl) Park Concept Landscape Plan achieves the following strategic objectives;

*“Item 1 – Lifestyle & Environment*

*Albany will be a City where...*

- *Our cultural and artistic communities are valued, celebrated and supported*

*Development...*

- *Responds to our unique historical and environmental values;*
- *Incorporates healthy lifestyle activities and access to green space.*

*Item 4 – Governance*

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

- *Deliver excellent community services that meet the needs and interests of our diverse communities”*

**POLICY IMPLICATIONS**

14. There is no policy implications associated with this item.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

16. It is recommended that the draft Anchorage Park concept landscape plan be received by Council.

**WORKS & SERVICES REPORTS**

Item 15.2.7 continued

**ITEM: 15.2.7- OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVES the draft Anchorage (Yoorl) Park concept landscape plan and seeks stakeholder and public comment for a period of 21 days and if there are no objections, adopt the final plan, as tabled.**

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**GENERAL MANAGEMENT  
SERVICES  
Reports**

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**GENERAL MANAGEMENT SERVICES REPORTS**

**16.1 STRATEGIC DEVELOPMENT**

Nil

**16.2 ORGANISATION DEVELOPMENT**

Nil

**16.3 CORPORATE DEVELOPMENT**

Nil

## GENERAL MANAGEMENT SERVICES REPORTS

## 16.4 CORPORATE GOVERNANCE

ITEM NUMBER: 16.4.1

ITEM TITLE: CITY OF ALBANY RESPONSE TO MINISTERS RECOMMENDATIONS

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

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

<b>File Number (Name of Ward)</b>	:	STR248 (All Wards)
<b>Summary of Key Points</b>	:	Review recommendations of Minister Castrilli
<b>Reporting Officer(s)</b>	:	Acting Chief Executive Officer (P Madigan) Executive Manager Business Governance (S Jamieson)
<b>Disclosure of Interest</b>	:	Nil
<b>Business Entity Name</b>	:	Not applicable.
<b>Previous Reference</b>	:	SCM 09/03/2010 OCM 16/02/2010 – Item 19.1 OCM 15/12/2009 – Item 18.2
<b>Bulletin Attachment(s)</b>	:	Nil
<b>Consulted References</b>	:	Local Government Act 1995 Inquiry into the City of South Perth, sourced at: <a href="http://dlg.wa.gov.au/Docs/SouthPerthInquiryLessons.pdf">http://dlg.wa.gov.au/Docs/SouthPerthInquiryLessons.pdf</a>
<b>Councillor Lounge</b>	:	Memorandum to Mayor and Councillors, Ref: MM1011566

## BACKGROUND

1. As a result of the correspondence received from the Minister for local Government, Jon Castrilli, MLA at the Ordinary Council meeting held on the 2010, Council resolved to call a special council meeting on the 09 Mar 10 for the purpose of defining appropriate terms of reference to guide and facilitate:
  - a. A full review of the Development Services Department (processes and procedures) by an independent consultant who would report his/her conclusions and recommendations to Council;
  - b. A review of the adequacy of and adherence to the City's general management policies and procedures by staff and Councillors where applicable; and
  - c. Mentoring and assistance for the Mayor and CEO in meeting processes and procedures.
2. The special meeting resolved to lay this item on the table and a report be presented to the April ordinary council meeting.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

**DISCUSSION**

3. There are two separate, but complimentary processes, which should be run in tandem, being:

**Best Practice Review**

4. The first process is the 'Better Practice Review' being conducted by the Department of Local Government This review will examine and report on the effectiveness and efficiencies of the City's operations with particular focus on the City's planning and financial processes.
5. This review has already commenced with initial interviews conducted.
6. A team from the Department will be present at the City's offices from 6 April 10 to gather information on processes and procedures. A final report will be prepared on the findings, with recommendations for improvement.
7. The whole process is expected to take up to 3 months.

**Full Review of Development Services**

8. The second processes relates to the request by the Minister, which recommended a full review of the Development Services department (processes and procedures) by an independent consultant who would report his/her conclusions and any recommendations for improvement direct to Council.
9. Draft terms of reference for the appointment of a consultant have been prepared and distributed to the elected group by Memorandum on the 1st April 2010. (Reference: STR238/MM1011566).
10. The overall objective is to ensure:
  - a. an efficient and effective serviced delivery, to both external and internal customers, is being achieved on a consistent basis; and
  - b. any recommendations from the Department of Local Governments' 'Best Practice Review' are implemented.



**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

11. The proposed terms of reference for the project (consultant) would be to prepare a report for the City of Albany, including recommendations for suitable improvements, on but not limited to, the following:
  - a. a review of the assessment procedures used for the range of applications processed by the Planning Services Team;
  - b. a review of delegated authority to determine whether the Planning Services Team have adequate delegated authority to effectively assess and approve/refuse development applications;
  - c. the identification of any gaps in the Planning Services team service delivery;
  - d. a review of the City's planning policies for relevancy and ease of application;
  - e. a review of the effectiveness of the Technical Advisory Group;
  - f. a review of the report writing processes and the effectiveness of the information provided to Council for consideration;
  - g. a review of the information provided to applicants;
  - h. a review of the existing statistical reports to ensure KPIs and other indicators can be effectively measured and meaningful information is produced; and
  - i. liaise with the Department of Local Government 'Better Practice Review' team throughout the process.
  
12. It would be recommended that Royal Australian Planning Institute and the Western Australian Planning Commission (WAPC) be requested to submit a list of names of suitably qualified and experienced planning personnel to the City, setting out details of such qualifications and experience, and the City select the consultant considered most appropriate to undertake the consultancy from this list of names.

**Mentoring and assistance**

13. The Minister also recommended that mentoring and assistance for the Mayor in meeting processes and procedures be implemented, and the Department has offered to undertake the organisation of this program on our behalf.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

**Conflict and complaint resolution**

14. The Report of the inquiry into the City of South Perth (2006) pointed out that:

*“Throughout the course of this inquiry it has become apparent that there are a number of behavioural issues that are having an adverse effect on Council business and the working relationships between elected members and each other, and elected members and the CEO. The continued promotion and perpetuation of those issues could result in a breakdown in working relationships, which could ultimately lead to a failure of Council to provide good government. This is an undesirable outcome however it is incumbent on Council to avoid such an outcome.”*

*“A professional mediator, selected from a list of suitably qualified persons the Department has approved of, should be appointed to assist Council in resolving these issues. Elected members must take responsibility for their own actions and behaviour, as well as the behaviour of others. A mediation process will assist Council in achieving this.”*

15. One of the recommendations from this Report was that Council appoint a professional mediator to moderate the relationship conflicts between elected members and the Administration, and that the mediator be appointed from a list of suitable persons approved by the Department of Local Government.

**Recommendation to Council:** The City appointments a professional mediator to deal with conflicts on Council.

16. The Report into the City of South Perth recommended the appointment of an independent complaints officer:

*“Code of conduct complaints that have been made concerning the actions of elected members and staff, should be referred to an independent assessor, who is external to the City. This is to remove any apprehension of bias toward one part over another; determination of Code of Conduct complaints at the City usually rest with the:*

- *CEO (for staff matters);*
- *The Mayor (for Councillors); and*
- *The Deputy Mayor (for the Mayor)*

*Such an arrangement is, in the Inquiry’s view, problematic as the Code of Conduct complaints currently in progress at the City involve both the CEO and elected members on an adversarial basis”.*

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

17. The City of South Perth report subsequently recommends that:

*“Where code of Conduct complaints are about the Mayor, an elected member or the CEO, those complaints should be referred to an independent person for assessment, appointed with the approval of the Department of Local Government. Subsequent to the local Government (Official Conduct) Amendment Act 2007 being gazetted, the assessment and determination of Code of Conduct matters concerning elected members be in accordance with the process and procedures of that legislation.”*

**Recommendation to Council:** The appointment of an independent complaints assessor to deal with allegations raised by councillors.

**PUBLIC CONSULTATION / ENGAGEMENT**

18. Nil

**GOVERNMENT CONSULTATION**

19. Consultation has been conducted with the Department of Local Government, in regards to the appointment of a complaints assessor. It was understood from this consultation that:

- a. The appointment of a complaints officer under s5.37 of the Act is to specifically deal with complaints submitted under the Official Conduct legislation, should not be confused with 'general' complaints made under the local government's Code of Conduct.
- b. In other words, there is a difference between complaints made under the Code of Conduct and those made under the Official Conduct legislation (Local Government (Rules of Conduct) Regulations 2007).
- c. The latter can only be received by the 'Complaints officer' appointed under s5.37 which stipulates the person must be a senior officer. It is possible to contract a person to fill this position but they would need to be designated a 'senior employee'.
- d. The local resolution component is considered an efficient and effective means of dealing with complaints. This of course does not prevent the complainant from making a complaint to other appropriate bodies such as CCC, Standards Panel (through the CEO or designated senior officer) and the Department.
- e. It should be also noted that the official conduct legislation was not enacted during the City of South Perth issues and the complaints officer dealt with Code of Conduct issues only.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

**STATUTORY IMPLICATIONS**

- 20. Local Government Act 1995, Part 8, Division 2 Under section 8. Scrutiny of the affairs of local governments.
- 21. Local Government Act 1995, Part 5 Administration, Division 9. Conduct of certain officials.
- 22. In accordance with s.5.120, Local Government Act 1995, being:

**“5.120. Complaints officer.** (1) *Each local government is to designate a senior employee, as defined under section 5.37, to be its complaints officer.*  
 (2) *If a local government does not have any other person as its complaints officer, the person holding office as, or acting as, its CEO is its complaints officer.”*

**5.37. Senior employees.** (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*  
 (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO’s recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*  
 (3) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*  
 (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*  
 (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.”*

**FINANCIAL IMPLICATIONS**

- 23. There are significant financial implications for the City by complying with the Ministers recommendations.
- 24. It is not unreasonable to suggest a total budget of \$60 000 dollars be allocated on an annual basis:

<b>Item</b>	<b>Budget</b>
	<b>\$</b>
Mediation Services (inc. Conduct)	\$30 000
Review of Development Services	\$30 000
<b>Total</b>	<b>\$60 000</b>

- 25. As no budget has been allocated Absolute majority is required.
- 26. It is recommended that this sum is provided in the 2009/2010 Budget as a provision amount.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

**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.*

**POLICY IMPLICATIONS**

28. If Council resolves to refer conduct complaints to an independent assessor, this should be encapsulated in the City of Albany's Code of Conduct policy.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

**Professional mediator**

29. The City can choose to not appoint a professional mediator to deal with conflicts in Council. There will be no direct legal implication if this is not progressed.

**Independent complaints assessor**

30. The City may choose not to appoint an independent complaints assessor. However, Council cannot abdicate from its responsibility to appoint a complaints officer for the purpose of administering minor breaches under the code of conduct legislation.
31. To comply with legislation, if Council decide to appoint an independent Complaints Officer, Council would have to designate that individual a Senior Officer.

**SUMMARY CONCLUSION**

32. It is believed that the recommended course of actions will achieve the outcomes sought by the Minister, and complement the 'Better Practice Review' being undertaken by the Department.

**GENERAL MANAGEMENT SERVICES REPORTS**

Item 16.4.1 continued.

**RECOMMENDATIONS**

**ITEM 16.4.1 - OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council:**

- a. **APPOINT** an external mediator for the specific purpose of conduct complaints and **DESIGNATE** the mediator to be a **SENIOR** employee for the purpose of section 5.37 of the Act.
- b. **IMPLEMENT** a mentorship and training programme in mentoring and assistance for the Mayor in meeting processes and procedures, funded from the allocated elected member training budget.
- c. **APPOINT** a consultant to review the Development Services Department and **ENDORSE** the terms of reference for the engagement of the consultant, being:  
  
To prepare a report for the City of Albany, including recommendations for suitable improvements, on but not limited to, the following:
  - a review of the assessment procedures used for the range of applications processed by the Planning Services Team;
  - a review of delegated authority to determine whether the Planning Services Team have adequate delegated authority to effectively assess and approve/refuse development applications;
  - the identification of any gaps in the Planning Services team service delivery;
  - a review of the City's planning policies for relevancy and ease of application;
  - a review of the effectiveness of the Technical Advisory Group;
  - a review of the report writing processes and the effectiveness of the information provided to Council for consideration;
  - a review of the information provided to applicants;
  - a review of the existing statistical reports to ensure KPIs and other indicators can be effectively measured and meaningful information is produced;
  - liaise with the Department of Local Government 'Better Practice Review' team throughout the process; and
  - provide a copy of the report to the Department of Local Government.
- d. **APPROVE** the allocation of \$60 000 dollars for provision of conduct mediation and Development Services consultancy services.

**GENERAL MANAGEMENT SERVICES REPORTS**

**16.5 GENERAL MANAGEMENT SERVICE COMMITTEES**

Nil

**17.0 ADOPTION OF THE INFORMATION BULLETIN**

**ITEM 17.0 – DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Information Bulletin as circulated, be received and the contents noted.**



**18.0 MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING**

**ITEM NUMBER: 18.1**

**ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR R HAMMOND-FINANCIAL REPORTING**

**ITEM: 18.1 NOTICE OF MOTION BY COUNCILLOR R HAMMOND  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council DIRECT the CEO to provide immediate disclosure to Council, details of any event which may result in a material non recoverable financial loss or financial loss arising from an uninsured event, or budget variation in excess of \$100,000 (year to date)**

**Councillor's Reason:**

It is intended that the disclosure occurs in a routine report format. Ideally, this information should be provided at the preceding Meeting of Council following any such occurrence. For the most part disclosure of basic details and most particularly estimated quantum of any financial exposure to loss would meet the most fundamental and prudential requirement for good Corporate governance. This in turn should provide opportunity for a more measured and considered response to issues arising.

**Officer's Comment (P Wignall):**

Section 34(5) of the Local Government (Financial Management) Regulations 1996 requires the adoption in each financial year, of a percentage or value to be used in statements of financial activity for reporting material variances. The existing percentage approved by Council is 10%. Officers will immediately apply the disclosure requirements in the Notice of Motion and include them in the recommendation to Council for reporting of 2010-11 variances.

**ITEM NUMBER: 18.2**  
**ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR R PAVER- THAT COUNCIL REQUEST WALGA TO PROVIDE TO ALL COUNCILS A WRITTEN REPORT ON ADEQUATE RECOMPENSE FOR COUNCILLORS**

**ITEM: 18.2-NOTICE OF MOTION BY COUNCILLOR R PAVER**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council request WALGA to provide to all Councils a written report on the steps it has taken since 2004 to ensure that Councillors in Western Australia are adequately recompensed for the work they do, and the response it received from the Western Australian Government to any representations it has made in regard to this matter.**

**Councillor's Reason:**

Councillor Paver raised this matter before WALGA at their AGM in 2008, and to date has heard nothing from WALGA.

**ITEM NUMBER: 18.3**  
**ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR D BOSTOCK –  
PATHWAY ON BAYVIEW DRIVE, LITTLE GROVE.**

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

**THAT Council request the CEO to assess the feasibility of completing the pathway on one side of Bay View Drive, Little Grove, within the next 6 months, and reporting back to Council at the April OCM.**

**Councillor's Reason:**

This pathway has been partially built and residents were assured of its completion some two years ago. However, no further progress has been made and they are seriously concerned at the lack of progress.

Bay View Drive was originally the main road through Little Grove and many residents still consider it to be so. It is also a busy route for pedestrians including children travelling to and from the junior school, mothers with prams, dog walkers and invalid carriages.

The side of the road is rough, ill defined and unsuitable for pedestrians, who often need to stray onto the road itself, with consequent risk of injury and I have received many more requests for a footpath at this site than any other.

**Officer's Comment (K Ketterer)**

The importance of the completion of this pathway has long been recognised, but has been delayed due to problems relating to high costs associated with overcoming technical difficulties on the route. With a high funding allocation, these can now be overcome, and it is proposed that the completion be staged over two years, with the first stage addressing the needs closest to the school located off King George St.

The portion of the Bayview Rd pathway from Queen St to the existing pathway (extension of King George St) is therefore being submitted to Council as part of the 10/11 budget programme for consideration.

The remaining portion from the existing pathway (near Albany St) to Queen St will be submitted in the 11/12 budget submission for consideration.

**ITEM NUMBER: 18.4**  
**ITEM TITLE: NOTICE OF MOTION BY COUNCILLOR D WELLINGTON –  
DREDGING OF PRINCESS ROYAL HARBOUR AND KING GEORGE  
SOUND**

**ITEM: 18.4-NOTICE OF MOTION BY COUNCILLOR D WELLINGTON  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council formally write to the State Government to request that a condition is placed on the removal and dumping of dredging spoil (sand) from Princess Royal Harbour and King George Sound by requesting the following conditions be placed on this proposed activity:**

- a) Sea dumping of dredging spoil (sand) is to occur within no less than 6 NM (nautical miles) of the coast and south of Eclipse Island; and/or**
- b) Land dumping is to occur on a site that will facilitate future use by the City of Albany.**

**Councillor's Reason:**

Following the resignation of Councillor D Price, Councillor Wellington will be bringing the original Notice of Motion lodged by Councillor Price before Council.

Members of the community have expressed desire for Council to appeal to State Government to place conditions on any proposed dredging of the port.

A number of proposals (ideas) have been presented from the community and are worthy of future investigation, for example;

- a) The dumping of the dredged soil in front of the Albany Entertainment Centre (AEC) to help mitigate sea grass build up or make the cleanup operation easier; and
- b) To replenish the eroding foreshore at Emu Point.

**Officer Comment (R Fenn):**

The Environmental Protection Authority released EPA Report 1346 – Albany Port Expansion as a public document on the January 2010 and the Executive Director Development Services reported the release of the report to the January meeting of Council (following a comment from Mr Harrison in the Open Forum Session).

Appeals relating to Report 1346 were required to be lodged by the February 2010 and an attempt by City staff to submit an appeal (on behalf of the community) on the February 2010 was rejected; the grounds of the appeal related to the acknowledged impact of dredging on local recreational and commercial operators, as well as shortcomings in the hydrographical analysis identified in the peer reviews of the environmental management plan.

Item 18.4 continued.

Any appeals that were submitted during the statutory period will now be assessed by the Minister's Appeals Convenor and reported to the Minister for the Environment. The Minister will be constrained by statutory requirements in the assessment of those appeals.

The EPA website contains a press release from the Chairman of the EPA advising that "*up to 12 million cubic metres of material would be dredged over a seabed area of approximately 247 hectares.*" That volume of material is well in excess (by a substantial percentage) of the quantities that would be reasonably required to undertake localised beach replenishment or land based filling programs. The impact of dumping additional spoil on local beaches has not been modelled and it is unlikely that the EPA would consent to beach replenishment programs without adequate research being undertaken.

It is unclear whether lobbying of the State Government will influence or add to the process that the Minister for the Environment is required to undertake by statute.

**19.0 URGENT BUSINESS APPROVED BY DECISION OF THE MEETING**

**20.0 REQUEST FOR REPORTS FOR FUTURE CONSIDERATION**

**21.0 ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING**

**22.0 ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC**

22.1 Lease of Septage Waste Facility located at the Water Corporation Tree Farm Site

**23.0 NEXT ORDINARY MEETING DATE**

Tuesday May 2010, 7.00pm

**ITEM: 23.0 - DRAFT MOTION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council resume Standing Order 3.1 - Recording of Proceedings, to stop recording of proceedings.**

**24.0 CLOSURE OF MEETING**

## APPENDIX A

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

Meeting Date	Item Number	Details/Status
16/03/2010	13.1.1	Development Application-Oversize Outbuildings-3 Stephen St Milpara. A Procedural Motion by Councillor J Bostock was carried that the motion be deferred, as Council is currently reviewing and debating the Outbuilding Policy which may impact upon the decision. <b>OUTSTANDING</b>
16/03/2010	13.5.1(2)	Second Draft of the City of Albany Tourism Accommodation Planning Strategy was referred back to Committee. <b>OUTSTANDING</b>
16/03/2010	13.5.1(3)	Outbuilding Policy referred back to Committee. <b>ADDRESSED AT ITEM 13.2.3.</b>
16/03/2010	16.3.1	Albany Entertainment Centre (AEC) Business Planning Advisory Committee. Laid on the table for a period of one month. <b>AWAITING RESPONSE FROM GSDC.</b>
16/03/2010	18.1	Notice of Motion by Councillor D Price-Dredging of Princess Royal Harbour and King George Sound. Motion Lapsed due to resignation of Councillor Price. <b>ADDRESSED AT ITEM 18.4</b>
19/01/2010	14.6.1	Lease of Albany Leisure and Aquatic Centre Cafe. Laid on the table till a Special Council Meeting is convened by Council. <b>OUTSTANDING</b>