

# SMITHSON PLANNING

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Our Ref : WSP-Legal  
Your Ref :

Commissioner Kevin Hammond  
Corruption & Crime Commission of Western Australia  
PO Box 7667  
CLOISTERS SQUARE WA 6850

Deposition without prejudice

6 August 2004

Dear Commissioner Hammond

CONFIDENTIAL  
COPY

## **CITY OF ALBANY –**

### **Allegation of Corruption / Conspiracy by Council Officers**

I refer to the attached letter dated 17 September 1998 from Mr Malcolm Pages as a Director of Autingo Pty Ltd (trading as Club NRG) addressed to the City of Albany (Mr Robert Fenn – Executive Director of Development Services).

I also refer to the attached letter dated 17 September 1998 from the City of Albany (signed by Mr Craig Pursey – Planning Officer) to Mr Rodney Pages as a Director of Autingo Pty Ltd.

Both letters relate to an Application for Planning Consent lodged by Autingo Pty Ltd with the City of Albany on 7 May 1998 (initially as Alterations & Additions to a Function Centre), and then a subsequent proposal to change the 'Approved Use' of part of the subject land (Basement of Lot 17 – #338 Middleton Road, Albany) from 'Restaurant' (with a Cabaret Licence) to that of 'Night Club'.

It is self-apparent that there was a significant delay in dealing with the application; however, the letter written by the Council officer Mr Craig Pursey on 17 September 1998, is dated exactly the same day as the letter covering the latter application submitted by Autingo Pty Ltd to the Council.

Moreover, the Council's letter of acknowledgment was CC'd to a Mr Reno Danielle, who at the time was the Proprietor of the only other Night Club 1912 at the lower end of York Street (corner Stirling Terrace) in Albany, and the commercial competition to Club NRG.

It is our understanding that there was (then and remains now) no basis in Planning or Liquor Licensing Law for the application to be referred by the Council to the proponent's commercial competition (accepted practice would be a sign on-site and a notice in the newspaper – but not a letter from Council to affected parties).



At the time, the City of Albany had recently been placed under the control of Commissioners appointed by the State of Government of Western Australia, and while the original proposal was initially approved by the Council on 12 June 1998 (delegated authority by Mr Craig Pursey), a consequent planning appeal was upheld in respect to provision of access for the disabled, while the same matter on building appeal was dismissed.

After a period of consideration with respect to the latter proposal, the Council did finally grant Planning Consent (Item 12.1.7 on 28 April 1999), but not before a series of noise complaints were made. The Council investigated these with brand new noise monitoring equipment under the direction of inexperienced Environmental Health Officers who recommended that Council refuse the application in the face of expert evidence provide by the proponents Acoustic Engineers (additional documentation can be provided if required).

It is our considered opinion that the Council only consented to the application after a meeting held on 10 March 1999 between the proponents (Messrs Neil Smithson, Rodney Pages Malcolm Pages & Robert Forgione) and the Council (Chief Commissioner Ken Michael, Cmr Edmondson, Cmr McGowan, Mr Jim Kelly CEO, and Mr Robert Fenn EDDS).

When confronted with the CC'd letter from Council to the proponent's commercial competition, Mr Robert Fenn denied all knowledge of the matter, and undertook to investigate with a guarantee that this would not be repeated (to the best of our knowledge, no further report was ever made to the Commissioners).

Later on the afternoon of 10 March 1999, I spoke directly with Mr Craig Pursey, who indicated that he had been directed by Mr Fenn to issue the letter dated 17 September 1998 to Mr Reno Danielle (I understand that Mr Pursey confirmed that advice in a separate discussion with Mr Rodney Pages as a Director of Autingo Pty Ltd).

Mr Pursey has subsequently left the Council's employ (circa 2002-03), and I have been unable to establish his location, but believe him to be travelling on a working holiday in the eastern states of Australia.

In my experience over the last seven years, there have been several occasions leading to irregular outcomes in planning process and law; however, this matter is the only one where I believe there is irrefutable evidence of corruption and conspiracy by officers of the Council.

I trust this referral is self-explanatory, and look forward to you response.

Yours faithfully,  
SMITHSON PLANNING



**NEIL R. SMITHSON**

Managing Director

PIA, EIANZ, NELA, LGPA, AAPC, NTWA, FDI, CSC 2003



... ENERGISING ALBANY ...

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Albany WA 6331

Phone/Fax

(08) 9842 9202

Mr Robert Finn  
Executive Director  
Development Services  
City of Albany  
York Street  
Albany 6330

Dear Mr Robert Finn

Autingo Pty. Ltd. wish to make application for change of license from Restaurant approved with a Cabaret License to Night Club License.

The change to the existing license is requested due to the changing requirements in entertainment demanded by the Albany population. We believe we can offer a far greater atmosphere and service to meet their needs adequately with a Night Club License.

Trusting this application meets with your approval.

Yours faithfully

MALCOLM. J. PAGES  
DIRECTOR

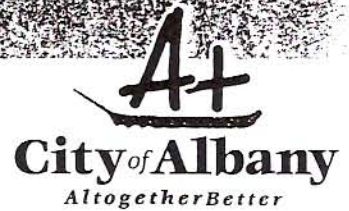
17th SEPTEMBER 1998



CITY OF ALBANY

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Our Ref : SO: 338 Middleton Road, A158615  
Enquiries: Craig Pursey

17 September 1998

Mr Rodney Pages  
P.O. Box 1788  
ALBANY WA 6331

Dear Mr Pages

RE: APPLICATION FOR A CHANGE OF USE FROM RESTAURANT TO NIGHTCLUB AT LOT 19 (338) MIDDLETON ROAD, ALBANY.

Further to our discussion today with Robert Fenn regarding the use of the Restaurant formally called 'Maggies'. I acknowledge your application for a 'Change of Use' from the existing approval for a Restaurant to that of a Nightclub.

The application must be considered by Council rather than at an officer level. It will be considered at Council's meeting of the 14<sup>th</sup> October 1998, however I will send you a formal invitation to attend at a time closer to this meeting date.

Should you have any further queries or require any assistance regarding this matter please do not hesitate to contact me on ph 98419341.

Yours sincerely

  
\_\_\_\_\_  
Craig Pursey  
Planning Officer

cc Mr Reno Danielle  
C/o Pymont House  
116 Serpentine Road  
Albany WA 6330